

## 1 What are these Mobile Device Lease Terms?

- 1.1.1 This document is referred to as the "**Mobile Device Lease Terms**" and forms part of Your Agreement with Us where You have leased 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 Lease Terms contain more specific terms relating to Your lease of a Mobile Device from Us.
- 1.1.3 To the extent of any inconsistency between these Mobile Device Lease Terms and the General Terms and Conditions (or any other documents making up the Agreement) in relation to the subject matter covered in these Mobile Device Lease Terms, these Mobile Device Lease Terms prevail.

## 2 Mobile Device Lease

### 2.1 Mobile Device Lease

- 2.1.1 Upon Our acceptance of the Mobile Device Lease Order Form, We agree to lease to You, and You agree to lease from Us, the Mobile Device the subject thereof, in accordance with and subject to the terms of the Agreement (including the relevant Mobile Device Lease Order Form and these Mobile Device Lease Terms).
- 2.1.2 The lease term is as set out in the applicable Mobile Device Lease Order Form accepted by Us, unless and until it is earlier terminated in accordance with the terms of the Agreement. Upon expiry of the lease term, Your right to possession of, and to lease from Us, the Mobile Device ceases notwithstanding the Mobile Device may remain in your possession.
- 2.1.3 You do not own the Mobile Device or have a right to become its owner, You are simply leasing the Mobile Device from Us. Notwithstanding this, You must pay for any maintenance and repair of the Mobile Device, subject to any manufacturer's warranty or the consumer guarantee provisions in the Australian Consumer Law.
- 2.1.4 During the term of the lease of the Mobile Device, You must:
  - (a) use the Mobile Device for Your own personal purposes and must not resupply the Mobile Device to anyone else unless agreed by Us in writing;
  - (b) comply with the manufacturer's use and care instructions for the Mobile Device;
  - (c) not attempt to sell the Mobile Device to a third party, or grant, or allow a third party to create, any security interest or charge over the Mobile Device;
  - (d) not attempt to transfer possession of the Mobile Device to a third party without Our consent in writing;
  - (e) not use the Mobile Device for any unlawful purpose;
  - (f) not deface, change, modify or repair the Mobile Device, except for repairs by a repairer approved by Us or the original manufacturer of the Mobile Device;
  - (g) tell Us immediately if the Mobile Device stops working properly; and
  - (h) tell Us immediately if the Mobile Device is lost or stolen. You are responsible to Us for Your lost or stolen Mobile Device, and unless We have agreed otherwise with you in writing, You will continue to be liable for all amounts due and payable under this Agreement in relation to the Mobile Device.

### 2.2 Monthly Instalments

- 2.2.1 Subject to clause 2.4 and 3.4, You agree to pay during the lease term the Monthly Instalment on each Monthly Payment Date.

- 2.2.2 If We accept Your Mobile Device Lease Order Form, Your first Monthly Instalment will be debited promptly after that acceptance.
- 2.2.3 After Your first Monthly Instalment, We will then schedule the debit for each of Your subsequent Monthly Instalments on the each Monthly Payment Date in the lease term.
- 2.2.4 You authorise Us to debit Your Nominated Card for each of the Monthly Instalments and any applicable additional fees and amounts, as agreed to under Your Agreement.

### 2.3 Other amounts

- 2.3.1 In addition to all other amounts payable under this Agreement,
  - (a) if we cancel or terminate the Agreement or the lease of the Mobile Device because you are in breach or an Acceleration Trigger Event has occurred, You must pay Us on demand for any loss, costs, damages or expenses suffered or reasonably incurred by us in connection with such breach or event or the exercise of our rights in respect thereof; and
  - (b) You must pay us our reasonable costs in connection with all duties and taxes (including any related interest, penalties, fines and expenses) payable in connection with the Mobile Device or this Agreement.

### 2.4 Obligation to pay out and return Your Mobile Device upon occurrence of Acceleration Trigger Event

- 2.4.1 If an Acceleration Trigger Event occurs,
  - (a) Your lease of the Mobile Device and the Agreement with respect thereto terminates;
  - (b) an amount equal to the Outstanding Balance in respect of that Mobile Device becomes immediately due and payable by You to Us (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; and
  - (b) You must at your own expense return the Mobile Device to Us in compliance with the requirements of clause 4.3.
- 2.4.2 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 2.4.1(b), 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.

### 2.5 Additional Anytime Termination Right Conditions that may apply

- 2.5.1 For the purposes of Your Anytime Termination Right, including without limitation clause 4.1.3 of the General Terms and Conditions, upon exercise of Your Anytime Termination Right, as an additional Anytime Termination Right Condition, You must at your own expense return the Mobile Device to Us in compliance with the requirements of clause 4.3.

## 3 Customer support in relation to Mobile Devices

### 3.1 Your satisfaction

- 3.1.1 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 discuss with You Your various options.

3.1.2 Each of the Customer Rights (as defined in clause 3.2 below) is in addition to, and does not limit or exclude, Your rights under the Australian Consumer Law.

### 3.2 Our commitment to customer satisfaction – the Customer Rights

3.2.1 Consistent with Our commitment to Your satisfaction, our Mobile Devices benefit from Our:

- (a) Device Warranty (please see clause 3.3 for further details).
  - (b) 30-Day Return Option (please see clause 3.4 for further details),
- (collectively, the **Customer Rights**).

### 3.3 Our Device Warranty

3.3.1 If Your Mobile Device becomes faulty during the term of your lease through no fault of Yours (excluding Excluded Defects and any fault caused by circumstances within Your control) (a Relevant Fault or Defect), You may contact Our Customer Service Team or submit a Mobile Device Return Form to initiate consideration as to whether the Relevant Fault or Defect is covered by the manufacturer's warranty in which case, We will replace or repair, or arrange for the replacement or repair of, the Mobile Device (Our Device Warranty). Our Device Warranty is in addition to, and does not limit or exclude, Your rights under the Australian Consumer Law.

3.3.2 If Your claim under the 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) and any other fees associated with the cost of undertaking any agreed repair of the damage or fault.

3.3.3 You are responsible for any other expenses associated with submitting a claim under Our Device Warranty.

3.3.4 If you are provided with a replacement Mobile Device under our Device Warranty or under a consumer guarantee in the Australian Consumer Law, this will be treated as if it was the Mobile Device originally provided to you under your lease.

3.3.5 We note Mobile Devices you lease 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.

### 3.4 Your 30-Day Return Option

3.4.1 Without limiting Your other rights (including under the Australian Consumer Law), at any time within 30 days of the day on which the Agreement Start Time occurs, provided that Your Mobile Device is in Original Condition, You may elect to cancel the lease of the Mobile Device by returning the Mobile Device to Us within such 30-day period (Your **30-Day Return 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 Return 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 Return Option and may be liable for the Reversal Shipping and Handling Fee in order to return to You the Mobile Device; and
- (c) You and the Mobile Device satisfy the Returned Device Conditions in clause 4.3.

- 3.4.2 Each of the conditions in clause 3.4.1 must be satisfied within the 30-day period before Your claim under the 30-Day Return Option can be successful.
- 3.4.3 Where You elect to return the Mobile Device in accordance with the 30-Day Return 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).
- 3.4.4 You will remain liable to pay any Monthly Instalments that become due up to the date We receive Your returned Mobile Device and we may debit any Monthly Instalments that become due from Your Nominated Card.
- 3.4.5 If We are not satisfied that the returned Mobile Device meets the conditions in clause 3.4.1 and 3.4.2 or that the Returned Device Assessment confirms that the returned Mobile Device is not 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 and/or the Reversal Shipping and Handling Fee, as applicable).

### **3.5 Want to retain the Mobile Device?**

- 3.5.1 If at any time you would like to retain the Mobile Device, You may contact Our Customer Service Team to make an offer to retain or purchase from Us the Mobile Device, however, we may agree to or decline such an offer in Our discretion, and if we do agree (which we are not required to do), we may do so on such terms as we may reasonably require in Our discretion.

## **4 Return of Your Mobile Device**

### **4.1 Mobile Device Return**

- 4.1.1 Upon expiry of the lease term for the Mobile Device, or on any earlier termination of this Agreement or the lease of the Mobile Device (other than in accordance with the 30-Day Return Option), in addition to any other obligations and amounts payable under this Agreement, Your lease of the Mobile Device ceases / terminates and You must at your own expense return the Mobile Device to Us in compliance with the requirements in clause 4.3, including without limitation in compliance with the Returned Device Conditions.
- 4.1.2 If You do not return to Us the Mobile Device upon expiry of the lease term in accordance with clause 4.1.1, You will be liable to pay to Us the Non-Return Fee on the first day of every month following expiry of the lease term (up to 6 consecutive months after expiry of the lease term) unless and until the Mobile Device has been returned to Us in accordance with clause 4.1.1.

### **4.2 Returns process and the Returned Device Assessment**

- 4.2.1 For every Mobile Device returned to Us in connection with any of the Customer Rights or upon or following termination or expiry of its lease, We will (upon receipt of that Mobile Device) undertake an assessment of that returned Mobile Device to determine whether:

- (a) in the case that a return is for the purpose of making a claim under the Device Warranty, the fault or damage to the Mobile Device is covered by the Device Warranty (or a right you may have under the Australian Consumer Law);
- (b) in the case that a return is for the purpose of exercising the 30-Day Return Option, that the Mobile Device is in Original Condition; or
- (c) in the case of a return upon or following termination or expiry of its lease, that the Mobile Device is not a Damaged Device,

(the **Returned Device Assessment**).

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

### 4.3 Returned Device Conditions

4.3.1 When returning any Mobile Device (whether in connection with a Customer Right or as otherwise required under this Agreement, including without limitation clause 4.1.1), please note that You agree that the returned Mobile Device will be submitted for a Returned Device Assessment in accordance with clause 4.2 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) 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);
- (c) 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
- (d) in the case of the return of a Mobile Device under the Device Warranty, 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 lease term. 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).

4.3.2 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).

4.3.3 If, in the case of a Mobile Device return upon or following termination or expiry of its lease, the Returned Device Assessment determines that the Mobile Device is a Damaged Device, You will be liable to pay the Damage Fee (at the time We notify You of that determination).

#### **4.4 Wiping and Unlocking on returned Mobile Devices**

4.4.1 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 4.5.

4.4.2 We recommend that, before returning any Mobile Device, You please refer to relevant manufacturer 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.

#### **4.5 Disclaimer of liability for returned Mobile Devices and SIMs**

4.5.1 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 or required).

4.5.2 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 Mobile Device can or will be returned to You.

4.5.3 You acknowledge that You retain all liability in respect of a Mobile Device (whether it is Your existing Mobile Device or a replacement Mobile Device) that You are seeking to return under the Device Warranty or the 30-Day Return Option (available for Mobile Phones in Original Condition) or as otherwise required under this Agreement, including without limitation under clause 4.1.1 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).

4.5.4 For clarity, this clause 4.5 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 Lease 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 Lease Terms.

**30-Day Return Option** has the meaning given in clause 3.4.1.

**Accelerated Final Payment** has the meaning given in clause 2.4.1.

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

- (a) termination by Us of the Agreement in accordance with its terms, including without limitation as contemplated by clause 4.2 of the General Terms and Conditions;
- (b) suspension or termination by Us of the Corresponding Mobile Service Plan for any failure by either or both of the relevant Account Holder and the relevant End User (if not the Account Holder) to comply with any of the obligations set out in this Agreement (including under these Mobile Device Lease Terms or the Mobile Service Terms), including without limitation:
  - (i) any failure to pay any amounts when due and in respect of which there is no exception agreed formally between You and Us (for example, as a result of a successful claim for financial hardship);
  - (ii) failure to activate Your SIM as per clause 4.3 of the Mobile Service Terms;
  - (iii) failure to comply with the Fair Go Policy; or
  - (iv) any illegal or unlawful behaviour;
- (c) any termination by You of the Agreement or the Corresponding Mobile Service Plan (including under the Anytime Termination Right), other than as a direct result of:
  - (i) a change We have made to this Agreement without Your consent, and which has had, or will have, a material adverse effect on You, including (without limitation) a change in:
    - a. the wholesale carrier that controls the Network (currently Telstra Corporation Limited); or
    - b. the coverage of the Network;
  - (ii) any failure by Us to comply with any material obligation, which has had, or will have, a detrimental effect on You (including where We are excused from performance due to that material obligation being an Affected Obligation);
  - (iii) an exception which has been agreed formally between You and Us (for example, as a result of a successful claim for financial hardship); or
  - (iv) Your election to return Your Mobile Device under the 30-Day Return Option (which shall be addressed in accordance with clause 3.4).

**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.

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

**Corresponding Mobile Service Plan** means, in respect of a Mobile Device leased from Us, the Mobile Service Plan purchased or used in conjunction with that Mobile Device.

**Customer Rights** has the meaning given in clause 3.2.

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

**Damage Fee** means the fee determined with reference to Our Lease Damages Policy outlined [here](#).

**Damaged Device** means a Mobile Device which is determined to be damaged in accordance with Our Lease Damages Policy outlined [here](#).

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

**Excluded Defects** 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).

**Fair Go Policy** has the meaning given in the General Terms and Conditions.

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

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

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

**Mobile Device Lease 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 or notifying of the return of a Mobile Device when required or exercising a Customer Right provided online through the nu Website.

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

**Mobile Service Plan** has the meaning given in the Mobile Service Terms.

**Mobile Service Terms** has the meaning given in the General Terms and Conditions.

**Monthly Cut-Off Time** has the meaning given in the Mobile Service Terms.

**Monthly Instalment** means, in respect of a Mobile Device leased from Us, the monthly instalment specified in the relevant Mobile Device Lease Order Form.

**Monthly Payment Date** means:

- (a) the first Monthly Payment Date is the day on which the Agreement Start Time occurs; and
- (b) where the first Monthly Payment Date occurs on the 1<sup>st</sup> to the 28<sup>th</sup> 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
- (c) where the first Monthly Payment Date occurs on the 29<sup>th</sup>, 30<sup>th</sup> or 31<sup>st</sup> 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.

**Network** has the meaning given in the Mobile Service Terms.

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

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

**Original Condition** means the Mobile Device in its original packaging, unopened, and in its original, undamaged condition.

**Outstanding Balance** means, at any time and in relation to a Mobile Device leased from Us, the sum of the following:

- (a) all amounts then due but unpaid by You under the Agreement;
- (b) the sum of all Monthly Instalments which would, but for early termination or the occurrence of the relevant event, become due and payable during the remainder of the lease term; and
- (c) any other amounts payable under this Agreement.

**Relevant Fault or Defect** has the meaning given in clause 3.3.1.

**Returned Device Assessment** has the meaning given in clause 4.2.1.

**Returned Device Conditions** has the meaning given in clause 4.3.

**Reversal Shipping and Handling Fee** means \$30.

**Shipping and Handling Fee** means \$15.

**SIM** has the meaning given in the Mobile Service Terms.

**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.