



TPG Telecom Limited (ABN 76 096 304 620) trading as Felix Mobile

Standard Terms for the Supply of Services  
Sections 1 and 2 – Dictionary and General Terms

This version applies from 24th January 2024



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## Introduction

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These are the Standard Terms for the supply of Felix Mobile Services. These Standard Terms are Our Standard Form of Agreement, which along with other terms You agree to, are binding on You and Us.

These Standard Terms are made up of the following sections:

**Section 1 – Dictionary** – which sets out the words that have a special meaning in Your Agreement;

**Section 2 – General Terms** – which sets out the terms and conditions that apply to the Service;

**Part A: Terms applicable to all Services**

**Part B: Additional terms specific to Mobile Services**

**Section 3 – Description of Service Features and Charges** – which describes the Service and its features and sets out some of the applicable charges:

**Part A: Mobile Service**

**Part B: Charges applicable to all Services**

**Section 4 – Fair Use Policy** – which sets out the fair use policy that applies to Your use of the Service; and

Together all 4 sections of these Standard Terms set out the standard terms and conditions on which:

- We will supply a Service to You; and
- You may use a Service provided by Us.

## Section 1 - Dictionary

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Some words used in these Standard Terms have a special meaning. These words are indicated by the use of a capital letter and their special meaning is set out below. When You see one of these words used in these Standard Terms, they have the meaning set out below.

<b>ACMA</b>	the Australian Communications and Media Authority
<b>Account</b>	an account We create for the purpose of setting up your payment details and Discount Balance
<b>Act</b>	the Telecommunications Act 1997 (Cth)
<b>Activate</b>	when Your SIM is registered, and Your Account becomes active.
<b>Adapt or Adaptation</b>	includes converting a video message into a series of still images, removing all or part of the Content or material or inserting a link into a portal based presentation of the Content or material.
<b>Agreement</b>	has the meaning set out in Part A, Section 2 of these Standard Terms.
<b>Approved Device</b>	a Mobile Phone or other device on the list of devices published on <a href="https://felixmobile.com.au/terms-policies/device-list">https://felixmobile.com.au/terms-policies/device-list</a> as approved devices to be used with a Service. We may amend this list by adding or withdrawing devices at any time
<b>Auto Renew</b>	Your Subscription will be automatically Renewed from a registered credit or debit card. This service is called "Auto Renew"
<b>Carriage Service Provider</b>	has the meaning given in the Act
<b>Carrier</b>	has the meaning given in the Act
<b>Charges</b>	the amounts we charge for a Service and other fees applicable to Your Subscription
<b>Confidential Information</b>	all confidential information about the Service, Us, Our related entities, Our suppliers, the Vodafone Network, or You, which is or has been disclosed under or in connection with Your Agreement or learnt in the performance of Your Agreement, other than any of that information which: <ul style="list-style-type: none"><li>• was publicly known at the time it was disclosed (except if that happened because of a breach of Your Agreement); or</li><li>• You or We came to know about other than in connection with Your Agreement</li></ul>
<b>Consequential Loss</b>	any loss which is: indirect, consequential, incidental or special; a loss of revenue; a loss of profits; a loss of anticipated savings; a loss of goodwill; a loss of data; or any loss in connection with a claim of third party
<b>Content</b>	any data, information, images, graphics, video, audio application or service which may be received or accessed using the Service
<b>Content Provider</b>	any party (including a third party) who supplies Content
<b>Customer Authorisation</b>	an authorisation for Your Mobile Number to be ported to Us from another mobile telecommunications provider or from Us to another mobile telecommunications provider
<b>Customer Care</b>	Our customer service operations
<b>Data Services</b>	data services provided as part of the Mobile Service described in Your Plan Details.
<b>Dictionary</b>	Section 1 of these Standard Terms which sets out the words that have a special meaning

<b>Direct Debit</b>	the payment arrangement from Your nominated credit or debit card for the Charges
<b>Disconnect or Disconnected</b>	disconnect or disconnected from a Service
<b>Discount Balance</b>	the balance of discounts in Your Account from time to time
<b>Fair Use Policy</b>	the Fair Use Policy is the terms and conditions set out in Section 4 of these Standard Terms
<b>Felix Mobile App</b>	the mobile application, where You can access your information and Account
<b>Force Majeure Event</b>	<p>an event or cause beyond the reasonable control of the party claiming force majeure. It includes each of the following to the extent it is beyond the reasonable control of that party:</p> <ul style="list-style-type: none"> <li>• act of God, flood, earthquake or explosion, cyclone, tidal wave, landslide or other natural disaster;</li> <li>• act of public enemy, war (declared or undeclared), terrorism or threat or terrorism, sabotage, blockade, revolution, riot, insurrection, civil commotion, pandemic, epidemic; and</li> <li>• a failure or refusal by our suppliers to grant us any access that we require to provide the Services</li> </ul>
<b>Group</b>	TPG Telecom Limited and its Related Bodies Corporate.
<b>Insolvent</b>	<p>If You are a natural person -You are declared bankrupt; or</p> <p>if You are a company – a receiver, liquidator, provisional liquidator or administrator is appointed to You, You enter into an arrangement with Your creditors or a class of Your creditors, You become unable to pay Your debts when they are due, or You are wound up</p>
<b>International Calls</b>	include calls to and from Your Mobile Phone in Australia to any telephone number connected to any public telecommunications network outside of Australia
<b>International Roaming</b>	using Your Mobile Service outside of Australia when connected to a network operated by other suppliers with whom We have arrangements to allow You to use the Service on those networks
<b>Monthly Subscription Charge</b>	if applicable to Your Plan, the monthly charge set out in the Plan Details which may include an International Calls subscription if selected by You. This can also be referred to as a monthly access fee, monthly plan fee or minimum monthly charge
<b>Mobile Coverage Area</b>	the Vodafone Coverage Area and the Non-Vodafone Coverage Area for Mobile Services as it may change from time to time
<b>Mobile Number</b>	any number that We issue to You
<b>Mobile Phone</b>	a mobile phone which uses a SIM, and which is an Approved Device and can be used to access Our Mobile Service
<b>Mobile Service</b>	the mobile telecommunications service provided by Us to You for use in the Mobile Coverage Area
<b>National Roaming</b>	using the Service in those parts of Australia which are not in a Vodafone Coverage Area and in which there are networks operated by other suppliers with whom We have arrangements to allow You to use the Service on those networks

<b>Non-Vodafone Coverage Area</b>	<p>those coverage areas for the Mobile Service in:</p> <ul style="list-style-type: none"> <li>• Australia, which are not in the Vodafone Coverage Area; and</li> <li>• the rest of the world,</li> </ul> <p>where there are networks operated by other suppliers with whom We have arrangements to allow You to use those networks</p>
<b>Numbering Plan</b>	the numbering plan made by the ACMA under the Act
<b>Pause Your Plan</b>	means the act of turning off Auto Renew which stops scheduled Auto Renewals
<b>Pay-As-You-Go (PAYG)</b>	the pay-as-you-go rates for Data Services set out in Your Plan Details or if not set out in Your Plan Details, the pay-as-you-go rates for Data Services set out on <a href="http://felixmobile.com.au">felixmobile.com.au</a> or available by contacting Customer Care
<b>Plan</b>	a Subscription
<b>Plan Details</b>	the particular terms and conditions of a Plan, including (as applicable) the charges, included and excluded services and any other Plan-specific terms, which are available by visiting <a href="http://felixmobile.com.au">felixmobile.com.au</a> or by contacting Customer Care. The terms and conditions of a Plan may be varied by Us from time to time in accordance with these Standard Terms
<b>Port</b>	to transfer Your mobile phone number from one service provider to another service provider. 'Ported' and 'Porting' have corresponding meanings
<b>Premium Services</b>	Premium Services are services that supply content or provide for payment of services or other exchanges of information or transactions via a portal or data connection from a Mobile Phone, at a rate that is higher than the rate otherwise charged under Your Agreement for the type of call made, TXT or PXT™ sent or received. Premium services may involve making voice calls, sending a TXT or PXT™, or accessing a content portal. Examples of Premium Services include (but are not limited to) dialling numbers beginning with '19', TXT voting, TXT competitions, live sport updates, chat services and purchasing ring tones
<b>Premium TXT</b>	see the definition of Premium Services
<b>Privacy Policy</b>	Our policy regarding access, collection, use and disclosure of personal information which can be found on Our website at <a href="http://felixmobile.com.au">felixmobile.com.au</a>
<b>Renew</b>	to pay the Monthly Subscription Charge.
<b>'Renewed', 'Renewing' and "Renewal"</b>	have corresponding meanings
<b>Related Body Corporate</b>	has the meaning given to that term in the Corporations Act 2001 (Cth). 'Related Bodies Corporate' has a corresponding meaning
<b>Restricted Content</b>	Content that would or could be pre-assessed as MA 15+ or R 18+ in accordance with the Office of Film and Literature Classification Guidelines
<b>Rights of Use</b>	your right, subject to the provisions of any industry code, the Numbering Plan and the Act, to enjoy the beneficial use of an issued number, and includes the ability to authorise a Port of the number (where portability exists)
<b>Roam or Roaming</b>	using the Mobile Service in a Non-Vodafone Coverage Area
<b>Service(s)</b>	the Mobile Service



<b>SIM</b>	the Subscriber Identity Module in an Approved Device, that may be in the form of a smart card or eSIM and is allocated a unique number, stores information
<b>SIM Pack</b>	a package which includes a SIM, to enable you to Connect to the Service
<b>SIM Replacement Fee</b>	the SIM Replacement Fee set out in Section 3 of these Standard Terms
<b>Special Numbers</b>	numbers that are 011, 0103, 1225 and 1245, '13' numbers, '15' numbers, '18' numbers, '19' numbers, and if You have appropriate equipment, maritime and satellite services. See Section 3 of these Standard Terms for more detail
<b>Special Services</b>	the features of the Mobile Service described in Section 3 of these Standard Terms
<b>Standard Calls</b>	include: <ul style="list-style-type: none"> <li>• calls to and from Your Mobile Phone to any other mobile phone connected to any public mobile telecommunications network in Australia and any fixed line phone connected to any public fixed line telecommunications network in Australia; and</li> <li>• if you have purchased the Unlimited International Calls and Text Product, International Calls to specified countries,</li> </ul> <p>but exclude, without limitation, calls to International Calls outside of the specified countries, Special Numbers, calls to access Special Services or Value Added Services, video calls, and national and international calls made when you Roam outside of Australia</p>
<b>Standard PXT™</b>	includes sending digital photo messages to, and receiving from, any digital photo messaging capable mobile phone connected to any compatible public mobile telecommunications network in Australia and any compatible public mobile telecommunications network overseas, or email address, if you have video messaging compatibility. This excludes Premium Services. PXTs are also known as MMS
<b>Standard TXT</b>	includes sending TXT messages from Your Mobile Phone to any other mobile phone connected to a public mobile telecommunications network in Australia and any mobile phone connected to selected mobile telecommunications networks overseas. Standard TXT excludes, without limitation, TXT delivery status reports and Premium Services
	A Standard TXT consists of up to a maximum of 160 standard characters. Non-standard characters such as emoticons may use more characters (dependant on Your Mobile Phone) and may mean that your TXT message is equivalent to 2 or more Standard TXTs. Also, some mobile phones may convert TXT messages longer than 1 Standard TXT into a Standard PXT message (also known as MMS). If this happens you will be billed for a Standard PXT message. Check with the manufacturer of Your Mobile Phone or Approved Device for further details on this functionality.
	TXT are also known as SMS
	Note that in Australia, TXT to the Pivotal network is not available
<b>Standard Video Calls</b>	include video calls you make to, and receive from, any video calling capable mobile phone connected to any compatible public mobile telecommunications network in Australia and any compatible public mobile telecommunications network overseas, if you have video calling compatibility
<b>Standard Video PXT™</b>	includes sending audio visual (video) messages to, and receive from, any video messaging capable mobile phone connected to any compatible public mobile telecommunications network in Australia and any compatible public mobile

telecommunications network overseas, or email address, if you have video messaging compatibility. This excludes Premium Services.

<b>Subscription</b>	a recurring payment in advance for the Service and which is described as a subscription, plan, product or a similar expression in its Plan Details
<b>Subscription Customer</b>	You, at all times that You have selected a Subscription for the use of the Service
<b>Vodafone Coverage Area</b>	the geographic area within Australia where the Vodafone Network provides coverage for Mobile Services as varied from time to time, refer to <a href="http://www.felixmobile.com.au/network">http://www.felixmobile.com.au/network</a> for the most up to date coverage maps
<b>Vodafone Network</b>	the telecommunications networks and other systems owned or operated by TPG Telecom Limited (formerly Vodafone Hutchison Australia Pty Limited) (ABN 76 096 304 620) or any Related Body Corporate of TPG Telecom Limited and used to provide Services
<b>Voicemail</b>	the Special Service described in Section 3 of these Standard Terms
<b>You and Your</b>	a person who has obtained a SIM and paid the first Monthly Subscription Charge or used an Activated Subscription
<b>Your Plan</b>	means Your Subscription
<b>Your SIM</b>	any SIM that We provide You (in a SIM Pack, an eSIM, or otherwise) which, when used with an Approved Device, enables You to use the Service
<b>We, Us, and Our</b>	TPG Telecom Limited ABN 76 096 304 620 and any Related Body Corporate

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## Section 2 – General Terms

### Part A- Terms Applicable to all Services

This section sets out the general terms and conditions that apply to customers in respect of all Services.

#### 1 YOUR AGREEMENT

- (a) Your Agreement with Us is made up of the following:
  - (i) these Standard Terms;
  - (ii) the Plan Details for Your Plan;
  - (iii) the terms and conditions provided to you in the Felix Mobile App or at [felixmobile.com.au](http://felixmobile.com.au) either before You activate, or at the time You activate Your SIM or first use an activated Account;
  - (iv) if You elect to use any optional or additional services, the terms and conditions on the [felixmobile.com.au](http://felixmobile.com.au) website applicable to those services; and
  - (v) any other terms or conditions to which You agree from time to time,  
(together, **the Agreement**)
- (b) Terms defined in these Standard Terms have the same meaning when used elsewhere in Your Agreement unless the context requires otherwise.

#### 2 VARIATIONS

- (a) The terms of Your Agreement (including these Standard Terms), a Plan and any characteristics or features of the Services may be modified, added to or withdrawn by Us at any time (**Variations**). The latest versions of these Standard Terms and Plan Details containing any Variations to the previous versions will be made available at [felixmobile.com.au](http://felixmobile.com.au) and will apply to You from the date of the Variation.
- (b) Where a Variation of these Standard Terms could be reasonably expected to adversely affect You, We will give You reasonable notice of this Variation having regard to the nature of the Variation, the means by which the notice is to be provided, the length of time before the Variation is to occur and any other matter that is reasonably relevant
- (c) If You have terminated Your Agreement because You reasonably consider that a Variation We have made under this Clause 2 has caused more than a minor detrimental impact on You, and the Variation will take effect before the date on which your next billing cycle will Renew, You may request Us to refund the fair value of any unused discounts in Your Account. We will provide such a refund in circumstances where it would be unreasonable for Us not to do so, having regard to the length of time between the notice being provided to You under clause 2(b)12(b) and the Variation taking effect, the amount and the expiry date of unused discounts in Your Account, and such other circumstances that We reasonably consider relevant.

#### 3 THE SERVICE

##### 3.1 Equipment and Access

- (a) Unless otherwise agreed with Us in writing, You may only access the Service with Approved Devices and SIMs approved by Us.
- (b) You must Activate to access the Service. If you do not Activate within:
  - (i) 1 year of purchasing an eSIM, or

- (ii) within 1 year of paying your first Monthly Subscription Charge (where you have purchased a SIM Pack), or
- (iii) 1 year of purchasing a SIM Pack in-store,

We will terminate this Agreement and any unused discounts will be cancelled.

- (c) You agree that Your ability to use a Service and each of its features will depend on the features and functionality of Your Approved Device. Not all Approved Devices have the features and functionality that are required to use all features of the Service.
- (d) Except where caused or contributed to by Our mistake, breach of contract, breach of law, negligence or misconduct:
  - (i) We will not be responsible for any harm You suffer from a virus or other manipulating program which infiltrates Your Approved Device whether it was transmitted via the Service or otherwise; and
  - (ii) You remain responsible for all Charges for the use of the Service activated by such virus or program.

### **3.2 Service Availability**

We will use reasonable care and skill in providing the Service. Given the nature of the Service (including our Services' reliance on systems and services that We do not own or control), subject to the Australian Consumer Law and our compliance with telecommunications laws, We cannot promise that the Service is free from faults or interruptions or that the Service (and each of its features) will not be subject to congestion, "drop-outs" and/or loss of data.

### **3.3 Content and material**

- (a) While We will exercise due care and skill in providing the Service, You agree that Your ability to use the Service to:
  - (i) access, use, download and upload Content; or
  - (ii) send material,

will depend upon the features and functionality of Your device and the nature and quality of the Content being accessed or material sent.

- (b) You acknowledge and agree that if Your agreement with Us includes the supply of any Content:
  - (i) We may acquire the Content from Content Providers and We do not give You any assurance or comfort about the currency, availability, accuracy, security or quality of the Content provided by Content Providers;
  - (ii) We do not provide any security (such as encryption) over any Content You access or material You send, other than as specified in Your agreement;
  - (iii) We are not obliged to check the Content for accuracy or any other purpose, or monitor Your access to Content provided by third parties or usage of the Service except where required by applicable laws and regulations, although We may do so;
  - (iv) some Content may not be current due to delays by third parties in giving Us such Content or the information which is needed to compile such Content; and
  - (v) We may not provide you with access to certain Content where that Content is Restricted Content and You have not first verified that you are 18 years of age or over in a manner acceptable to us or where that Content does not otherwise meet Our standards in relation Content.

- (c) You agree that We may need to substantially Adapt the visual and/or audio impression of, or underlying code of any:
- (i) Content, the format of which is not compatible with Your Mobile Phone, in order to deliver it (or a part of it) to Your Mobile Phone; or
  - (ii) material You send, the format of which is not compatible with the mobile phone or other receiving device of the person to whom You are sending the material, in order to deliver it (or a part of it) to the mobile phone or other receiving device of the person to whom You are sending the material,
- and You consent to Us making any such Adaptation necessary for the purpose of delivery and to any temporary copying undertaken in the process of delivery.
- (d) You agree that You:
- (i) are responsible for any reliance on or use of the Content You receive and for any material You send (except to the extent caused or contributed to by Our mistake, breach of contract, breach of law, negligence or misconduct);
  - (ii) should make Your own enquiries before You do anything on the basis of the Content; and
  - (iii) may find some Content offensive, obscene or disturbing.
- (e) You acknowledge and agree that if Your agreement with Us includes the supply of any Content to a Mobile Service:
- (i) We may have implemented digital rights management (DRM) software to assist in the protection of the valuable intellectual property rights of Us or our Content Providers and to ensure that the Content is not copied, published, re-distributed, re-communicated or commercially exploited in an unauthorised manner, and each item of Content which is subject to DRM protection will be provided to you with a key which is known as a "Rights Object" which enables You to access the Content from Your Mobile Phone and which locks the Content to Your Mobile Phone;
  - (ii) if Your Mobile Phone is damaged or lost or Your Mobile Phone is stolen, we may be unable to resend the Content and the Rights Object to you again due to the restrictions placed on the provision of this Content to You by the Content Providers. If Your Mobile Phone is damaged, lost or stolen and You wish to continue to access the Content You may need to purchase the Content again; and
  - (iii) if you cannot access this Content using Your Mobile Phone because the purchase was unsuccessful or because the Rights Object was not received by Your Mobile Phone, you should contact Customer Care and We will re-send the Content and/or the Rights Object to Your Mobile Phone.

#### **4 OUR OBLIGATIONS**

We agree to supply You the Service on the terms and conditions set out in Your Agreement and otherwise comply with the terms of Your Agreement.

#### **5 YOUR OBLIGATIONS**

##### **5.1 Comply with the terms of Your Agreement**

You agree to comply with the terms of your Agreement including the terms in this clause 5.

## 5.2 Payment obligations

- (a) You must pay Us all the Charges which You incur by using the Service, and all applicable government taxes and charges.
- (b) You agree that all Charges incurred by using the Service via Your SIM are Your responsibility, irrespective of whether the Service is used by:
  - (i) You; or
  - (ii) another person (with or without Your knowledge and/or consent).

(Refer to clause 10.2 of this Part A, Section 2 of the Standard Terms regarding requesting a suspension if Your SIM has been lost or stolen.)

## 5.3 Obligations regarding use of the Service

- (a) You must, and must ensure that any other person who uses the Service We supply to you:
  - (i) only use the Service in accordance with Your Agreement or otherwise in a manner approved by Us;
  - (ii) comply with all laws, regulations and guidelines concerning use of the Service;
  - (iii) co-operate with Us and give Us any information We may require from You from time to time in relation to the Service;
  - (iv) follow Our reasonable instructions regarding the use of the Service; and
  - (v) in order for us to be in the best position to respond to your claim, notify Us without undue delay after You become aware of any claim You may have against Us in relation to the Service.
- (b) You must not use, and must not allow any other person to use, the Service:
  - (i) for any purpose that is improper, immoral or fraudulent;
  - (ii) to contravene any applicable laws, regulations, or industry codes, standards, content requirements or statements;
  - (iii) to infringe any person's intellectual property rights;
  - (iv) to restrict or interfere with any other person's use of the Service or the Vodafone Network;
  - (v) in a way that impacts or is likely to impact the security or integrity of the Vodafone Network or the security of Us or any other person, for example by:
    - (A) overloading, or otherwise flooding a system or network;
    - (B) probing, scanning or testing the vulnerability of a system or network;
    - (C) distributing malicious software, including viruses, worms, trojans and other malware; or
    - (D) breaching security, encryption or authentication measures;
  - (vi) to resell, distribute or reproduce any part of the Service or to wholesale supply of the Service in any manner;
  - (vii) to operate a contact centre or telemarketing business;
  - (viii) to use a SIM box, gateway device or other similar device with the Service;
  - (ix) with a device that re-routes, or switches calls to or from the Vodafone Network to another carrier's network or which could keep a line open for hours;

- (x) for the purpose of transiting, refiling or aggregating domestic or international traffic, on the Vodafone Network;
  - (xi) with a Cellular Trunking Unit (CTUs);
  - (xii) in a way that creates a risk to the health or safety of any person;
  - (xiii) in a way which harasses or abuses another person or violates their privacy (including, by sending unreasonable amounts of unsolicited or unwanted material);
  - (xiv) or the Vodafone Network without charge, when a charge is normally payable;
  - (xv) to exploit the Service in a manner contrary to our offers, after receiving 48 hours' notice from Us;
  - (xvi) to use call diversion lines or message forwarding/transformation services as part of the Mobile Services after receiving 48 hours' notice from Us; or
  - (xvii) to use calling line identification or information derived from calling line identification as part of the Mobile Services except in accordance with the Act.
- (c) Where We state that a particular Plan is not to be used for commercial purposes, You must only use the Plan for Your own personal use.

#### **5.4 Obligations regarding material**

- (a) You must not, and must not allow any other person to use the Service (or any of its features) to send, receive, access or make available material which:
- (i) is indecent, obscene, pornographic, offensive, racist, menacing, illegal or confidential;
  - (ii) defames another person; or
  - (iii) is misleading and/or deceptive as to Your identity,

and You agree that We reserve the right to refuse to forward any such material at any time and shall have no liability in doing so.

- (b) You agree that it is Your responsibility to ensure that any third parties who hold copyright or any other intellectual property rights in any material being sent by You or any other person using our Service have consented to the material being sent and any adaptation which may result from it.

#### **5.5 Obligations regarding Content**

You must:

- (a) comply with any rules imposed by a Content Provider whose Content You access using the Service;
- (b) only use the Content for personal and non-commercial purposes, and not otherwise copy, publish, re-distribute, re-communicate or commercially exploit the Content in any form or by any method (unless the Content Provider specifically consents); and
- (c) not provide access to Restricted Content to any person who has not first verified that they are 18 years of age or over in a manner reasonably acceptable to Us.

#### **5.6 Obligations regarding Your SIM**

You must:

- (a) keep Your SIM safe and in good condition;
- (b) not sell, distribute or reproduce Your SIM;

- (c) return Your SIM to Us immediately if We ask You to or when Your Agreement terminates, provided that if Your Agreement has not terminated, We provide You with a replacement SIM; and
- (d) notify Us immediately if Your SIM is lost, stolen, damaged or otherwise compromised.

#### **5.7 Obligations regarding email address**

You must provide Us with a valid email address to communicate with you, and You must notify Us of any changes to that email address.

#### **5.8 Obligations regarding Identification and Your Account or Felix Mobile App password**

- (a) We will require You to successfully login to the Felix Mobile App, in addition we may also require You to complete a two-factor authentication process in order to identify You (“Identification”) when You request access to Your Account to make changes to Your Service or to receive other information relating to Your Account. We will not grant access to You, or to Your authorised representative if the correct Identification is not provided to Us, unless You contact Customer Care and are able to identify Yourself to our reasonable satisfaction.
- (b) You must keep Your Account or Felix Mobile App password confidential at all times and stored in a safe place and You must not disclose Your Account or Felix Mobile App password to any person or allow any person to complete the Identification process unless You consent to them being authorised to make changes to, and manage, Your Account and Service with us as Your authorised representative. You will be bound by any directions given to Us by anyone who is able to quote Your Account or Felix Mobile App password or complete the Identification process in relation to Your Service.
- (c) We reserve the right to decline access to Your Account if we consider the person attempting Identification is not You or someone authorised by You to have access or make further enquiries if Your Account or Felix Mobile App password is quoted, but we have no obligation to do so.
- (d) Where there is more than one connection on Your Account, You agree to advise all users of the Account that by using the applicable Service, they consent to Us disclosing any information we hold about the user's connection, including call records, site history and usage information, to any person who completes the Identification process.

### **6 CHANGING FEATURES OF THE SERVICE**

The Service has a number of different features including the features set out in Section 3 of these Standard Terms. You agree that, subject to Our compliance with clause 2 in Part A, Section 2 of these Standard Terms, the Australian Consumer Law and telecommunications laws, We can modify or replace one or more of the features of the Service or provide additional features. We may, for example:

- (a) deliver access and content via proxy servers and caches;
- (b) manage the Vodafone Network and your Service (if any) in any Non-Vodafone Coverage Area to prioritise internet traffic of certain types or users over others;
- (c) manage the speed or bandwidth available to certain types of data, such as when Roaming or for peer-to-peer traffic; or
- (d) block or filter specific internet ports.



## **7 HOW MUCH WILL YOU BE CHARGED FOR THE SERVICE?**

### **7.1 Charges for Use of the Service**

We will charge You the Charges for the Service which are set out in the Plan Details for Your Plan and in Section 3 of these Standard Terms. We will also charge You:

- (a) the miscellaneous charges set out in Section 3 of these Standard Terms (where applicable);
- (b) any other charges for Your use of any optional or additional features of the Service, which are notified to You or made available to You before You use the feature of the Service.

The Charges include GST but do not include any other government taxes, which You may also be required to pay. For example, taxes in relation to any insurance taken out by You.

### **7.2 Types of Charges**

The types of Charges include:

- (a) a Monthly Subscription Charge which, unless otherwise specified in Your Plan, We will charge You monthly in advance; and
- (b) charges for Your use of each feature of the Service which, unless otherwise specified in Your Plan, We will charge You in advance.

### **7.3 Inclusions in Monthly Subscription Charge**

Unless otherwise stated in your Plan Details, if, in any month, You have not used Your Plan inclusions as set out in Your Plan Details, the balance of the monthly inclusions will be carried forward to the following month and included in your data bank.

### **7.4 Rounding**

Each charge is rounded up to the nearest cent inclusive of GST.

### **7.5 Special Promotions**

We may run special promotions from time to time in connection with the Service under which particular Charges may be waived or reduced from those set out in Section 3 of these Standard Terms or in Your Plan Details. You may be eligible to participate in a special promotion or offer depending on its terms and conditions which You may view at [www.felixmobile.com.au](http://www.felixmobile.com.au).

## **8 HOW DO CUSTOMERS PAY FOR THE SERVICE? (INCLUDING AUTO RENEW)**

### **8.1 Becoming a Felix Subscription Customer**

- (a) To become a Felix Subscription Customer, You must,
  - (i) Complete an online application via the Felix Mobile App or website, order Your SIM and pay your first Monthly Subscription Charge, or
  - (ii) Purchase a SIM Pack in-store and register via the Felix Mobile app or website, at which time We will create a personal Account for You.
- (b) Once You have Your SIM you must access the Felix Mobile App to Activate.

### **8.2 How can You pay for Your Service?**

- (a) When Your Account is created, You will be required to set up a Direct Debit from your credit / debit card or a PayPal account to pay for Your Monthly Subscription Charge on an Auto Renew basis. Only Visa and Mastercard credit or debit cards will be accepted.
- (b) Once Your Direct Debit arrangement is in place and You Activate, Auto Renew will occur monthly in advance on the same date, except when a month does not include that date (for example 30<sup>th</sup> in February), in which case Auto Renew will occur on the

closest preceding date. Your nominated payment method will be automatically debited for the same amount as Your most recent Renew less any Discount Balance.

- (c) You cannot transfer Your Discount Balance between different Accounts.
- (d) You can Pause Your Plan anytime using the Felix Mobile App for 242 days after Your next Auto Renew is due. If you want to Pause Your Plan You will need to give Us at least 1 days' notice before Your next Auto Renew date so We can suspend Your next Auto Renew.
- (e) If you choose to Pause Your Plan while an International Roaming product is active on Your Subscription, the 242 days will not start until after your International Roaming usage allowance is used or the International Roaming product has expired.

#### ***Direct Debit drawing arrangements***

- (f) Your Direct Debit payment will be processed in advance on a monthly basis for the amount of the Monthly Subscription Charge.
- (g) We reserve the right to cancel Your Direct Debit payment under the following circumstances:
  - (i) We believe a transaction is fraudulent.
  - (ii) Your Direct Debit payment is rejected due to incorrect bank account details.
  - (iii) Your Credit or Debit Card has expired.
  - (iv) Your payment is declined 1 or more times.

#### ***Your rights***

- (h) You may terminate or suspend your Direct Debit by contacting Us at least 2 business days before Your Auto Renew date, or by contacting Your financial institution at least 5 business days before Your Auto Renew date. It is Your responsibility to arrange with Us a suitable alternate payment method if You wish to terminate or suspend your Direct Debit. Additional charges may apply. See Section 3 of these Standard Terms.
- (i) Where You believe a payment has been initiated incorrectly by Us, You may take the matter up directly with Us, or lodge a Direct Debit claim with Your nominated financial institution.

#### ***Your responsibilities***

- (j) It is Your responsibility to ensure funds are available in the nominated credit / debit card or PayPal account to meet a payment to Us on its due date.
- (k) It is Your responsibility to ensure that the authorisation given to draw on the nominated credit or debit card is identical to the account signing instruction held by the financial institution where Your credit or debit card is based.
- (l) It is Your responsibility to advise Us if the credit or debit card nominated by You for your Direct Debit payment is transferred or closed.

For further details, please see the Felix Mobile Direct Debit Service Agreement found at [www.felixmobile.com.au](http://www.felixmobile.com.au).

### **8.3 Expiry of discounts in Your Account**

Any discounts, credits or promotions in Your Account will expire upon cancellation or termination of Your Plan.

#### **8.4 Can You still use the Service when Your Plan is not Renewed?**

- (a) If Your Subscription is not Renewed for any reason, You cannot use the Service, except to receive calls and to call 000, 112 or access Your Account via Wi-Fi or to use Your active International Roaming Product, if You have any.

#### **8.5 No bills while You are a Subscription Customer**

- (a) You agree that We will not send You any bills or usage charge records in respect of Charges You incur while You are a Subscription Customer. You can however obtain Your usage charge records for the preceding 12 months through the Felix Mobile App.
- (b) If You provide a formal or informal request for Us to provide You with paper usage records and We agree to provide those paper usage records, We may charge You Our reasonable costs to provide such records. We will inform You of the amount of Our reasonable costs and how they have been calculated before we charge You for those costs.

### **9 TERM OF YOUR AGREEMENT**

Your Agreement starts when You order Your SIM and pay for your first Monthly Subscription Charge and ends when it is terminated by either You or Us in accordance with Your Agreement (refer to clause 10 in Part A, Section 2 of these Standard Terms).

### **10 SUSPENSION OF THE SERVICE AND TERMINATION OF YOUR AGREEMENT**

#### **10.1 Termination for failure to Renew Your Subscription**

We may, by giving You reasonable notice (in any event at least 21 days' notice), terminate Your Agreement and Disconnect Your Service if You fail to Renew Your Subscription within 242 days after Your Renewal date of Your Subscription unless You have an active International Roaming Product. If, during the notice period, You pay the Monthly Subscription Charge Your Service will not be cancelled.

#### **10.2 Suspension for loss of Your SIM**

We will promptly suspend the Service if You or someone on Your behalf tells Us that Your SIM has been lost, stolen or otherwise compromised. However, You will be responsible for all Charges incurred by the use of the Service via Your SIM up to the time You or someone on Your behalf notifies Us that Your SIM has been lost or stolen.

#### **10.3 Suspension for unusually high Usage**

We may suspend or limit the Service at any time without informing You if in Our opinion the amount of use is unusually high, having regard to matters including:

- (a) Your previous daily usage; and
- (b) any unusual calling use patterns.

We do this to protect You against any fraud or attempted fraud.

#### **10.4 Immediate suspension, limitation and termination**

- (a) Although We will try to give You as much notice as is reasonably practicable, We may, in the circumstances set out in clauses 110.4(b), (c) and (d) below immediately (and without notice) either:
  - (i) suspend or limit the Service (or any feature of it) for any period We think is reasonably necessary; or
  - (ii) terminate Your Agreement.

- (b) Circumstances where We can suspend or limit the Service or terminate Your Agreement are:
- (i) if You have breached an important term of your Agreement or a number of less important terms which together amounts to a serious breach, and where the breach can be rectified, you have failed to rectify the breach within 7 days of Us requesting You to do so (whether or not we have suspended or limited the Service);
  - (ii) if You have breached any of the provisions of clause 15.3(b) and 15.3(c) in Part A, Section 2 of these Standard Terms;
  - (iii) if You fail to pay Us the Charges, provided that We will not terminate Your Agreement for failure to pay Us the Charges unless We have first sent You a notice warning You of this consequence and You do not pay Us the Charges within the reasonable period specified in the notice;
  - (iv) if You fail to pay an outstanding debt to one of Our Related Bodies Corporate, provided that We will not terminate the Agreement for failure to pay such a debt unless We have first sent You a notice warning You of this consequence and You do not pay the debt within the reasonable period specified in the notice;
  - (v) if You access the Service with a mobile phone or device other than an Approved Device (without Our Agreement in writing) or with a SIM that We have not approved;
  - (vi) if You Port Your Mobile Number for Mobile Services from Us to another provider in which case:
    - (1) We must comply with Our obligations under the Act and the Numbering Plan in relation to mobile number portability; and
    - (2) You will be responsible for any costs incurred by Porting Your Mobile Number;
  - (vii) if You do not use Your Service for more than 242 days;
  - (viii) to the extent that we are permitted under applicable laws, if You die or become Insolvent or subject to a winding up order or similar insolvency event and we reasonably believe we are unlikely to receive payments for amounts you owe to us;
  - (ix) if We have reasonable grounds to believe that your communications or physical interaction with our staff, Customer Care or any of our sales agents have been menacing, threatening, amount to harassment or have otherwise been of an unacceptable nature;
  - (x) if We cannot supply the Service to You because of a Force Majeure Event; or
  - (xi) if We are unable to supply the Service to You because a supplier has terminated its Agreement with us or a supplier has suspended or deactivated, or required us to suspend or deactivate, Your Service and we cannot provide the Service to You by using an alternative supplier.
- (c) We can suspend or limit the Service or terminate Your Agreement if We reasonably believe that:
- (i) the use of the Service (or any feature of it) by You or any other person is or might damage, impair or interfere with the Vodafone Network or any of Our other systems or equipment;

- (ii) the Service (or any feature of it) is being used to commit unauthorised, criminal or unlawful activities;
  - (iii) the Service (or any feature of it) is being used by You or another person in a manner which is unreasonable, excessive or fraudulent. The Fair Use Policy set out in Section 4 of these Standard Terms sets out what constitutes excessive and unreasonable use;
  - (iv) You have engaged in fraudulent activities in relation to the Service (or any feature of it); or
  - (v) You are, or are operating as, a Carriage Service Provider or Carrier.
- (d) We can suspend or limit the Service or terminate Your Agreement if:
- (i) We are required to do so by a regulatory authority such as ACMA; or
  - (ii) We are required to do so by the law, or a law enforcement agency.
- (e) We can suspend or limit the Service:
- (i) if a threat or risk exists to the security of the Service or the integrity of the Vodafone Network; or
  - (ii) the provision of the Service may cause death, personal injury or damage to property.
- (f) We can limit the Service for a reasonable period for maintenance, repair or similar operational reasons.
- (g) Subject to clause 110.4(h), We can suspend the Service for a reasonable period for maintenance, repair or similar operational reasons.
- (h) Nothing in clause 110.4(g) excludes or limits any right You may have to a pro-rata refund of relevant Charges for the period the Service is suspended, unless the Service is only suspended for an insignificant period.

#### **10.5 Suspension, limitation and termination with notice**

We may, by giving You reasonable notice (in any event at least 30 days' notice):

- (i) suspend or limit the Service (or any feature of it) for such period as We determine is reasonably necessary; or
- (ii) terminate Your Agreement.

#### **10.6 Your right to terminate Your Agreement**

You may terminate Your Agreement by telling Us at any time that You wish to do so or cancelling Your Subscription via the Felix Mobile App. Termination of Your Agreement and cancellation of Your Service will become effective immediately upon the expiry of Your current billing cycle, or earlier if You request to terminate earlier.

### **11 CONSEQUENCES OF SUSPENSION OR LIMITATION**

If We suspend or limit the Service (or any feature of it), You will be barred from using the Service (or the feature of it which We suspend/limit) until We unbar the Service (or the feature of it which We have suspended/limited).

### **12 CONSEQUENCES OF TERMINATION**

On termination of Your Agreement, We will:

- (a) stop providing You the Service and You will be Disconnected; You will no longer have the right to use the Service;

- (b) You will no longer have the right to use Your Mobile Number, unless You have Ported the Mobile Number to another provider; and
- (c) Cancel any remaining discounts, credits or promotions in Your Account. They will not be redeemable for cash. Where You terminate Your agreement because We are in serious breach of it, or We terminate Your agreement under clause 10.5 of Section 2 of these Standard Terms, You may request Us to refund the fair value of any unused discounts in Your Account. We will provide such a refund in circumstances where it would be unreasonable for Us not to do so.

## **13 OBLIGATIONS ON TERMINATION**

### **13.1 Your obligations on termination**

If Your Agreement is terminated, you must:

- (a) pay all amounts which You owe Us under Your Agreement by the due date nominated by Us; and
- (b) return to Us property to which We have a right, whether under Your Agreement or under the general law.

We may require You to pay Us a SIM Replacement Fee if on termination of Your Agreement Your SIM is lost, damaged or has been stolen.

## **14 PERSONAL INFORMATION**

### **14.1 Collection, Use and Disclosure**

- (a) This clause 14 contains some key terms related to how we handle personal information but Our Privacy Policy, which can be found at [felixmobile.com.au](http://felixmobile.com.au), contains all of the required disclosures. To the extent that there is an inconsistency between this clause and Our Privacy Policy, Our Privacy Policy prevails. By providing personal information to Us and obtaining the Service, You acknowledge and consent to the collection, use and disclosure of Your personal information as set out in this clause 14 and Our Privacy Policy.
- (b) We and/or Our agents and service providers may collect, use and disclose personal information about You for the primary purpose of providing You the Service and as further specified in Our Privacy Policy. If You do not provide personal information to Us, We will not be able to provide the Service to You.
- (c) We may use personal information about You for purposes set out below and as otherwise specified in our Privacy Policy:
  - (i) Contacting You with messages about changes to Our products or services.
  - (ii) Managing Your account.
  - (iii) Processing orders or applications to become a customer.
  - (iv) Verifying Your identity.
  - (v) Carrying out credit checks and credit reporting.
  - (vi) Dealing with questions, complaints and other customer care activities.
  - (vii) Development of Our products and services.
  - (viii) Contacting You about Our products and services and those offered under other brands that our Group owns. This may include marketing these products to You.

- (ix) Protecting Our network and managing the data use, volume of calls, TXTs and other uses of Our network. For example, We identify peak periods of use so Our network can better handle the volume at those times.
  - (x) Conducting internal investigations in relation to crime and fraud prevention, detection, recovery or prosecution.
- (d) You agree that We may receive and disclose personal information or documents about You including to:
- (i) Credit providers or credit reporting agencies for the purposes permitted under the Privacy Act and credit reporting legislation.
  - (ii) Our device manufacturers and repairers.
  - (iii) Our providers of marketing, research, call centre and telemarketing services.
  - (iv) Debt collection agencies and other parties that assist Us with debt-recovery functions.
  - (v) Law enforcement bodies to assist in their functions, courts of law or as otherwise required or authorised by law.
  - (vi) Regulatory or government bodies to resolve customer complaints or disputes both internally and externally, or to comply with any investigation by one of those bodies.
  - (vii) Other companies for the purposes of dealing with unwelcome calls and number portability issues.
  - (viii) Our service and Content Providers, or Our dealers and agents, for purposes that are related to providing You with a telecommunications service and which You would reasonably expect Us to use that information for.
  - (ix) Our Related Bodies Corporate for purposes that are related to providing You with a telecommunications service, for purposes of marketing Our Group's products and services to You (where you have not opted-out) and purposes which You would reasonably expect us to use that information for,

whether or not the recipients of the personal information are in, or outside Australia as specified in our Privacy Policy.

- (e) Despite s18(1) of the Spam Act 2003, You agree and acknowledge that any electronic message We send You will not contain an unsubscribe facility.
- (f) You can, at any time, opt-out of receiving marketing material via Felix Mobile App. You also agree and acknowledge that even if you opt-out, We will still need to send You essential information about Your Account, changes to the Service or other information which is legally required.
- (g) If You opt-out of receiving marketing material, We will remove You from Our electronic message marketing distribution list. You agree and acknowledge that this removal may take up to 5 business days to take effect and You may continue to receive electronic messages from Us for up to 5 business days after the date of Your request to be removed from the distribution list. Unless You opt-out, You may continue to receive marketing material from Us or our Related Bodies Corporate for up to 13 months from when Your agreement with Us terminates or expires.

## **14.2 Access and Correction**

- (a) If You request (in writing), We will:
  - (i) provide You with access to personal information We have about You; or

- (ii) correct personal information about You that is inaccurate, incomplete or out of date, in accordance with Our Privacy Policy and the Privacy Act.

### **14.3 Acknowledgment**

You acknowledge and agree that any communication You make to Customer Care may be monitored and/or recorded for quality assessment purposes.

## **15 COMPLAINTS**

- (a) If You are unhappy about any aspect of the Service, You should contact Us first to resolve the complaint. Complaints can be made through the following Channels:
  - (i) Live Chat - when logged into the Felix Mobile App, or on [www.felixmobile.com.au](http://www.felixmobile.com.au) website
  - (ii) Email - emailing [complaints@felixmobile.com.au](mailto:complaints@felixmobile.com.au)
  - (iii) Voicemail - by contacting the Complaints Voicemail 1300801956
  - (iv) Mail – Felix Mobile, PO BOX 1113, North Sydney, 2060, AUS
- (b) We will investigate Your complaint in accordance with Our complaints policy which can be found on Our website or can be provided to You directly by Customer Care on request. Felix Mobile Services Customer Care Channels include:
  - (i) Live Chat - when logged into the Felix Mobile App, or on [www.felixmobile.com.au](http://www.felixmobile.com.au) website; and
  - (ii) Email - emailing [complaints@felixmobile.com.au](mailto:complaints@felixmobile.com.au)

As We operate a digital only service for Felix Mobile Services, there is no Customer Care phone number.

- (c) If You request Us to provide You with information held by Us about You and We agree to provide you with the information, We may charge You Our reasonable costs to provide You information, except where You request access to Your personal information held by Us which is not yet archived. We will inform You of the amount of Our reasonable costs before We charge You for those costs.
- (d) If You are not satisfied with how Your complaint has been handled, You may request a supervisor or manager to review Your complaint and Our handling of it. If Your complaint is not resolved to Your satisfaction, You can, depending on the nature of the complaint, contact the Telecommunications Industry Ombudsman (who deals with unresolved complaints between consumers and providers), the relevant State/Territory Office of Fair Trading (which can inform You of Your rights and provide assistance in relation to any dispute with Us), ACMA or the Australian Competition and Consumer Commission. If You have a privacy complaint, You can address Your complaint to Our Privacy Officer (whose contact details can be found on Our Privacy Policy or can be provided to You on request) and/or lodge a complaint with the Office of the Australian Information Commissioner. Our complaints policy is in addition to any rights You have under law.

## **16 LIABILITY AND INDEMNITY**

### **16.1 Consumer guarantees and Our liability to You**

- (a) The Australian Consumer Law as set out in the Competition and Consumer Act 2010 (Cth) provides consumers with certain 'consumer guarantees'. These guarantees apply where the goods and services We supply to You are of a kind ordinarily acquired for



personal, domestic or household use or cost less than \$40,000, and in the case of goods, are not re-supplied by You. With respect to goods, these guarantees include a guarantee that the goods:

- (i) are of acceptable quality (unless We made known to You the reasons why the goods may not be of acceptable quality before purchase, for example, by drawing any fault or defect to Your attention);
  - (ii) fit for the purpose which We represented to You;
  - (iii) fit for the purpose or task for which You acquired the goods, provided You made that purpose known to Us before purchase;
  - (iv) match the description, sample or demonstration model You were provided; and
  - (v) comply with any express warranty given in relation to the goods.
- (b) With respect to services, these guarantees include that: the services will be rendered with due care and skill; the services and any product resulting from the services will be fit for the purpose or task for which You acquired the services or the result You expected the services to achieve, provided You made the purpose or result known to Us before purchase; and if a time is not specified for completion of the services, the services will be supplied within a reasonable time.
- (c) These guarantees give You rights against Us that We cannot limit or exclude, subject to clause 116.1(d). For example, if a failure to meet a guarantee is a major failure, then in relation to goods and depending on the circumstances, You may be entitled to a replacement or refund, and in relation to services, You may be entitled to terminate the contract and obtain a refund. If a failure does not amount to a major failure, You are entitled to ask Us to remedy the failure. In this case, We are able to choose how to remedy the failure, including by repairing or replacing goods.

This clause 116.1(c) is only intended to provide some examples of the rights You may have against Us. It is not an exhaustive statement of the circumstances in which You may be entitled to a remedy under the Australian Consumer Law.

- (d) Where the goods or services supplied to You are not of a kind ordinarily acquired for personal, domestic or household use or consumption, Our liability for breach of a guarantee (other than liability for guarantees as to title, undisclosed securities and undisturbed possession in relation to goods supplied to You, which We cannot limit) is limited to doing one or more of the following:
- (i) in the case of goods:
    - (A) the replacement of the goods or the supply of equivalent goods;
    - (B) the repair of the goods;
    - (C) the payment of the cost of replacing the goods or acquiring equivalent goods; or
    - (D) the payment of the cost of having the goods repaired; and
  - (ii) in the case of services:
    - (A) the supply of the services again; or
    - (B) the payment of the cost of having the services supplied again.
- (e) We cannot limit Our liability as set out in clause 116.1(d) if You establish that it would not be fair or reasonable for Us to do so.

- (f) Except as provided in clause 116.1(d), nothing in Your Agreement excludes, restricts or modifies rights which You have under the Australian Consumer Law in respect of the consumer guarantees.

## **16.2 Other matters and Our liability to You**

All of the provisions of this clause 16.2 are to be read subject to the provisions of clause 16.1.

- (a) Except where We are negligent or otherwise liable to You under Your Agreement and to the extent permitted by law, You agree to use the Service (and each of its features) and the Content accepting full risk and responsibility in doing so.
- (b) Except where caused or contributed to by Our mistake, breach of contract, breach of law, negligence or misconduct, and to the extent permitted by law, We are not responsible for and have no liability to You in respect of:
  - (i) You or any other person using the Service or any of its features for any purpose (including a purpose in breach of Your Agreement);
  - (ii) You or any other person accessing or using Content or doing anything on the basis of the Content;
  - (iii) You using Content in a manner or for a purpose that is not authorised or otherwise permitted by Your Agreement or the Content Provider;
  - (iv) any person accessing or using material You send or doing anything on the basis of material You send;
  - (v) any Content You receive or material You send which We have not provided or are not responsible for, being inaccurate, incomplete, not current or of inadequate quality, or otherwise in breach of Your obligations under Your Agreement regarding use of the Service;
  - (vi) Us Adapting any Content or material to enable it to be received or sent (which under clause 3.3(c) of this Section 2 You agree We may do as We reasonably determine);
  - (vii) You not receiving any Content, or a delay in You receiving any Content You have requested;
  - (viii) any person to whom You send or attempt to send material not receiving the material, or a delay in that person receiving the material;
  - (ix) Your Mobile Phone becoming blocked by reason of it sharing an IMEI number with another customer's mobile phone which We have blocked;
  - (x) any loss or damage arising from any delay in or failure to perform any of Our obligations under Your Agreement, or to provide the Service, if such delay or failure is a result of a Force Majeure Event;
  - (xi) any loss or damage to the extent that the loss or damage is caused by You; or
  - (xii) the loss of or any damage to Your Approved Device after it has left our possession.
- (c) Subject to clause 116.2(d) below, Our liability to You for any breach of Your Agreement (other than a breach of a guarantee referred to in clause 16.1) or otherwise, will not be more than the total Charges paid by You under this Agreement:
  - (i) during the 6-month period prior to Your claim; or
  - (ii) if Your Agreement started less than 6 months prior to Your claim, since the start of Your Agreement.

- (d) To the maximum extent permitted by law, neither We nor You are liable for, and no measure of damages will, include Consequential Loss whether in contract, tort (including without limitation negligence), in equity, under statute, under an indemnity, whether or not such loss or damage was foreseeable and even if advised of the possibility of the loss or damage.

## **17 NOTICES**

You agree that unless otherwise stated in Your Agreement, We may give any written notice to You in connection with, or required by, Your Agreement by:

- (a) sending the notice to the email address, postal address or fax number which You advise Us or otherwise; or
- (b) sending a TXT message to Your Mobile Phone.

## **18 MISCELLANEOUS TERMS**

### **18.1 Assurances**

- (a) By entering into Your Agreement, You assure Us that:
  - (i) You have provided full and accurate personal information to Us in connection with Your Agreement; and
  - (ii) You have full power and authority to enter into Your Agreement.
- (b) By entering Your Agreement, We assure You that:
  - (i) We are a Carriage Service Provider under the Act;
  - (ii) We have full power and authority to enter into this Agreement; and
  - (iii) subject to the terms and conditions of Your Agreement, We will provide the Service with all reasonable care and in a timely manner.

### **18.2 Ownership of Your SIM and mobile number**

- (a) Except for Your SIM (which We will own at all times), You will own any goods which You take possession of under Your Agreement from the time that You first pay Us any money under Your Agreement.
- (b) You agree that You have and can claim no legal interest or goodwill in any Mobile Number or pin issued to Your SIM.

### **18.3 Assignment**

- (a) You may not transfer any rights and obligations under Your Agreement.
- (b) We may, without telling You (unless specifically stated otherwise in this clause or where it might otherwise cause a detriment to You):
  - (i) transfer Our rights and obligations under Your Agreement to anyone else (if We transfer Our obligations to a third party other than another company that shares the same parent company as Us, We will provide You with reasonable notice); or
  - (ii) temporarily or permanently get anyone else to perform Our obligations under Your Agreement on Our behalf,provided that the company to which Our obligations are transferred is able to perform those obligations in a manner similar to Us and in accordance with Your Agreement.
- (c) We may, without telling You, transfer any or all of your Mobile Services and associated Mobile Numbers to a third party if requested, and we reasonably believe the person

requesting the transfer is a legitimate and long-term end user of the Mobile Service and associated Mobile Number(s).

- (d) We may require You to sign an Agreement on substantially similar terms and conditions to Your Agreement with anyone else We nominate (or, if We cannot find You, We may sign such an Agreement on Your behalf which, upon entering Your Agreement, You authorise Us to do).

#### **18.4 Enforceability**

If any term in Your Agreement or a right of either of Us under Your Agreement is not enforceable in a certain State or Territory of Australia, that does not mean that:

- (a) that term or right is not enforceable in any other State or Territory of Australia; or
- (b) any other term or right is not enforceable in that State or Territory of Australia or in any other State or Territory of Australia.

#### **18.5 Waiver**

- (a) The only way in which You or We can be said to have given up any rights You or We have under Your Agreement is if You or We agree to do so in writing.
- (b) Even if You or We give up any of Our rights under Your Agreement in a particular circumstance that does not mean that You or We have generally given up that right.
- (c) If You or We do not exercise a right or are slow in doing so that does not mean that You or We have given it up.

#### **18.6 Standard Form of Agreement**

These Standard Terms constitute a Standard Form of Agreement with the meaning of the Act and are subject to the Act.

#### **18.7 Commission**

You acknowledge that We may pay an agent a commission for introducing You to Us and/or the Service.

#### **18.8 Governing law & jurisdiction**

Your Agreement is governed by the laws of the State or Territory of Australia where You lived at the time You entered into Your Agreement. Each of Us agree to submit to the non-exclusive jurisdiction of the courts of that State or Territory of Australia.

## Part B - Additional terms applicable to Mobile Services

### 19 NETWORK COVERAGE

- (a) You agree that You will only be able to use the Felix Mobile Service in the Mobile Coverage Area. For more detailed information about the Mobile Coverage Area and the various network technologies/features available in each area refer to [www.felixmobile.com.au/network](http://www.felixmobile.com.au/network).
- (b) You agree that even within the Mobile Coverage Area the Service may not be able to be used in areas where geographical or man-made features interfere with the network. For example, where there are mountains or road cuttings, or in parts of buildings such as lifts and basement car parks.
- (c) You agree that some parts of the Felix Mobile Service, such as data, may rely on the different capabilities of the Mobile Coverage Area and You may not be able to access all these types of services as not all the services are available within all areas of the Mobile Coverage Area.
- (d) We may change the telecommunications network infrastructure constituting the Vodafone Network. If we do so, we may be required to notify you and offer you a right to terminate as set out in clause 2 in Part A, Section 2 of the Standard Terms.

### 20 INTERNATIONAL CALLS AND ROAMING

- (a) Roaming relies on the networks of other carriers over which We have no control. You agree that some features of the Service may not be available when You are Roaming and that We do not guarantee the quality and reliability of the Service when You are Roaming.
- (b) To use International Roaming You must first purchase an International Roaming product using the Felix Mobile App. The product can be bought prior to departure or when connected to Wi-Fi overseas. International Roaming is only available in selected countries listed at [www.felixmobile.com.au/plan/international-roaming](http://www.felixmobile.com.au/plan/international-roaming). The selected countries may vary and are subject to change. You cannot roam outside of the selected countries.
- (c) To make International Calls and text You must purchase an International Calls product in order to call or text selected countries from Australia (selected countries are listed at <http://www.felixmobile.com.au/plan/international-calls-text>). The selected countries may vary and are subject to change. You cannot make International Calls or send texts to countries outside of the selected countries.
- (d) To avoid doubt, if We make a change under this clause 20(b) or (c), the change does not constitute a Variation under clause 2 in Part A, Section 2 of these Standard Terms.

### 21 CALLING NUMBER DISPLAY

- (a) You agree that Your Mobile Number will be sent to, and may be visible to, each person You make a call or communicate with. You can choose to deactivate calling number display either:
  - (i) through a function on Your Mobile Phone (if it has the necessary technical capability); or
  - (ii) on a call-by-call basis, by dialling #31# before You dial a number,

and We will pass that preference to the network operator of the person you are communicating with. We cannot guarantee that the other network will ensure Your Mobile Number is blocked and not displayed to the other person.

- (b) When you contact Customer Care, we will be able to view Your Mobile Number even if you have chosen to deactivate calling number display.
- (c) You agree that You understand that Your Mobile Number will be sent to, and will be visible on the screen of, the phone of each person You send a TXT message, PXT™ or Video PXT™ to, and that the sending of Your Mobile Number with TXT messages, PXT™ or Video PXT™ cannot be deactivated.
- (d) You agree that You understand that Your Mobile Number will be sent to, and will be visible to the emergency call person and emergency services operators when you call emergency service numbers (000 (Triple-Zero), 106 or 112) on a mobile phone linked to a Felix Mobile Service, and that the sending of Your Mobile Number to the emergency call person and emergency services cannot be deactivated.

## **22 NUMBERING FOR MOBILE SERVICE**

- (a) We must issue You with a Mobile Number (unless You have already been issued with such a number).
- (b) When we agree to the issue of a specific Mobile Number in association with the Service You then have Rights of Use of that Mobile Number.
- (c) We will not vary that Mobile Number unless required to do so as a requirement of the Numbering Plan.
- (d) If you have the Rights of Use of a mobile number with another service provider you may Port that mobile number from that service provider to Us in accordance with clause 25 in Part B, Section 2 of these Standard Terms.
- (e) If you Port a mobile number to us for which you do not have the Rights of Use, we are obliged to immediately return that number to the carriage service provider of the Rights of Use holder and we will issue another mobile number to You.
- (f) If you Port Your Mobile Number from Us to any other Carriage Service Provider:
  - (i) We must comply with Our obligations under the Act and the Numbering Plan in relation to mobile number portability; and
  - (ii) You will be responsible for any costs incurred in Porting Your Mobile Number.

## **23 MOBILE PHONE BLOCKING**

- (a) You may ask Us to block Your Mobile Phone the same time, or within one month after, you advise Us that it has been lost or stolen. The effect of blocking Your Mobile Phone is that it will not be able to be used on the Vodafone Network, or any other telecommunications networks within Australia, to:
  - (i) make or receive voice calls (except calls to emergency "000" and "112" numbers); or
  - (ii) send or receive TXT messages, PXT™, Video PXT™ or Content.
- (b) We must block Your Mobile Phone upon such a request by You. However, We will not block Your Mobile Phone, including mobile phone where:

- (i) to Our knowledge, the Mobile Phone shares an international mobile equipment identity (IMEI) number with another mobile phone or device Connected to the Vodafone Network; or
  - (ii) to do so would adversely impact upon another person's use of the Service in good faith.
- (c) We will tell You if We will not block Your Mobile Phone.
- (d) We must, upon Your request:
  - (i) unblock Your Mobile Phone that You previously requested Us to block; or
  - (ii) unblock Your Mobile Phone where it has been blocked as a result of Us blocking another customer's mobile phone or device with which it shares the same international mobile equipment identity (IMEI) number,
 provided that You have lawful possession of Your Mobile Phone.
- (e) You agree that Your Mobile Phone blocking is at all times subject to technical limitations. This means that there may be a delay between the time that You request Your Mobile Phone to be:
  - (i) blocked and the time that the block is put in place, or
  - (ii) unblocked and the time that the block is removed.
- (f) We may block any Mobile Phone that You use on the Vodafone Network that is not an Approved Device. We may also block any mobile phone or device that We reasonably believe (based on Your usage pattern) that You are using to resell the Service.

## **24 NUMBER BLOCKING**

- (a) We may limit or block Your or Our other customers' access to any number(s), and/or services provided or made available by a third party if We reasonably consider it necessary or appropriate to do so to minimise the risk of Our customers, the Vodafone Network, or Us being adversely affected as a result of:
  - (i) significant congestion or instability in any part of the Vodafone Network and/or Our administrative systems (including, but not limited to, Our billing systems); or
  - (ii) any action, claim, demand, cost, expense, loss, damage or other detriment (whether financial or not); or
  - (iii) the Service being used in a manner contrary to Our offers.
- (b) For example, We may limit or block access where continued access to a number(s) or service(s) is reasonably considered by Us to result in:
  - (i) Our customers receiving unusually high Charges (known as bill shock);
  - (ii) increased customer complaints including in relation to the characteristics of the number(s) or the service(s); or
  - (iii) where access is causing Us revenue loss.
- (c) If We limit or block access under this clause, We may be required to notify You as set out in clause 2 in Part A, Section 2 of these Standard Terms.

## **25 MOBILE NUMBER PORTABILITY**

- (a) You may Port an existing mobile number from another service provider to Us where you have Rights of Use of that mobile number.

- (b) Porting relies on the networks of other services providers over which We have no control. If You ask Us to Port Your existing mobile number to Us, we will try to Port Your existing mobile number to Us as soon as practicable. We are not liable for any delays in the Porting process.
- (c) You agree that We may contact You if Your Port request has not been successfully completed. This may include notifying You of any delays in processing Your Port request or confirming Your details if Your Port request has been unsuccessful due to incorrect information.
- (d) You will not be Connected until the Port of Your existing mobile number has been successfully completed. However, if Your Port request is not successful within 30 days of You providing the authority to Port, You agree that we will issue You with a new Mobile Number for Your Service. Your Service will commence from the date we connect Your Service with either a Ported mobile number, or where that is not available a Mobile Number that We issue to You.