

5STAR TELECOM TERMS & CONDITIONS

These are the terms on which 5Star Telecom Pty Ltd ABN 65127845667 (5Star) will provide the Services to you. The Agreement between you and 5Star incorporates these Terms and Conditions and the Application. This Agreement starts when the Application is accepted by 5Star and continues until terminated in accordance with this Agreement.

1. Services

- 1.1. 5Star will provide you with the telecommunications services set out in the relevant Application (**the Services**) from the date the relevant transfer is affected.
- 1.2. 5Star may change the technical specifications of the Service without notice to you. 5Star may change the manner in which the Services are provided to you, including by changing the service provider, without notice to you.

2. Term

- 2.1. This Agreement commences on the date you sign the Application (**the Commencement Date**) and continues until terminated in accordance with this Agreement (**the Term**). The Application may also specify a term during which you may not terminate this Agreement (**the Minimum Term**).
 - 2.2. You acknowledge that 5Star provides relevant rates to you, performs certain services and acquires various services from third parties in order to provide the Services to you on your behalf on the basis that you continue to use 5Star to provide the Services during the Term.
 - 2.3. You must not replace 5Star as your agent or appoint another agent for the purposes of preselection of voice Services during the Minimum Term or Term as the case may be without the consent of 5Star.
- 3. Voice Services—Preselectable and Override Local Voice Service**
- 3.1. You agree to transfer the Services to 5Star by use of any method determined by 5Star including but not limited to churn, preselection or override. Where 5Star determines that preselection is the method of transfer of the Services you agree to 5Star preselecting your preselectable basket of services to itself or another service provider. You can confirm your preselection status by dialling 12711.
 - 3.2. Where 5Star determines that override is the method of transfer of the Services you agree that the service is only available through override dialling where you are responsible for programming 5Star's override code in your phone system.
 - 3.3. 5Star may provide the Services by: (a) you programming your equipment to route calls to an override code; (b) preselecting your preselectable basket of services to a service provider nominated by 5Star; (c) otherwise by any other method reasonably available to 5Star.
 - 3.4. Your current service provider will continue to provide and bill you for network access and associated services, such as but not limited to line rental, directory assistance, call connect, 1300, 019, 0015, 0018 and 0014 calls, exchange based diversions, information calls, operator assisted calls, service and equipment, yellow and white pages charges. You acknowledge that 5Star will be unable to provide the Services to you if you do not maintain network access.

4. Digital Subscriber Line (DSL) Broadband Services

- 4.1. You will require an ADSL modem to connect to the Service. If you supply your own modem, it must be approved for use in Australia.
- 4.2. If you have a back to base alarm system or more than 3 extensions on the line to be used for the provision of the Service, a central splitter must be installed by a qualified installer.
- 4.3. The actual bandwidth rates you experience on the Service may be less than the nominated rates due to a number of factors including contention ratios, packet overhead, distance from exchange, line quality and your equipment capability.

5. 5Star Broadband Service

- 5.1. You agree and acknowledge that 5Star Broadband is an "internet-grade" product only, which means that successful data transport using the service is not guaranteed.
- 5.2. You agree and acknowledge that: (a) the installation and operation of a 5Star Broadband service may cause temporary disruption in the standard telephone services received by you or a Monitoring Service; (b) the installation and operation of a Monitoring Service may cause temporary disruption to a 5Star Broadband service; (c) the installation and operation of a 5Star Broadband service may mean that Incompatible Products will not be supplied to you using the Qualified pair; (d) any provider of a Monitoring Service used by you has been notified that: (i) installation and operation of a 5Star Broadband service may cause temporary disruption in the standard telephone services or a Monitoring Service received by you; (ii) installation of CPE such as central splitters and network termination devices may be required.
- 5.3. In respect of each 5Star Broadband service, you release 5Star from any liability and indemnify 5Star against all Loss incurred or suffered by 5Star in conjunction with any claims, actions or proceedings against 5Star (including third party claims or claims by you) arising out of the following (to the extent that the liability is caused by the provision or cancellation of 5Star Broadband service): (a) disruption in the PSTN services or Monitoring Services; (b) cancellation of the individual service; (c) suspension of the provision of 5Star Broadband service to particular IP addresses; (d) cancellation of, or refusals to provide, all Incompatible Products; (e) possible breaches of the Telecommunications (Customer Service Guarantee) standard.
- 5.4. The access bandwidth of 5Star Broadband service is determined by 5Star. 5Star may limit the Access Bandwidth of a 5Star Broadband service if 5Star reasonably considers that you are making inappropriate or undue use of Access Bandwidth.
- 5.5. You must comply with 5Star's Acceptable Use Policy.
- 5.6. Without prejudice to its other rights under this agreement, 5Star may immediately remove, amend, alter or disclose to appropriate regulators or law enforcement agencies any data in respect of the Application Layer (including in respect of virtual ISP services provided by 5Star to you) ("Customer Data"): (a) if there has been a breach of the 5Star Broadband service Acceptable Use Policy; or (b) upon it or any of its subcontractors for the provision of the IAS Platform: (i) being served with any court order, judgement, decree, determination or otherwise of any Governmental Agency that the Customer Data is illegal, offensive, objectionable or in breach of a third party's rights; and (ii) if directed to do so by the Australian Communications and Media Authority (ACMA) under a "take-down-notice": in accordance with obligations under the *Broadcasting Services Act 1992* (Cth).

- 5.7. Where 5Star, or an agent of 5Star, is required to attend your premises in response to a Fault report in relation to 5Star Broadband service and the Fault is found to be in the Non-5Star Equipment, 5Star will charge a fee for the incorrect call out.
- 6. Supply and porting of Mobile Services**

- 6.1. The mobile service number (herein "Mobile Service") specified in the Customer Application Form (CAF) will be transferred from the your existing service provider to 5Star via a churn process (if applicable) or a port from another carrier. You must provide all such assistance and information to 5Star so as 5Star may reasonably be able to complete the transfer of the Mobile Service.
- 6.2. Porting your Mobile Service from your existing service provider to 5Star is governed by ACIF C570 code – Mobile Number Portability ("Porting").
- 6.3. You acknowledge and agree that:
 - (a) If the Mobile Service is ported, only the Mobile Service switches to 5Star. Existing features and value added services with the current service provider will not be transferred with the Mobile Service, which may result in the loss of these services and the need to set up these features and value added services with 5Star.
 - (b) The current service provider may reject or delay the request for Porting if the information provided by you is incorrect or do not match the information held by them. In this case, we reserve the right to resubmit the Porting request or dispute the rejection with your current service provider.
 - (c) In accordance with the ACIF C570 code and any other bilateral arrangements, there may be a period of outage during the Porting process.

- (d) 5Star does not warrant that your Mobile Service will be switched to 5Star within any specified time frame.
 - (e) If the Mobile Service cannot be ported, 5Star will let you know and 5Star will offer you a new number.
- 6.4. If you wish to Port the Mobile service from 5Star to another service provider, you will be required to arrange the port with the new service provider. In so doing, and unless agreed to in writing, you may be liable for any termination fees, including early termination fee for the remainder of the minimum term.
 - 6.5. 5Star reserves the right to charge a Porting fee for porting in or out the Mobile Service.
 - 6.6. 5Star will supply a new SIM card that will need to be used for the Mobile Service supplied by 5Star.
 - 6.7. You may have outstanding contractual obligations and costs to the current service provider which may require the payment of cancellation and/or termination fees to that service provider if you switch to 5Star.
 - 6.8. When you are bringing the existing handset/mobile device onto the 5Star service, you may be required to contact your existing service provider to unlock the device if it is network locked.
 - 6.9. The SIM card is your sole responsibility, it's safe keeping and any charges incurred from the use of the SIM. SIM cards lost or stolen will continue to be charged to you until such time as you have advised 5Star to cancel or suspend the Mobile Service.
 - 6.10. The Mobile Service may be unavailable in some areas, or in some buildings and parts thereof as a result of a number of factors beyond 5Star's control.
 - 6.11. 5Star is not liable to you or any person claiming through you for any breach or failure caused by any event beyond 5Star's reasonable control, including any technical problems or limitations relating to a carrier's network, delays in connection, disconnection, suspension or delay in supply of a Mobile Service.
 - 6.12. Call types included in the capped plan are Standard voice calls (Local, National, and mobile), Voicemail deposits and retrievals, National SMS, National MMS.
 - 6.13. Excluded from the capped plan are some services such as Optus Zoo, mobile internet usage, Mobile IM – Instant Messaging, International calling, international roaming, international SMS & MMS, international video calling, directory assistance, premium SMS, VOIP services and usage and 19xx services.
 - 6.14. The minimum plan spend per month is equal to the monthly capped plan plus any bolt-on internet plan added.
 - 6.15. We will not be able to provide the monthly usage amounts prior to you receiving your bill for the period.
- 7. Bolt-on Mobile Internet Plans**
- 7.1. You can request a bolt-on mobile internet plan for a fixed cost per month for a specified allowable usage limit per month.
 - 7.2. If you go over the specified allowable usage limit per month, you will be charged at a rate per KB thereafter.
 - 7.3. You are required to ensure they have a GPRS capable device.
 - 7.4. SMS Alerts, Ring Tones, Screen logos, mobile games, picture messages, MMS contents are additional charges. Roaming charges apply for data usage whilst overseas.
 - 7.5. If you have not signed onto a Bolt-on mobile internet plan, data usage will be charged at a rate per Kb (Kilobyte) per the rate sheet.
- 8. Wireless Internet Data – USB Stick**
- 8.1. Data plans includes an allowance of data usage per month. Once you have reached and exceeded the data usage allowance in the month, an excess charge rate per Mb (Megabyte) will be applied. Note 1 Gb (Gigabyte) of usage is equal to 1024Mb.
 - 8.2. International data roaming usage is specifically excluded from the usage allowance on the data plans.
 - 8.3. We are not responsible for any internet content obtained from this service. In addition, you must not misuse the service and any misuse may be reported to the Police.
 - 8.4. If you choose a 12mth or 24mth plan, and your service is disconnected for any reason or you switch carriers within the contract term, you will be required to pay the monthly plan charge multiplied by the number of remaining months left in the contract plus any cost for the hardware that was provided as part of the contract.
- 9. International Roaming**
- 9.1. International Roaming ("Roaming") refers to the use of your mobile phone while you are overseas. This include, amongst other things, voice calls, internet usage, SMS, MMS.
 - 9.2. Roaming may need to be activated before you can start using it overseas.
 - 9.3. You are responsible for finding out the call rate you will be charged in each country you are visiting for Roaming on your mobile.
 - 9.4. You may be charged for calls made from and received on your mobile at the International Roaming rate while you are overseas.
 - 9.5. Call records for roaming charges may be delayed for up to 6 months due to the relaying of call records from the international carriers.
- 10. Premium Calls**
- 10.1. Premium calls refer to calls made to 1900xx numbers and other high rate per minute charges including psychic services, call to a content or live advice service, adult services, competitions and school test results.
 - 10.2. Access to premium calls and thus its barring are your responsibility and you must notify us should you wish barring to take place.
 - 10.3. To avoid unexpected charges on your phone bill, you should be aware of the premium rates being charged, how the premium rates are applied (eg. fixed or timed) and who has access to your phone.
- 11. SMS Messaging**
- 11.1. Users Responsibilities: Account holders and/or users must keep their personal registration information (name, billing details and contact data) accurate, complete and up to date. 5Star reserves the right to verify this information from time to time and to terminate without notice any accounts found in non-compliance with this requirement.
 - 11.2. Use of 5Star Messaging is the account holder's responsibility and totally at the account holder's own risk.
 - 11.3. 5Star (including its employees and contractors) will not be liable for any loss or damage caused to the account holder, user or anyone else as a result of using the 5Star service. This includes but is not limited to loss or damage caused by loss or delay of message content or any loss caused by the negligence of 5Star, its employees or contractors.
 - 11.4. Account holders and users will be totally responsible for costs incurred from the use of their account, including costs incurred by others entrusted with the account holder's username and password. Therefore account holders and users must accept responsibility for all aspects of their 5Star account, including the actions of all persons in possession of the account holders username and password.
 - 11.5. The account holder or user indemnifies 5Star from all costs, liabilities, suits, actions or claims arising or in any other way connected with 5Star from the account holder's or user's use of their 5Star account, or any other person using the account holder's username and password.
 - 11.6. The account holder and user agrees not to transmit any material which violates State or Federal law, instructions, regulations or guidelines issued by regulatory authorities, relevant licenses and other codes of practice or transmit any material which is in contravention to any privacy or copyright rules or any other proprietary interest.
 - 11.7. The account holder and/or user agrees not to harass, stalk, abuse or threaten any other person through the use of 5Star messaging.
 - 11.8. The account holder agrees to be aware and abide by State and National regulation and law regarding the use of SMS as an advertising and communication media. The account holder, as a message originator, agrees to comply with:
 1. The SPAM ACT 2003-See the Practical guide for business; and

2. The Australian Communications Industry Forum (ACIF) Industry Code of Short Message Service (SMS) Guideline, ACIF document C580 December 2002.
- 11.9. The account holder and/or user agrees not to interfere with the operation of the 5Star messaging system.
- 11.10. 5Star directors maintain the right to inspect message content and take appropriate action on receiving complaints relating to message content via the 5Star service. We take abuse of people's privacy rights seriously. 5Star contacts all account holders by e-mail or phone for any matter relating to unsolicited, abusive, deceptive or misleading messaging that has been conducted through the 5Star service. Appropriate action may constitute the suspension or cancellation of an account pending investigation into any alleged abuse or misuse of the 5Star service for inappropriate or illegal use.
- 11.11. The account holder and/or user agrees that all the contents of the 5Star Messaging service, including web-sites, pages, logos, hardware and promotional materials are protected by copyrights and trademarks and remain the property of 5Star and may not be copied for any reason.
- 11.12. Refund policy of accounts with SMS credits: 5Star will not refund policy except for the following circumstances:
 1) On substantiation of the death or permanent incapacitation of the registered user
 2) If the size of a credit purchase is too large and, following cleared funds in 5Star account, you request a reduction in the number of purchased credits before using these credits and within 3 days of the purchase of these credits.
- 12. Acceptable Use Policy**
- 12.1. Introduction: (a) If you have an agreement with 5Star for a service ("Service") that includes or incorporates this Acceptable Use Policy ("AUP"), you must comply with this AUP when you use that Service; (b) A reference to "you" in this AUP includes a reference to your officers, employees, contractors, agents and anyone else (other than 5Star or its representatives) who uses the Service.
- 12.2. What you cannot use the service for:
 You must not use the Service, attempt to use the Service or allow the Service to be used in any way: (a) which results in you or 5Star breaching, or being involved in a breach of a law, order or regulation (including a foreign law, order or regulation), a mandatory code of conduct; or a voluntary code of conduct that you have agreed to comply with; (b) which results, or could result, in damage to property or injury to any person; (c) to harass, menace or stalk people; (d) which enables a minor to access material inappropriate for a minor or to establish (or try to establish) contact with a minor not otherwise known to you; (e) which unlawfully incites discrimination, hate or violence towards one person or group, for example because of their race, religion, gender or nationality; (f) to send, display or be otherwise involved in material which is obscene or defamatory; (g) which is, or which would be considered by a reasonable person to be, offensive or abusive; (h) to engage in any misleading or deceptive business or marketing practice; (i) that involves providing or promoting illegal pyramid selling schemes or unlawful gambling or gaming activities; (j) which infringes 5Star's or any other person's rights (including intellectual property rights and moral rights); (k) which constitutes a misuse of 5Star's or any other person's confidential information; or (l) which results in a breach by you of any obligation that you owe to any person.
- 12.3. What you cannot use the service to do:
 (a) You are not authorised to access 5Star's computer systems or networks for any purpose other than to use the Service in accordance with this AUP and your agreement with 5Star for supply of the Service. (b) You must not: interfere with the proper operation of the Service or any other part of 5Star's network or systems; use the Service to contribute to, or participate in, a Newsgroup, forum or chat room in a way that has an adverse effect on the proper operation of those Newsgroups, forums and chat rooms. (c) You must not use the Service, attempt to use the Service or allow the Service to be used: (i) to send, cause the sending of or otherwise be involved in the sending of, SPAM or USENET SPAM; SPAM means unsolicited Bulk electronic messages of any kind (including email, fax, SMS and ICQ messages). Bulk means 20 electronic messages over a 10 minute consecutive period. USENET SPAM means Excessive electronic Newsgroup messages. Excessive means posting the same or substantially the same message ("Message") to one or more Newsgroups resulting in a Breidbart Index of 20 or more. A Breidbart Index is calculated by multiplying the number of Messages by the square root of the number of Newsgroups that they are posted to over a consecutive 45 day period; (ii) in connection with any program (including a virus, Trojan horse, worm, cancelbot, time bomb), or activity (including a Denial of Service attack), that is designed to provide or allow any form of unauthorised control of, or result in an adverse effect on, a computer, a network or data (whether the computer, network or data is 5Star's or anyone else's); (iii) to access or use 5Star's or anyone else's systems, networks or data (including through open relay, port probing and the use of packet sniffers) without consent, regardless of whether or not such access or use has any adverse effect on the system, network or data; (iv) to create, send or alter in any way and by any means (including spoofing and use of third party mail servers), the contents of an electronic message for the purpose of hiding, obscuring or deleting the source of the message or making the message appear to come from someone other than you; or (v) to manipulate or bypass 5Star's content usage limits by any means including connecting multiple modems to the Service. (vi) to participate in any Peer to Peer Network, such as BitTorrent, eDonkey, or Kazaa. (vii) to Download any content that breaches the owners' copyright.
- 12.4. Other obligations related to SPAM and USENET SPAM
 (a) You must not benefit from SPAM or USENET SPAM (which includes causing or requesting any of your details to appear in SPAM or USENET SPAM and/or receiving responses to SPAM or USENET SPAM).
 (b) You must not purchase, create, use, distribute, sell or otherwise be involved in software, services or lists of sites, addresses, numbers or other identifiers of any kind (including email addresses and phone numbers) that are used to promote, send, or assist with the sending of, SPAM or USENET SPAM.
 (c) If you send Bulk solicited electronic messages, then: (i) you must include in each message, an email address, telephone number, facsimile number or mailing address that can be used to notify you that the recipient no longer wishes to receive such messages from you ("Opt Out Notice"); and (ii) if you are sent an Opt Out Notice, then you must immediately comply with the notice.
- 12.5. Email Limits
 (a) We set limits on the size of emails sent to or by you, the period for which email messages can be stored and the maximum disk space that will be allotted on 5Star servers for your Service.
 (b) We may delete any electronic mail message sent by you or addressed to you if: (i) the size of the mail message (including attachments) exceeds your Mail Quota; (ii) the total of your undeleted messages (including attachments) exceeds your Mail Quota; or (iii) you have not deleted the message within 180 days of it becoming available to you (whether read or unread). We recommend that you delete emails on a regular basis as, once deleted, the message will not be able to be retrieved.
 (c) You will not send any electronic mail message that is sent using a [server/service] other than the 5Star SMTP server, unless we otherwise agree with you.
 (d) We will delete any electronic mail message where the message has been stored in the Deleted, Spam, or Outbox folders 7 days after the message becomes available to you or was sent by you.
 (e) If we delete any electronic mail messages under the terms of this agreement we are not required to notify you or the sender of the mail message(s).
- 9. Network Security**
- 9.1. You agree to accept responsibility and liability for the security of and/or access to your networks and related systems. You will take reasonable and appropriate precautions to prevent any violations of your network and/or related systems security.
- 9.2. 5Star does not take responsibility or are liable in any way for any violations of your network and/or related systems security, however caused.
- 9.3. While 5Star is responsible for the provision of services, you are responsible for ensuring that adequate security in the form of virus protection and firewalls exist to protect your electronic data and computer operating system against and unauthorised or unwarranted intrusion.
- 10. Current Service Provider**
- 10.1. If in providing the Services to you we need to change our arrangements with your current supplier, we will do so in accordance with this clause.
- 10.2. Your current service provider will continue to provide services to you until the transfer to 5Star has been completed. You remain liable to your current service provider for all charges you incur prior to that date including termination charges if applicable. Entering this agreement with 5Star may have consequences for your agreement with your current service provider including the loss of discounts and other benefits. You are responsible for determining the consequences that may arise.
- 10.3. In an effort to assist you in the transfer to 5Star, by signing this agreement: a) you authorise 5Star to sign on your behalf and in your name Forms of Authority to your Current Supplier to transfer the Services you have agreed to transfer in the Application; b) if we request, you will yourself give written instructions to your Current Supplier to transfer the Services Accounts from your name to ours; and c) if we have paid or credited any amount to your Current Supplier then you will reimburse us for that amount.
- 10.4. 5Star does not accept any liability for any amounts payable to your current or previous supplier of services including the Services and you agree to indemnify us against any claim by such a supplier on us.
- 10.5. You agree to notify us of any restrictions or services on the Services transferred to us such as call barring. You agree that some of these restrictions or services may not be available after transfer and you have satisfied yourself that the transfer will continue with or without these restrictions or services.
- 11. Billing and Payment**
- 11.1. 5Star will bill you for Services in accordance with relevant tariffs, rates and charges applying at the time the Services are used. 5Star may vary its rates at any time without notice to you.
- 11.2. 5Star will use its reasonable endeavours to issue bills for Services monthly. 5Star will bill you in advance for periodic charges, equipment rental, connection and service fees (where applicable) and in arrears for usage charges. 5Star may vary billing frequency at any time without prior notice to you. You must pay all bills by the due date. You are liable for the charges in connection with the Services, whether or not use of the Services was authorised by you.
- 11.3. You acknowledge that in some circumstances 5Star's ability to provide complete and timely billing is affected by third parties outside 5Star's control. However, 5Star will use best endeavours to bill you for your use of the Services within twelve months of use of the Services.
- 11.4. 5Star may elect to deliver your bills electronically. You acknowledge that the electronic display of your bills constitutes notification of the charges contained in those bills and the due date payable and that 5Star may not issue a paper copy of those bills. An administration charge applies if you request a paper copy of an electronic bill.
- 11.5. You may elect (where available) to have your bills paid by way of a direct debit from an account held by you at an approved financial institution or direct debit from a valid credit card nominated by you. If a direct debit is dishonoured, 5Star may impose an administration fee.
- 11.6. You agree that 5Star's records are sufficient evidence of your use of the Services and the charges payable by you to 5Star unless reasonable evidence is provided which demonstrates these records are incorrect.
- 11.7. 5Star may charge interest on any amounts not paid by you when due, calculated at a rate equivalent to 2% over the rate charged from time to time on the Westpac Corporate Overdraft Reference Rate. Interest is calculated and accrues daily. 5Star may also charge a late payment administration fee on all outstanding bills.
- 11.8. You agree to pay us for any charge which a third party renders to us as a result of: (a) You approaching that third party on your own behalf or otherwise than through us; or (b) You connecting, initiating or cancelling a service.
- 11.9. The prices for the Services are quoted exclusive of GST (unless stated otherwise) and other State and Commonwealth taxes including stamp duty, transaction duty and other similar taxes. Where required by law 5Star will set out these charges separately. Such amounts will be included in your bill, and you must pay them by the due date. You must indemnify 5Star for any penalties or interest payable by 5Star as a result of your failure to pay any amount by the due date.
- 11.10. 5Star may impose a credit limit on your account and/or require payment of a security deposit or interim payment, at its sole discretion and at any time. 5Star may at any time apply your security deposit to meet any cost, loss or liability incurred as a result of failure by you to comply with these terms or to pay any amount payable by you to 5Star.
- 12. Disputed Amounts**
- 12.1. In the event that a bill is disputed by you, you agree to pay to 5Star the total amount as indicated on the disputed bill without deduction or set-off and we agree to refund any monies found to be charged incorrectly after reasonable and proper investigation.
- 12.2. If a billing dispute is not raised within 12 months of the bill issue date, charges will be deemed correct and payable by you and any backdate/credit of these charges if required will not exceed a 12-month period prior to the date the dispute was raised.
- 13. Credit and Privacy**
- 13.1. Information sought in the Application will be used by 5Star to assist in assessing your creditworthiness, and to provide, administer and maintain the Services and your account. If you choose not to supply the requested information, then 5Star will not be able to assess your application or provide the Services to you.
- 13.2. You agree, and, if you are a partnership each partner agrees, to authorise 5Star to obtain a commercial or consumer credit report and to obtain personal information about you from your current service provider in order to transfer your service.
- 13.3. You acknowledge that 5Star may use your personal information for the following purposes: (a) Considering or applying 5Star's credit policy to your application for consumer or commercial credit and whether to continue to provide the Services to you; (b) Ongoing credit management of your account, including collection of overdue payments; (c) Ongoing maintenance of credit records about you; (d) Notifying you of information in connection with the Services; and (e) Development, research and direct and indirect promotion of 5Star's products and services.
- 13.4. You acknowledge that 5Star may disclose your personal information for the following purposes: (a) to a credit reporting agency to assess your application for Services, or to notify of a default by you and to allow a credit reporting agency to create or maintain a credit information file about you; (b) to credit providers to obtain information about the status of your account; (c) to collections agents to recover overdue amounts; (d) to carriers or service providers if required to enable them to provide the Services to you, or in the event 5Star is no longer able to provide the Services to you; (e) to assignees of all or part of 5Star's business assets, including trade receivables; (f) to government or regulatory bodies and other organisations as authorised or required by law; and (g) to related bodies corporate, employees, agents (such as outsourcing agencies) and contractors engaged by 5Star.
- 13.5. The type of information referred to in clause 13.1 and 13.2 includes identifying details (such as name, address, drivers' licence), information in your application, whether, in 5Star's opinion, you have committed a serious credit infringement, and information relating to the conduct of your account and your use of the Services.
- 13.6. You agree that 5Star or its agent may utilise any information collected and recorded by 5Star in relation to your account to assist 5Star in the process of debt recovery.

13.7. If you are a customer who is an individual, or the individual named as the contact person in the application form, you may seek access to and request the correction of any credit information or personal information held by 5Star by notifying 5Star in writing of the request.

14. Liability and Indemnity.

14.1. 5Star does not warrant availability of the Services at all times, commencing the supply of Services at a certain time, that the Services will be free of congestion, delay or fault and 5Star will not be liable for any loss or damage to your business which may result. This clause does not limit your rights under the TIO scheme or under any relevant Customer Service Guarantee imposed by ACMA.

14.2. 5Star will not be liable to you for any loss, damage or cost caused by 5Star's suppliers in relation to the Services.

14.3. Except as required by law, 5Star will not be liable to you or any person claiming through you for any costs, loss, liability, contribution, damages, consequential, direct or indirect economic loss whether caused by 5Star's or its agent's negligence arising from but not limited to 5Star's act, omission, failure or delay in connection with providing the Services; suspension or disconnection of the Services; reallocation of phone numbers; or the content or confidentiality of any communication using the Services.

14.4. Where 5Star is not able to exclude liability, you agree that the total liability of 5Star to you or a person claiming through you is limited at the option of 5Star to supplying the Services again or paying for the cost of doing so.

14.5. You agree to indemnify 5Star, its related bodies corporate and their officers against any losses, costs and legal expenses suffered as a result of you breaching these terms or the use of the Service to transmit or publish any material which is defamatory, breaches a third party's intellectual property rights or otherwise breaches any law.

15. 5Star Equipment and Software

15.1. Where 5Star provides use of, access to or supplies any of 5Star's equipment or software in relation to the provision of the Services: (a) Title to that equipment and software remains with us; (b) You will not attempt to rent, sell, remove or otherwise interfere with, create an interest in or dispose of that equipment or software; (c) You will provide us with reasonable access to that equipment and software and provide basic amenities in relation to that equipment such as electricity; (d) We may change, amend, upgrade or remove any such equipment or software at any time; and (e) On termination of this agreement you authorise us to enter your premises remove such equipment and software.

15.2. Where 5Star sells equipment to you in relation to the provision of the Services, any warranties will be void in the case of any misuse, neglect, mishandling, accident, improper maintenance, failure to comply with directions, exposure to hazards, failure to provide a suitable environment, or any natural disaster.

16. Suspension/Disconnection.

5Star may suspend and/or disconnect your Services (at 5Star's discretion) without prior notice: (a) if you breach any of these terms and conditions or any term or condition of any other agreement with 5Star or its related bodies corporate; (b) if 5Star is unable, for any reason including any act or omission of any provider, to supply or provide a Service or Services; (c) if 5Star is unable to contact you at your notified address; (d) if you do not pay any 5Star bill by the due date; (e) if 5Star forms a view, based on information supplied by you or any credit agency or credit provider, that you may not be willing or able to meet obligations in relation to payment for Services; (f) if you become or in 5Star's reasonable opinion are likely to become insolvent; (g) in the case of a partnership, on dissolution or filing of an application for dissolution, or in the case of a company, on filing of an application for winding up, or appointment of an administrator; (h) if any information provided by you is in 5Star's opinion, incorrect; or (g) if you exceed a credit limit imposed by 5Star.

17. Termination

17.1. Where no Minimum Term is specified in the Application and after the expiry of such Minimum Term, in respect of a Service, this is a continuing contract. You may terminate this agreement in respect of that Service at any time by giving 5Star 30 days' written notice. You remain liable for any charges you incur up to the effective date of termination. No refund of any fees, including any monthly access fees, will be granted, and no credits to your account will be redeemable or convertible to cash or any other form of credit.

17.2. For Voice Services (Clause 2), where a Minimum Term is applicable as set out in the Application and you fail to comply with Clause 2 at any time during the Term, 5Star may by giving you prior written notice terminate this Agreement immediately or if you fail in any two consecutive months to spend on monthly call charges to 5Star an amount equivalent to 70 percent of the average monthly amount paid to 5Star for the Services (based on the last two full months prior to the breach) as a result of a breach of this Agreement, 5Star may terminate the Services on 14 days notice.

17.3. For Voice Services (Clause 2), if 5Star terminates this Agreement in accordance with Clause 17.2 an amount equal to the number of months between the date you fail to comply with this clause until the end of the Term multiplied by fifty percent (50%) of the average monthly amount paid to 5Star for the Services (based on the last two full months prior to the breach and including without limitation all call charges and line rental) will be immediately due on payable. This clause does not in any way limit or reduce 5Star's rights under the remainder of this Clause 17. You acknowledge that any amount payable under this clause is a genuine pre-estimate of the loss 5Star is likely to suffer if you breach the relevant clauses of this Agreement.

17.4. For DSL Broadband services, if terminated prior to the end of the Minimum Term, you will be liable for the monthly access fees times the number of months left in the Minimum Term.

17.5. For Mobile Services including Wireless Internet, if terminated prior to the end of the Minimum Term, and your service is disconnected for any reason or you switch carriers within the Minimum Term, you will be required to pay the monthly plan charge multiplied by the number of remaining months left in the contract plus any cost for the hardware that was provided as part of the contract.

18. Assignment

5Star may obtain an alternative provider to provide Services to you, and may assign its rights and benefits under this agreement. You agree to the assignment of 5Star's rights under this agreement. You may not assign any rights under this agreement without the prior written consent of 5Star.

19. Use of Services

19.1. Services are made available to you on condition that you do not resupply or resell or otherwise make Services available for any person other than you or persons authorised by you, and that you do not use the service in any way or for any purpose prohibited by law.

19.2. You agree to indemnify 5Star to the fullest extent permitted by law against any claims resulting from a breach of this agreement and/or use of the Services provided to you whether engaged in by you or any other person.

20. Confidentiality

20.1. You must keep confidential all passwords you have nominated to be connected with the Services. You agree that 5Star may disclose any information in connection with your accounts to anyone who correctly quotes your password.

20.2. You will keep confidential the manner in which we arrange Services under this Agreement including our charges and discounts, and other information which would be reasonably expected to be confidential.

20.3. We retain all intellectual property rights in the confidential information.

20.4. You will not use information which you acquire from us for any purpose unless authorised in writing by us or in any manner which may cause us loss, whether by way of damage to our reputation, financial loss or otherwise.

21. Force Majeure

We are not liable for: any delay in installing or correcting any fault in any Service; failure or incorrect operation of any Service; or any other default in performance if caused by any event beyond our reasonable control, including but not limited to: the acts, omissions,

failure or delays of access service providers or your previous carriage service provider, war, weather, acts of God, industrial action, riots, government or regulatory acts.

22. General

22.1. These terms are governed by the laws of New South Wales. You submit to the non-exclusive jurisdiction of courts of New South Wales.

22.2. 5Star may vary these terms at any time with 10 days prior written notice (which includes Email) and will advise of changes with your invoice. Changes imposed by law will be implemented without prior notification.

22.3. Except as otherwise noted in these terms, these terms are the entire agreement between you and 5Star in relation to the Services. To the extent permitted by law, all other representations and warranties are excluded and 5Star's and providers' liability for any breach of any or other term implied by law is limited, at 5Star's option, to supply of Services again or payment of the cost of having these Services or equivalent services supplied again.

22.4. Any invalid, unenforceable, or illegal terms will not affect enforceability of any other of these terms.

22.5. Any notice, demand, consent or other communication required to be given by either party must be delivered personally, or sent by email, prepaid mail, or by facsimile to the address of the other as last notified.

22.6. We believe that any correspondence or emails from 5Star or its related parties are a valuable part of our service to you. The correspondence and emails do not constitute Spam as 5Star have a continuing business relationship with you. However, if you do not want to receive such commercial communication from 5Star please contact us to unsubscribe, otherwise we will continue sending you relevant information until you request us to remove your email address (this does not affect other electronic communications specifically regarding the provision of the service of your account).

5Star Website: www.5startelecom.com.au

5Star Telephone Number: 1300 886 784

5Star Facsimile Number: 1300 886 783



5STAR REWARDS PROGRAM TERMS & CONDITIONS

These terms and conditions govern the 5Star Rewards Program operated by 5Star Telecom Pty Limited ABN 65127845667 (**5Star Rewards**). You agree that these terms and conditions apply to any 5Star Reward Dollars you earn. Your use of the services provided by 5Star Telecom Pty Ltd (**5Star Telecom**) is subject to separate terms and conditions.

1. Membership

- 1.1. Membership of the 5Star Reward Program is available to customers of 5Star Telecom. Membership is offered at the discretion of 5Star Rewards, and 5Star Rewards has the right to accept or reject any application for membership in its sole discretion. Membership is non-refundable and non-transferrable.
- 1.2. An annual non refundable membership fee of \$99 (exclusive of GST) applies. This amount will be charged on the next 5Star Telecom bill following receipt of your application. The membership fee will be automatically charged annually while you continue to be a customer of 5Star Telecom.

2. Earning 5Star Reward Dollars

- 2.1. 5Star Reward Dollars are earned on the basis of 30 5Star Reward Dollars for every \$100 (exclusive of GST) spent each month after the first \$200 (exclusive of GST) on selected voice calls provided by 5Star Telecom, provided that the bill is paid in full by the due date. 'Selected voice calls' include preselectable services through 5Star (national, international and calls to mobile) and local calls plus national and international voice calls from qualifying 5Star Mobile Plans. For clarification; service and equipment and other Telstra products rebilled by 5Star will NOT qualify for 5Star Reward Dollars.
- 2.2. Your 5Star Telecom bill must be paid in full by the due date. If your bill is not paid in full by its due date, no 5Star Rewards Dollars will accrue in respect of amounts on that bill.
- 2.3. 5Star Reward Dollars are calculated on GST exclusive amounts for the following services: local calls, national calls, international calls and calls to mobiles preselected through 5Star; plus national and international calls from qualifying 5Star Reward Dollars.
- 2.4. Please note that 5Star Reward Dollars are not earned in respect of the following amounts: (a) charges for other services and goods provided by 5Star Telecom; (b) telecommunications services not provided by 5Star Telecom, such as indial services, 1300, 019, 0015, 0018 and 0014 calls, exchange based diversions, information calls, operator assisted calls, service and equipment, yellow and white pages charges; (c) mobile services other than national and international calls from qualifying 5Star Mobile Plans; (d) government charges, such as GST and other taxes or duties.
- 2.5. Where 5Star Reward Dollars are offset against your 5Star Telecom bill, no 5Star Reward Dollars will be earned in respect of the offset amount.
- 2.6. 5Star Reward Dollars are valid for a period of 3 years from the month in which they are earned while you remain a customer of 5Star Telecom and a member of the 5Star Reward Program. If your agreement with 5Star Telecom is terminated by you, or you terminate your membership of the 5Star Reward Program, you have 90 days from the termination to redeem rewards with 5Star Reward Dollars. After this time, the 5Star Reward Dollars expire. If your agreement with 5Star Telecom or your membership of the 5Star Reward Program is terminated by 5Star Telecom, or if you are in breach of any term or condition of that agreement or these terms and conditions, or if any moneys payable by you to 5Star Rewards or 5Star Telecom remain unpaid after 60 days from the due date, 5Star Rewards reserves the right to immediately suspend membership, and cancel accrued 5Star Reward Dollars.
- 2.7. You will not earn 5Star Reward Dollars, and cannot claim rewards, if your 5Star Telecom account is in arrears. You must bring your 5Star Telecom account up to date by paying the arrears before you can recommence earning points or claim a reward.
- 2.8. 5Star Rewards may change the way you earn 5Star Reward Dollars from time to time.
- 2.9. 5Star Reward Dollars are not property and do not have any monetary value except in respect of the value assigned to them by 5Star Rewards. 5Star Reward Dollars may not be transferred, sold, bequeathed or inherited. 5Star Reward Dollars can only be redeemed for rewards and are not convertible into cash.

3. Authorised Person(s)

- 3.1. You must nominate one or more authorised person(s) with the authority to claim rewards.
- 3.2. It is your responsibility to keep 5Star Rewards informed of any changes of authorised person(s).
- 3.3. Changes to the authorised person(s) must be notified to 5Star Rewards immediately via post or fax by an authorised officer.
- 3.4. 5Star Rewards excludes liability for any unauthorised claim under the 5Star Reward Program.

4. Redeeming your 5Star Reward Dollars.

- 4.1. You may claim a reward if you have sufficient 5Star Reward Dollars at the time of your claim. The number of 5Star Reward Dollars required for each reward is set out on www.5startelecom.net.au. 5Star Rewards decides if you are eligible for a reward.
- 4.2. Redemption forms are available on www.5startelecom.net.au or upon request by calling 1300 886 784. The redemption form must be signed by an authorised person.
- 4.3. Allow 25 business days for delivery of rewards, and note that delays may occur.
- 4.4. Delivery and delivery insurance charges apply. These charges will be deducted from available 5Star Reward Dollars, or may be paid by you in a manner agreed by 5Star Rewards.
- 4.5. 5Star Reward Dollars can only be redeemed against goods and services offered by 5Star shown on www.5startelecom.net.au. You can only select a reward that is currently available. Rewards may include:
 - Merchandise
 - 5Star Accelerate.
- 4.6. **Merchandise:** you may redeem your 5Star Reward Dollars for specific merchandise. 5Star rewards will arrange for these rewards to be delivered to you.
- 4.7. **5Star Accelerate:** you may redeem your 5Star Reward Dollars as an offset against your 5Star Telecom account equal to monthly rental payments on specific merchandise financed by an independent third party. Finance is provided by an independent third party, and is subject to approval and terms and conditions.
- 4.8. Rewards may be subject to personal, fringe benefits, or other tax assessment. Please check with your accountant for further tax advice.
- 4.9. Offers are subject to change and are available while stocks last. For the latest offers visit www.5startelecom.net.au.
- 4.10. 5Star may reissue, vary or add to the rewards offered at any time and alter the number of 5Star Reward Dollars required to claim a reward and may impose restrictions or conditions upon obtaining any rewards.
- 4.11. Rewards include only those features described in the product section in www.5startelecom.net.au
- 4.12. A request or claim for 5Star Reward Dollars redemption cannot be altered or revoked.

5. Reward Statements

- 5.1. 5Star Reward statements will appear in your monthly 5Star Telecom bill.
- 5.2. If you are no longer a 5Star Telecom customer, statements will be provided upon request and a fee may apply.

6. Responsibility for Rewards

- 6.1. Unless required by law, neither 5Star Rewards, 5Star Telecom or our servants or agents are liable for the quality, availability or fitness for purpose of any goods or services redeemed under the 5Star Reward Program. If you have a complaint about the goods or services you should contact the supplier directly.
- 6.2. We are not liable in the event that you cannot claim or redeem a reward for reasons beyond our control, including acts of God, insolvency, unavailability, or the failure of a rewards supplier failing to meet its obligations to 5Star Rewards.

- 6.3. Except as required by law 5Star Telecom will not be liable to you or any person claiming through you for any costs, loss, liability, contribution, damages, consequential, direct or indirect economic loss in connection with the 5Star Reward Program, whether caused by 5Star Reward's or its agent's negligence or breaching these terms and conditions.

- 6.4. Where 5Star Rewards is not able to exclude liability, you agree that the total liability of 5Star Rewards to you or a person claiming through you is limited at the option of 5Star Rewards to: (a) in the case of goods, replacing or repairing the goods, or paying for the cost of doing so; and (b) in the case of services, supplying the services again or paying for the cost of doing so. If a reward is covered by a manufacturer's warranty, you should contact the manufacturer directly.

7. Termination

- 7.1. 5Star may terminate the 5Star Reward Program at any time.
- 7.2. Notification will be provided as soon as practicable and you will have at least 30 days to claim rewards using accrued 5Star Reward Dollars before they expire.

8. Varying these Terms and Conditions

- 8.1. 5Star Rewards may vary these terms and conditions at any time. Changes may include changing:
 - the available rewards
 - the way you can earn 5Star Reward Dollars
 - the way you redeem 5Star Reward Dollars
 - the number of 5Star Reward Dollars to obtain a reward.Changes may affect 5Star Reward Dollars you have already earned.

9. Privacy

- 9.1. You authorise 5Star Telecom and our agents to collect information about you in connection with the 5Star Reward Program, including:
 - personal details, such as name, address, date of birth, occupation
 - transaction details relating to the 5Star Reward Program, such as numbers of 5Star Reward Dollars earned and redeemed, and details of reward redemptions.
- 9.2. You acknowledge that 5Star Rewards may use your personal information for the following purposes: (a) Considering or applying 5Star Reward's policies to your application and membership of the 5Star Reward Program; (b) Ongoing management of your membership and 5Star Reward Dollars; (c) Ongoing maintenance of records about you; (d) Notifying you of information in connection with the 5Star Reward Program; and (e) Development, research and direct and indirect promotion of 5Star Reward's products and services, and products and services of 5Star Telecom and partners in the 5Star Reward Program.
- 9.3. You acknowledge that 5Star may disclose your personal information for the following purposes: (a) to assignees of all or part of 5Star Reward's business assets, including trade receivables; (b) to government or regulatory bodies and other organisations as authorised or required by law; and (c) to related bodies corporate, employees, agents (such as outsourcing agencies) and contractors engaged by 5Star Rewards, and suppliers and partners of the 5Star Reward Program.
- 9.4. If you are a customer who is an individual, or the individual named as the contact person in the application form, you may seek access to and request the correction of any credit information or personal information held by 5Star Rewards by notifying 5Star Rewards in writing of the request.

10. Assignment

5Star Rewards may obtain an alternative provider to administer the 5Star Reward Program, and may assign its rights and benefits under this agreement. You agree to the assignment of 5Star Rewards' rights under this agreement. You may not assign any rights under this agreement without the prior written consent of 5Star Rewards.

11. General

- 11.1. These terms are governed by the laws of New South Wales. You submit to the non-exclusive jurisdiction of courts of New South Wales.
- 11.2. Except as otherwise noted in these terms, these terms are the entire agreement between you and 5Star Rewards in relation to the 5Star Reward Program. Any invalid, unenforceable, or illegal terms will not affect enforceability of any other of these terms.

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