

Standard Form of Agreement

Mobile Device Terms – Current as at Jul 2023

1 What are these Mobile Device Terms?

- 1.1.1 This document is referred to as the "**Mobile Device Terms**" and forms part of Your Agreement with Us where You have purchased a Mobile Device from Us.
- 1.1.2 The General Terms and Conditions are a set of general terms that govern our relationship generally. These Mobile Device Terms contain more specific terms relating to Your purchase of a Mobile Device from Us.
- 1.1.3 To the extent of any inconsistency between these Mobile Device Terms and the General Terms and Conditions in relation to the subject matter covered in these Mobile Device Terms, these Mobile Device Terms prevail.

2 About the Mobile Devices that We offer

2.1 Pre-owned devices

- 2.1.1 Where we have supplied to You a Mobile Device that is pre-owned or refurbished, the Mobile Device:

- (a) will be supplied to you Unlocked and with all data removed;
- (b) is fully tested to satisfy Our rigorous standards.

By applying for and ordering such a Mobile Device You acknowledge that such Mobile Device is pre-owned or refurbished, as the case may be, (and not new) and that the pricing terms for that Mobile Device reflect the fact that it is a pre-owned or refurbished device.

2.3 Your rights as a consumer

- 2.3.1 Our Mobile Devices come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have Your Mobile Device repaired or replaced if Your Mobile Device fails to be of acceptable quality and the failure does not amount to a major failure under the Australian Consumer Law.
- 2.3.2 Your ability to choose a particular remedy will also depend on whether any failure to comply with a guarantee is a minor or major failure under the Australian Consumer Law. We can choose which remedy We may provide for a minor failure (being any failure which does not constitute a major failure). A major failure includes a problem where a Mobile Device would not have been purchased by a reasonable consumer who was fully aware of the problem, a Mobile Device is substantially unfit for its common purposes and cannot be fixed within a reasonable time or where a Mobile Device is unsafe.

3 Sale of Mobile Device and Instalment Plan

3.1 Purchase of Mobile Device

- 3.1.1 You may choose to purchase a Mobile Device on an Instalment Plan by completing an Application Form or outright by completing a Mobile Device Order Form.
- 3.1.2 If You order a Mobile Device for outright purchase via a Mobile Device Order Form, You will own that Mobile Device from the time that we dispatch the Mobile Device for delivery (the **Device Acceptance Time**).
- 3.1.3 By completing an Application Form for the purchase of a Mobile Device on an Instalment Plan, You agree that You are offering to purchase such Mobile Device from Us for an amount equal to the Purchase Price for that Mobile Device, to be paid in accordance with the Instalment Plan, subject to:
 - (a) any election or obligation to pay out the Outstanding Balance prior to the expiry of the Instalment Plan Term (in accordance with clause 3.3);
 - (b) any event which would constitute an Acceleration Trigger Event (in accordance with clause 3.4); or
 - (c) any election by You to return or swap Your Mobile Device under the 30 -Day Cancellation Option (in accordance with clause 4.5).
- 3.1.4 If Your Application Form for the purchase of a Mobile Device on an Instalment Plan is accepted by Us (in Our absolute discretion), You will own that Mobile Device from the time that We accept the relevant Application Form (the **Device Acceptance Time**).

3.2 Instalment Plan

- 3.2.1 Subject to clause 3.3, 3.4 and 4.5, You agree to pay throughout the Instalment Plan Term each of the Monthly Instalments on the relevant Monthly Payment Date until We have received payment in full of the Purchase Price.
- 3.2.2 If We accept Your Application Form for a Mobile Device purchased on an Instalment Plan, Your first Monthly Instalment will be debited promptly after that acceptance.
- 3.2.3 After Your first Monthly Instalment, We will then schedule the debit for each of Your subsequent Monthly Instalments on the corresponding Monthly Payment Date.
- 3.2.4 You authorise Us to debit Your Nominated Card for each of the Monthly Instalments (and any applicable additional fees (if any), as agreed to under Your Agreement).

3.3 Freedom to pay out at any time

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- 3.3.1 Notwithstanding the Monthly Instalment Plan, You may at any time elect to pay in full the Outstanding Balance then owing in respect of a Mobile Device purchased under an Instalment Plan by contacting Us [here](#).
- 3.3.2 Upon payment in full of the Purchase Price for a Mobile Device (in cleared and immediately available funds):
- (a) the corresponding Instalment Plan will be terminated; and
 - (b) Your next bill will set out the amount of the Outstanding Balance paid by You (as well as the total Purchase Price, and that no Outstanding Balance remains).

3.4 Obligation to pay out upon occurrence of Acceleration Trigger Event

- 3.4.1 If an Acceleration Trigger Event occurs whilst Your Mobile Device remains the subject of an Instalment Plan (i.e. the Outstanding Balance in respect of that Mobile Device is greater than zero), at Our election an amount equal to the Outstanding Balance then owing in respect of that Mobile Device becomes immediately due and payable by You (an **Accelerated Final Payment**) and we may automatically deduct payment of the Outstanding Balance as a lump sum, or as a series of smaller payments in accordance with clause 5.1.1 of the General Terms and Conditions.
- 3.4.2 If You believe You are in a situation of financial hardship, We invite You to contact Our Customer Service Team to discuss Your situation confidentially. Notwithstanding clause 3.4.1, if You demonstrate that You are unable to pay the Accelerated Final Payment in one lump sum payment, We may (in Our discretion) offer You a period in which to pay the Accelerated Final Payment (by reference to such factors as We consider reasonable in the circumstances, having regard to Your circumstances and Our legitimate commercial interests). You may also qualify for assistance in accordance with Our Financial Hardship Policy.

4 Customer support in relation to Mobile Devices

4.1 Your satisfaction

- 4.1.1 Your satisfaction is extremely important to Us, so if You experience any problems with Your Mobile Device, We invite You to contact Our Customer Service Team, who will assist You with Your various options.
- 4.1.2 Each of the Customer Rights (as defined in clause 4.3 below) is in addition to, and does not limit or exclude, Your rights under the Australian Consumer Law.

4.2 Notifying Us of any goods delivered which are faulty or damaged

- 4.2.1 Where You believe Your Mobile Device (or any associated goods) were already faulty or damaged at the time of delivery to You, please collect photographic evidence which clearly shows such fault or damage and contact Our Customer Service Team within 3 days of that delivery (contact details available [here](#)) to arrange for such evidence to be sent through to Us.
- 4.2.2 Failure to comply with clause 4.2.1 may result in Your corresponding claim being denied (subject to any rights You may have under the Australian Consumer Law).

4.3 Our commitment to customer satisfaction – the Customer Rights

- 4.3.1 Consistent with Our commitment to Your satisfaction, our Mobile Devices benefit from:
- (a) the Device Warranty Terms (please see clause 3.3 for further details); and
 - (b) the 30-Day Cancellation Option (please see clause 4.5 for further details),
- (collectively, the **Customer Rights**).
- 4.3.2 To exercise one of Your Customer Rights, You must complete a Mobile Device Return Form or contact Our Customer Service Team (contact details available [here](#)), who will provide You with the relevant instructions regarding how to return a Mobile Device before returning Your Mobile Device.

4.4 Our 12-Month Device Warranty

- 4.4.1 Every certified pre-owned or refurbished Mobile Device comes with a 12-month warranty from Us, under which We will (at Our election) replace or repair faults or defects with the Mobile Device (but excluding Excluded Defects) that arise through no fault of Yours (and is not caused by circumstances within Your control) (a **Relevant Fault or Defect**) within the first 12 months after the Agreement Start Time (the **12-Month Device Warranty**). Our 12-Month Device Warranty is in addition to, and does not limit or exclude, Your rights under the Australian Consumer Law. Should You believe that a Relevant Fault or Defect has arisen in respect of Your Mobile Device within that 12 month period, You must contact Our Customer Service Team (contact details available [here](#)) to initiate Your claim under the 12-Month Device Warranty, and the Returned Device Conditions in clause 4.7 must be satisfied before Your claim under the 12-Month Device Warranty can be successful.
- 4.4.4 If Your claim under the 12-Month Device Warranty is:
- (a) successful, the Shipping and Handling Fee will be borne by Us; and
 - (b) unsuccessful, You will be liable to pay the Shipping and Handling Fee (at the time We notify You of that determination).
- 4.4.5 You are responsible for any other expenses associated with submitting a claim under Our 12-Month Device Warranty.
- 4.4.6 This 12-Month Device Warranty is offered by:

nu mobile Pty Ltd ACN 624 080 404

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Business Address: Level 32, 200 George Street, Sydney NSW 2000

Phone: 1800 951 384

Email: support@numobile.com.au

(note that the above business address is not open to the public and all claims and returns must be arranged by contacting Our Customer Service Team as described above).

4.4.7 We note Mobile Devices you purchase from Us come with consumer guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have Your Mobile Device repaired or replaced if Your Mobile Device fails to be of acceptable quality and the failure does not amount to a major failure under the Australian Consumer Law. Your ability to choose a particular remedy will also depend on whether any failure to comply with a guarantee is a minor or major failure under the Australian Consumer Law. We can choose which remedy We may provide for a minor failure (being any failure which does not constitute a major failure). A major failure includes a problem where a Mobile Device would not have been purchased by a reasonable consumer who was fully aware of the problem, a Mobile Device is substantially unfit for its common purposes and cannot be fixed within a reasonable time or where a Mobile Device is unsafe.

4.5 Your 30-Day Cancellation Option

4.5.1 Without limiting Your other rights (including under the Australian Consumer Law), if You purchased Your Mobile Device outright or under an Instalment Plan, at any time within 30 days of the Device Acceptance Date, provided that Your Mobile Device is in Original Condition, You may elect to return the Mobile Device to Us within such 30-day period (Your **30-Day Cancellation Option**) in compliance with the following:

- (a) You must contact Our Customer Service Team or submit a Mobile Device Return Form to advise that you wish to return the Mobile Device to Us under the 30-Day Cancellation Option.
- (b) You will then have a period of 7 days from the date thereof to return the Mobile Device to Us at Your own expense. If You fail to send the Mobile Device to Us within this period, you may not be able to return the Mobile Device under the 30-Day Cancellation Option and may be liable for the Reversal Shipping and Handling Fee in order to return to You the Mobile Device; and
- (c) the Mobile Device must be returned to Us in Original Condition and in accordance with all other applicable requirements of clause 4.7.

4.5.2 Each of the Returned Device Conditions in clause 4.7 must be satisfied before Your claim under the 30-Day Cancellation Option can be successful.

4.5.3 Where You elect to exercise the 30-Day Cancellation Option, We will (upon receipt of that Mobile Device) undertake the Returned Device Assessment to determine whether the Mobile Device is in Original Condition and We will promptly notify You of the result of the Returned Device Assessment (and the reasons for that assessment).

4.5.4 If you purchased your Mobile Device under an Instalment Plan prior to 19 May 2020, You may be entitled to the "Swap or Return at Anytime offer". Please refer to the terms and conditions that applied at the time of purchase of Your Mobile Device or contact our Customer Service Team for more details.

4.5.5 Where You elect to exercise the 30-Day Cancellation Option, We will send You a post-paid satchel for You to use to return Your existing Mobile Device.

4.5.6 You will have a period of 3 days from the date You receive that post-paid satchel to send Your existing Mobile Device to Us. If You fail to send Your existing Mobile Device to Us within this period, you may be liable for the costs of returning Your Mobile Device.

4.5.7 You will remain liable to pay any Monthly Instalments that become due until We receive Your returned Mobile Device and we may debit any Monthly Instalments that become due from Your Nominated Card.

4.5.9 If We are not satisfied that the returned Mobile Device meets the Returned Device Conditions in clause 4.7 and that the Returned Device Assessment confirms that the returned Mobile Device is in Original Condition, We will contact You to arrange to return the relevant Mobile Device back to You (in which case You will be liable to pay the Shipping and Handling Fee or the Reversal Shipping and Handling Fee, as applicable).

4.6 Returns process and the Returned Device Assessment

4.6.1 In order to submit any request pursuant to:

- (a) the 12-Month Device Warranty; or
- (b) the 30 Day Cancellation Option (Mobile Devices in Original Condition only),

You must first complete a Mobile Device Return Form or contact Our Customer Service Team (contact details available [here](#)), who will guide You through the process, and what You need to do to return Your Mobile Device to Us for assessment in accordance with this clause 4.6 and the processing of Your request (so that they may assist You in satisfying the Returned Device Conditions, as set out in clause 4.7).

4.6.2 For every Mobile Device returned to Us in connection with any of the Customer Rights (including, where applicable, Your existing Mobile Device or a New Mobile Device), We will (upon receipt of that Mobile Device) undertake an assessment of that returned Mobile Device to determine whether:

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- (a) in the case that a return is for the purpose of making a claim under the 12-Month Device Warranty, the fault or damage to the Mobile Device is covered by the 12-Month Device Warranty (or a right you may have under the Australian Consumer Law); or
- (b) in the case that a return is for the purpose of exercising the 30-Day Cancellation Option, that the Mobile Device is in Original Condition.

(the **Returned Device Assessment**).

4.6.3 We will promptly notify You of that determination (and Our reasons for the outcome of the Returned Device Assessment).

4.7 Returned Device Conditions

4.7.1 When returning any Mobile Device (whether in connection with a Customer Right or as otherwise required under this Agreement), please note that You must at Your own expense return the Mobile Device to Us (or our nominated representative) to the address nominated by Us to You, and You agree that the returned Mobile Device will be submitted for a Returned Device Assessment and that each of the following conditions (the **Returned Device Conditions**) must be satisfied by You:

- (a) the returned Mobile Device must correspond with the relevant details in Our system (such that the Mobile Device returned matches the Mobile Device registered to the relevant Account);
- (b) the returned Mobile Device must be Wiped and Unlocked;
- (c) where requested by Our Customer Service Team, You must have collected reasonable and clear photographic or video evidence of the condition of Your Mobile Device at the time of sending it to Us (and have sent such evidence through in accordance with any reasonable directions from Our Customer Service Team);
- (d) in the case of the return of a Mobile Device under a Customer Right, the relevant Account must not be in arrears either:
 - (i) at the time You submit Your request to Us; or
 - (ii) when the request has been processed,(but please note that Our Customer Service Team can assist You in bringing the Account up to date so that Your request may be completed); and
- (e) in the case of the return of a Mobile Device under the Device Warranty Terms, where You are not an Australian Citizen or Permanent Resident, You must have a valid visa with an expiry date falling after the scheduled expiry of the subscription period. You agree that:
 - (i) We may ask You for certified copies of documents verifying Your visa entitlements; and/or
 - (ii) You authorise Us to verify details in connection with Your visa entitlements or immigration status using third party sources (including without limitation, through the Department of Home Affairs Visa Entitlement Verification Online (VEVO) system).

4.7.2 Where the Returned Device Conditions are:

- (a) satisfied, We will proceed with the Returned Device Assessment as contemplated under this clause 4; or
- (b) not satisfied (for example, because the Mobile Device You returned is not the correct Mobile Device, You are in arrears, or You have not met the visa requirements), We will contact You to either:
 - (i) provide assistance to ensure any outstanding Returned Device Conditions can be satisfied; or
 - (ii) in the case of a purported return under a Customer Right, return the relevant Mobile Device back to You (in which case You will be liable to pay the Shipping and Handling Fee and/or the Reversal Shipping and Handling Fee, as applicable).

4.7.3 Where the Returned Device Conditions are:

- (a) satisfied, We will proceed with the Returned Device Assessment as contemplated under this clause 4; or
- (b) not satisfied (for example, because the Mobile Device You returned is not the correct Mobile Device, You are in arrears, or You have not met the visa requirements), We will contact You to either:
 - (i) provide assistance to ensure any outstanding Returned Device Conditions can be satisfied; or
 - (ii) return the relevant Mobile Device back to You (in which case You will be liable to pay the Shipping and Handling Fee or the Reversal Shipping and Handling Fee, as applicable).

4.8 Wiping and Unlocking of returned Mobile Devices

4.8.1 When returning any Mobile Device, You:

- (a) agree that, where the Mobile Device has not been Wiped, We may (in accordance with Our returns procedure) Wipe any and all data from such Mobile Device (whether or not such Mobile Device is the correct Mobile Device); and
- (b) acknowledge that such data may be irretrievably lost and further acknowledge Our disclaimer of liability in accordance with clause 4.9.

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- 4.8.2 We recommend that, before returning any Mobile Device, You please refer to relevant instructions for assistance on how to ensure that such Mobile Device has been effectively:
- (a) Wiped (after performing a back-up of any relevant data You wish to retain); and
 - (b) Unlocked.

4.9 Disclaimer of liability for returned Mobile Devices and SIMs

- 4.9.1 Where You have returned an incorrect Mobile Device, You agree that unless and until You return the correct Mobile Device, You will remain liable for the correct Mobile Device You ought to have returned pursuant to Your request (unless and until You return that Mobile Device as intended).
- 4.9.2 Please note that We will not accept any liability for any SIM, or any data stored on that SIM or any Mobile Device returned to Us (whether or not such Mobile Device is the correct Mobile Device), and We cannot ensure that any SIM left in, or any data not wiped from, a SIM or Mobile Device can or will be returned to You.
- 4.9.3 You acknowledge that You retain all liability in respect of a Mobile Device (whether it is Your existing Mobile Device or a New Mobile Device) that You are seeking to return under the 12-Month Device Warranty or the 30-Day Cancellation Option (available for mobile phones in Original Condition) or as otherwise required under this Agreement until such Mobile Device has been received by or on behalf of Us (at which time Our liability in respect of that Mobile Device is limited to any direct loss suffered by You as a direct result of Our fraud, negligence or wilful default under this Agreement).
- 4.9.4 For clarity, this clause 4.9 relates to returns made in connection with the Customer Rights or as otherwise required under this Agreement, and does not apply to returns made under the Australian Consumer Law, and does not affect Your rights under Australian Consumer Law.

5 Dictionary for this document

- 5.1.1 A capitalised term that is not otherwise defined in these Mobile Device Terms has the same meaning as in the General Terms and Conditions.
- 5.1.2 Each of the following capitalised terms have the corresponding meaning in these Mobile Device Terms.

12-Month Device Warranty has the meaning given in clause 4.4.

30-Day Cancellation Option has the meaning given in clause 4.5

51-Point Test has the meaning given in clause 2.1.1.

Accelerated Final Payment has the meaning given in clause 3.4.1.

Acceleration Trigger Event means, any one or more of the following events:

- (a) termination by Us of the Agreement in accordance with the terms of the Agreement, including without limitation as contemplated by clause 4.2 of the General Terms and Conditions; or
- (b) any termination by You of the Agreement (including under the Customer Termination Option).

Account has the meaning given in the General Terms and Conditions.

Account Holder has the meaning given in the General Terms and Conditions. **Affected Obligation** has the meaning given in the General Terms and Conditions. **Agreement** has the meaning given in the General Terms and Conditions.

Anytime Termination Right has the meaning given in the General Terms and Conditions.

Application Form means, in respect of a Mobile Device, the application form for the purchase of that Mobile Device on an Instalment Plan as made available on the Website.

Australian Consumer Law has the meaning given in the General Terms and Conditions.

Customer Rights has the meaning given in clause 4.3.1.

Customer Service Team means Our customer service team, contactable in accordance with clause 11 of the General Terms and Conditions.

Device Acceptance Time in the case of the outright purchase of a Mobile Device under a Mobile Device Order Form, has the meaning given in clause 3.1.2 and in the case of a Mobile Device purchased under an Instalment Plan, has the meaning given in clause 3.1.4.

End User has the meaning given in the General Terms and Conditions.

Excluded Damage means damage to a Mobile Device screen or housing (including visible scratches, marks, chips or cracks), faults caused by physical damage, water or liquid damage, battery wear, including from normal use, faults or damage cause by You, another person or by accident (unless the Mobile Device was already faulty or damaged at the time of delivery to You and you provide proof of such damage within 3 days of receiving the Mobile Device in accordance with clause 4.2.1).

Financial Hardship Policy has the meaning given in the General Terms and Conditions.

General Terms and Conditions means the "General Terms and Conditions" as published by Us on the Website (as amended from time to time in accordance with this Agreement).

Instalment Plan means, in respect of a Mobile Device, the purchase of that Mobile Device by way of a series of equal Monthly Instalments.

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Instalment Plan Term means, in respect of a Mobile Device purchased under an Instalment Plan, the number of months specified in the relevant Application Form.

Mobile Device has the meaning given in the General Terms and Conditions.

Mobile Device Order Form has the meaning given in the General Terms and Conditions.

Mobile Device Return Form means an online form for reporting a fault or requesting the return of a Mobile Device when exercising a Customer Right provided online through the Website.

Mobile Device Terms means this document, as may be updated from time to time.

Monthly Instalment means, in respect of a Mobile Device purchased under an Instalment Plan, an amount (rounded up to the nearest cent) equal to the Purchase Price for that Mobile Device, divided by the relevant Instalment Plan Term.

Monthly Payment Date means, in respect of an Instalment Plan:

- (a) the first Monthly Payment Date is the day on which the Agreement Start Time occurs; and
 - i. where the first Monthly Payment Date occurs on the 1st to the 28th day (inclusive) of a calendar month, the same day in each successive calendar month thereafter as the day in the calendar month of the first Monthly Payment Date; or
 - ii. where the first Monthly Payment Date occurs on the 29th, 30th or 31st day of a calendar month, the first day of each successive calendar month occurring after the calendar month immediately after the month in which the first Monthly Payment Date occurred; and
- (b) the last Monthly Payment Date is the last day of the Instalment Plan Term.

New Mobile Device means, in respect of:

- (a) a successful claim under the 12-Month Warranty, a replacement Mobile Device that We send to You; and
- (b) the 30 Day Cancellation Option, the replacement Mobile Device that We send to You (where You elected to "swap" Your existing Mobile Device).

Nominated Card has the meaning given in the General Terms and Conditions.

Website has the meaning given in the General Terms and Conditions.

Welcome Pack has the meaning given in the General Terms and Conditions.

Original Condition means, in the case of a Mobile Device that was provided new, the Mobile Device in its original packaging, unopened, and in its original, undamaged condition, and, in the case of a Mobile Device that was provided as a refurb or pre-owned device, the Mobile Device accompanied by its original packaging (whether or not opened) and in its original, undamaged condition.

Outstanding Balance means, at any time and in relation to a Mobile Device which remains the subject of an Instalment Plan, an amount equal to the Purchase Price less the aggregate of all amounts received by Us towards satisfaction of that Purchase Price (excluding any additional fees or charges that have been applied in accordance with this Agreement and which are applicable to amounts that were owing by You under these Mobile Device Terms).

Purchase Price means, in respect of a Mobile Device purchased under an Instalment Plan, the amount set out in the relevant Application Form and in respect of a Mobile Device that is purchased outright, the amount set out in the Mobile Device Order Form.

Relevant Fault or Defect has the meaning given in clause 4.4.1.

Returned Device Assessment has the meaning given in clause 4.6.2.

Returned Device Conditions has the meaning given in clause 4.7.1.

Reversal Shipping and Handling Fee means \$30.

Shipping and Handling Fee means \$15.

Unlocked means a Mobile Device that is unlocked (including, for example, removing all passwords and any cloud-based security).

We, Us and Our have the meaning given in the General Terms and Conditions.

Wiped means a Mobile Device in respect of which a process has been undertaken to wipe all data from that Mobile Device (and Wipe and Wiping have a corresponding meaning).

You and Your have the meaning given in the General Terms and Conditions.