

# Terms and Conditions

Southern Phone Company Limited A.C.N 100 901 184, ABN 42 100 901 184 will supply you with telecommunications Services on the terms and conditions set out below. Words not defined in this document have the same meaning as in the Telecommunications Act 1997.

## General

"Services" means the communications services including the Fixed Line or Mobile Services as specified on the Application or Order Form or during the Transfer Authorisation Recording.

### 1. Our agreement with you

- 1.1 We, Southern Phone Company Limited (ACN 100 901 184) will provide you (the Customer) with Services in accordance with these terms and conditions that form our Agreement with you.
- 1.2 Our Agreement also includes your Application or order form, which may be either in writing or a recording if you made the Agreement by telephone. The oral recording will be binding in the same way as the written Agreement. We may accept a facsimile copy of the application. That facsimile copy will bind you as if it was the original.
- 1.3 Our Agreement also includes our current price list, which is subject to variation. A reference to our current price list is a reference to our price list as at the date of provision of Services irrespective of whether you have received notice of any change to our price list. We will send you, at your last known address, notice in writing of any changes to our price list 30 days before introducing any such changes.

### 2. The services

- 2.1 We will provide you with the Services. The Services will be provided to the number nominated by you.
- 2.2 We will provide the Services to you using our facilities and those of other suppliers or carriers. Our Services may be added to or varied at any time and we may change those suppliers without reference to you.
- 2.3 We do not warrant that we will be able to provide you with Services, but to the extent that carriers provide Services to us we will provide those Services to you.
- 2.4 If your Service is disrupted we will do our best to have that service reinstated as soon as we can.

### 3. Transfer of services

- 3.1 In order for you to use our Services we may need to change your arrangements with your current telecommunications services supplier. In which case:
  1. You appoint us as your agent to transfer your account for these Services to us and you authorise us to sign, on your behalf and in your name, the authority that will cause your current supplier to transfer your accounts to us.
  2. If we ask, you will give your current supplier instructions in writing to transfer your account from them to us.
  3. You will pay your current supplier any amounts you owe them up to the time your service transfers to us. We will not accept any liability for any account you owe your current supplier.
- 3.2 If you transfer to another supplier in future you will pay us all outstanding accounts for Services used up to the time the transfer is made.

### 4. Charging for the services

- 4.1 We will send you a bill for Services based on our current charges. We may vary those charges from time to time.
- 4.2 We will generally bill you monthly in advance for plan fees or line rental (if you have that Service) and monthly in arrears for usage charges, although we reserve the right to bill at different intervals. We reserve the right to bill for charges incurred in all previous billing periods. If your account is less than \$20 we may carry that amount over to the following bill.
- 4.3 You are liable to pay the charge for the Service even if the use of the phone for those Services was not authorised by you. We may pass on any charges another supplier charges us (including increases and one off charges) without notice to you.
- 4.4 You must pay the bill on or by the due date shown on the bill. If you do not we may charge you a late payment fee as prescribed in our price list current at that time.
- 4.5 We may charge interest on an amount not paid by the due date. This will be at the rate at the time of the Commonwealth Bank Overdraft Reference Rate. Interest will be calculated daily and charged from the due date until payment of the outstanding amount is received.
- 4.6 If you do not pay your bill we will suspend Services to you 10 calendar days after the due date shown on the bill unless you notify us in writing of a dispute about those charges.

- 4.7 If we incur costs recovering any debt you owe us (such as search fees, process fees and costs paid to a collection agency) we reserve the right to recover those costs from you.
- 4.8 If you present a cheque for payment that is dishonoured we may terminate this Agreement with you. We may also charge you a dishonour fee.

### 5. Credit and privacy

- 5.1 You agree that (subject to the Privacy Act 1988) we may use your personal information. This information may include your name, address and other information you give us in your Application.
- 5.2 We may disclose personal information you provide to us to a Credit Reporting Agency.
- 5.3 You agree the Credit Report containing personal information about you can be given to any Credit Reporting Agency to help us assess your Application for commercial credit, or for collecting overdue payments that are owed by you to us.
- 5.4 You agree we can obtain information about your credit worthiness from any person or body who provides this information to assist in our assessment of your Application for commercial credit.
- 5.5 You agree we can provide your personal information to:
  1. Collection agents to recover overdue amounts you may owe us;
  2. Carriers or service providers if they need the information to provide the Services to you; and
  3. To Government or regulatory bodies as may be required by law.
- 5.6 We may, at our sole discretion impose a credit limit on your account or we may require a security deposit or interim payment at any time. We may suspend your service if you exceed your credit limit.
- 5.7 Except for the uses stated above we will keep your personal information confidential.
- 5.8 You must notify us within 14 days if you change your address or other billing contact details.

### 6. Commencement and term of the agreement

- 6.1 This Agreement commences when you sign the Application or when you complete a recorded Agreement with us to take the Services and continues until terminated.
- 6.2 The provision of Services commences when your account is transferred from your current supplier to us and/or any other necessary arrangements with another supplier for the provision of the Services to you have been completed.
7. **Termination of the agreement**
  - 7.1 Either of us may terminate this Agreement by giving the other 30 days written notice unless you have agreed to a fixed term contract.

7.2 We may terminate this Agreement immediately if:

1. You have breached this Agreement;
2. A liquidator or receiver is appointed to wind up your business;
3. We are informed of the death of the Customer;
4. You change your billing address and do not notify us.

7.3 We may also immediately terminate this agreement at any time by written notice if other carriers cease to provide necessary Services to us.

7.4 If this agreement is terminated in accordance with this Clause 7 and another carrier supplies Services to you, you acknowledge that:

1. The carrier may not be able to provide Services immediately
2. The carrier will bill you according to their current tariffs.

7.5 If we are unable to provide the Services, other than through a temporary disruption, then you may terminate the agreement without compensation for any direct or indirect damages that you may suffer.

### 8. Limitation of liability

- 8.1 We have no liability to you for:
  1. Acts or defaults of our suppliers;
  2. Faults caused by your conduct or misuse; and
  3. Faults that are caused by incompatibility between Services.
- 8.2 Under no circumstances will we be responsible for any indirect or consequential damage that you may suffer from our failure to provide effective Services.

### 9. Force majeure

- 9.1 We are not liable for any delay in installing a service, or correcting a service fault, or the failure or incorrect operation of any service or any other delay or default in Services that is caused by an event that is reasonably beyond our control. This can include war, accident, Act of God, industrial action, embargo, delay, failure or default of any other supplier.

### 10. Fair Use Policy

- 10.1 Customers may not use our services in an excessive, unreasonable or fraudulent manner. Customers may not resupply, resell or commercially exploit our services without consent from Southern Phone Company.
- 10.2 In the case of fixed line service offers our Fair Use Policy considers excessive use to be more than 2,500 eligible call minutes per service per month. Eligible call minutes include calls to mobiles, long distance calls and international calls.
- 10.3 In the case of Mobile services our Fair Use Policy considers excessive use to be more than 2,500 minutes and/or 100 SMS messages per service per month unless otherwise specified.
- 10.4 If you are in breach of our Fair Use Policy we will advise you of such and request immediate compliance. We reserve the right to limit your use of our services if you are in breach of our Fair Use Policy.

### 11. Assignment

- 11.1 Unless we agree in writing you may not assign your rights under this Agreement.
- 11.2 If we give you 30 days written notice we may assign all our rights and obligations under this Agreement to another service provider.

### 12. General

- 12.1 The laws of New South Wales govern this Agreement.
- 12.2 Any persons signing this Agreement on your behalf warrant they have full power and authority to bind you in respect of this Agreement.
- 12.3 Except as otherwise noted in these terms they are the entire Agreement between you and us in relation to the Services. To the extent permitted by law all other representations and warranties are excluded.
- 12.4 Any invalid or unenforceable terms will not affect the enforceability of any other terms.
- 12.5 You acknowledge that you are entering this Agreement entirely as a result of your own enquiries and that you are not relying on any representations or promises by us other than those set out in this Agreement. Accordingly, you release our staff and agents from all claims of any kind arising from any interaction we may have had before you made this Agreement with us.
- 12.6 If any variation is made to these terms and conditions we will advise you in writing

### 13. SIM Cards for GSM Services

- 13.1 SIM cards remain our property. We may specify certain procedures for activation of your SIM card to protect against unauthorised use of a SIM card. You must take all reasonable care to keep the SIM card safe and in good condition. You must immediately return the SIM card to us on demand or if we suspend or terminate the Services. If you fail to return the SIM card to us within 30 days of our demand, you must pay our standard SIM card replacement fee.
- 13.2 You must notify us immediately if any SIM card is lost, stolen or destroyed (whether installed or not).

### 14. Mobile Number Porting to Us

- 14.1 Changing your current arrangements: If in providing the Services to you, we need to change your arrangements with your current Supplier, then we will do so in accordance with this clause.

14.2 Porting your Mobile Number to us:

By signing the Mobile Number Portability Authorisation Form ("Port Authorisation") you:

- authorise your current Supplier of telecommunications services to transfer to us your MSN;
- authorise us to disclose information in the Port Authorisation to other Suppliers in the event of dispute over porting to us; and
- will remain responsible for all amounts owing to your current Supplier of telecommunications services for any services they supply to you.

If you have signed a Port Authorisation to port a MSN to us from your previous Supplier, we will use all reasonable efforts to port your MSN on or before the requested cut over date but have

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no liability to you for any delays in porting. The requested cut over date should not be more than 30 days from the date of making the request to port your MSN.

You are responsible for any charges imposed by your current Supplier in relation to unsuccessful or rejected port requests due to insufficient or incorrect information on the Port Authorisation form, concurrent competing porting requests in relation to your MSN or if you terminate the services with your current Supplier before we transfer your MSN on your nominated port cut over date.

14.3 Credits: If your current Supplier credits us with any amount concerning services provided before the date of transfer, we will credit that amount to your account.

14.4 Charges Relating to Mobile Number Porting: If another Supplier raises a proper charge with us relating to a service it provided to you before your MSN was ported to us, we will advise you accordingly and you must pay the other Supplier that amount. If you dispute the amount claimed, you must notify us in writing. You may also be liable to pay to us or your previous Supplier charges relating to disputes or investigations by either of us arising out of transfer of the Services from another Supplier to us. We reserve the right to charge a port in fee for porting your MSN to us from another Supplier.

14.5 Indemnity: We will not accept any liability for any amounts owing by you to another Supplier for services which the other Supplier provided to you prior to the commencement of Services. You must indemnify us against any claims made on us by your previous Supplier in relation to any such amounts.

## 15. Porting of Mobile Number to Another Supplier

15.1 Port-Out: If you port your MSN to another Supplier, then:

- you remain responsible to us for amounts payable prior to the port out, and you will immediately pay us that amount on receipt of our invoice; and
- you may be liable to pay to us a port-out fee on porting of your MSN to another Supplier.

15.2 If after the transfer you elect to use any of our Services by the use of an override code, you agree to pay us for any charges incurred for those Services.

15.3 Termination of Services: The provision of Services ceases and this Agreement terminates when we port your MSN to another Supplier. If you port to another Supplier before the end of the agreed minimum contract term, you will be liable to pay to us termination charges in addition to any port-out fee which may be payable.

15.4 Billing: We will endeavour to bill you for amounts in respect of the Services incurred until termination and any charges arising out of termination within the next normal billing period but we reserve our right to issue you with subsequent invoices in relation to unbilled fees and charges.

15.5 Dispute: If we become aware of other proper charges (including fees payable to any other Supplier) for those Services up to the date of porting, or we resolve any dispute so that any liability of ours relating to those Services is quantified, then you will immediately pay us all such amounts on receipt of our invoice.

15.6 Credits: We will credit you with any amount credited to us by another Supplier for those Services provided up to the date of porting.

15.7 We have no liability to you or any other person for:

- porting of your MSN in accordance with a porting request received by us; or
- any delays in implementing a request to port your MSN; or
- a failure to implement a request to port your MSN.

## 16. Fixed Line Preselection

16.1 The Fixed Line Telephony service is a preselected service and customers agree to remain preselected with Southern Phone Company if their line rentals are charged through Southern Phone Company. If you later preselect your long distance to another provider you will be placed on the Local Calls Only Plan which carries a line rental of \$39.90 residential and \$44.95 business and a local call charge of 25 cents per call.

Southern Phone respects your right to privacy. This statement sets out important information about privacy protection applied to information we gather. Southern Phone is bound by the Privacy Act 1988 and abides with the National Privacy Principles.

### Information Collection

Southern Phone may record information:

- Submitted by you, such as when you provide information by telephone or in document form or when you enter your details on our website;
- Supplied by third parties, such as credit reporting agencies;
- From publicly available sources of information; and
- When legally required to do so.

### Use of Information

Southern Phone may use the information it records:

- For billing and debt collecting purposes;
- For credit verification purposes;
- To inform you of changes and additions to our services;
- To provide customer support;
- To research the usage of and to develop the capabilities of our services;

The information recorded by Southern Phone may also be collated and de-identified to provide Southern Phone with anonymous demographic and other data.

The information recorded by Southern Phone may also be used to promote and market to you other services which we consider may be of interest to you. If you no longer wish to receive these communications from Southern Phone or from third parties, you can contact Southern Phone at any time and make an 'opt out' request.

### Disclosure of Information

Southern Phone may disclose your personal information to third parties which provide Southern Phone with outsourced functions. These may include, but not be limited to, billing and debt collection, customer enquiries and mailing systems. Southern Phone may also disclose personal information to other telecommunications service providers, law enforcement agencies, government agencies, courts or our professional advisers, including our accountants, auditors and lawyers.

### Information Accuracy

Southern Phone strives to maintain the accuracy of the information it records. If you are a Southern Phone customer you may access your account details and correct your personal information by contacting Southern Phone customer service.

### Information Security

Southern Phone takes reasonable steps to ensure that your personal information is stored securely. However, no transmission over the Internet or storage of information on servers connected to the Internet can be guaranteed to be absolutely secure. While we strive to protect your personal information from misuse, loss or unauthorised access, destruction, use, modification or disclosure of data we cannot guarantee the security of any information you transmit to us.

### Contacting Southern Phone

If you require further information regarding Southern Phone's Privacy Policy, you can contact our Customer Service Centre by calling 13 14 64 or by email to [contact@southernphone.com.au](mailto:contact@southernphone.com.au) or by mail to Southern Phone Company, 8 Page Street, Moruya, NSW 2537.

ABN 42 100 901 184

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