

1 INTRODUCTION

BizMobile is TelstraClear's mobile service.

2 GLOSSARY OF TERMS

In these terms and conditions, unless the context requires otherwise capitalised terms will have the meaning given to those terms in the Standard Terms. In addition, the following terms have the following meanings:

Mobile Hardware

Means any mobile hardware other than SIMcards (including but not limited to handsets and accessories) that you order from us from time to time;

Mobile Services

Means the mobile services to be provided by us as described in the form of agreement or application form that you sign with TelstraClear, and each component part and feature of those mobile services.

3 CHANGE TO MOBILE SERVICES

- 3.1 Notwithstanding anything in clause 12.1 of the Standard Terms, we may stop providing a Mobile Service or change a Mobile Service at any time including if we are withdrawing a Mobile Service from general availability or replacing a Mobile Service (or part of a Mobile Service) with a new or different mobile service. If we stop providing a Mobile Service or change a Mobile Service as described above, we will give you at least 60 days' written notice thereof.

4 RADIO INTERFERENCE

- 4.1 Without limiting clause 3.3 of the Standard Terms, you acknowledge that the Mobile Services use radio signals and that the Mobile Services may be interrupted due to interference to those radio signals.
- 4.2 Coverage and Services can be adversely affected by radio interference, atmospheric conditions, geographical factors, network congestion, maintenance, outages on other networks or providers sites, the configuration or limitations of your intended recipients mobile device or other operational or technical difficulties, which means that you may not receive some or all of the Services in certain areas or at certain times.

5 YOUR COMMITMENT TO US

- 5.1 You agree that you will:
- not use your mobile device or Mobile Services for any abusive, illegal or fraudulent purpose;
 - not use any handset or other equipment that is not specifically approved by TelstraClear for use on the Network;
 - not use any handset or other equipment that interferes with TelstraClear's or its service provider's ability to trace or intercept telecommunications;
 - return all SIMcards to us on termination of this Agreement (if you do not return any SIMcard within 30 days after disconnection, we reserve the right to charge you for it);
 - keep us protected against any legal action taken against us in connection with your use of the Mobile Services;
 - not use the Mobile Services in any way that is offensive or unlawful or which could interfere with anyone else's use of mobile services;

- not do anything or introduce anything (including any virus) that may harm our or any third party equipment;
- not use the Mobile Services to spam, mail bomb, publish any offensive or unlawful material, harvest information about others, create a false identity, transmit or upload material which breaches any third party right or any similar activity;
- never interfere with any part of the Network; and
- make sure nothing is connected to the Network unless it has been approved by us. This helps to ensure that your Mobile Hardware does not damage the Network but does not mean that the Network will always remain compatible with your Mobile Hardware; and
- observe and adhere to the terms of our Fair Use Policy set out in clause 15 of this service description.

6 HARDWARE

- 6.1 Risk in the Mobile Hardware will pass to you upon delivery of the Mobile Hardware to you.
- 6.2 Title in the Mobile Hardware will pass to you upon payment of the Charges for that Mobile Hardware or, in the case of Mobile Hardware that we have agreed to provide you free of charge, upon delivery of the Mobile Hardware to you.
- 6.3 If you purchase any Mobile Hardware from us and such Mobile Hardware is under manufacturers' warranty, we will endeavour to give you the benefit of the warranty. However, we will have no obligation to negotiate any warranties or indemnities on your behalf with respect to any Mobile Hardware (or any associated software).
- 6.4 If you make a claim on any warranty that is held by us on your behalf, you must comply with any terms imposed by our third party service provider, including but not limited to the return of any loan mobiles within the specified timeframe and to pay our third party service provider's charges for inspecting your Mobile Hardware if it is not covered by the terms of the Mobile Hardware warranty.
- 6.5 If any item of Mobile Hardware requires repair or replacement because it is lost or damaged and that repair or replacement is not covered by any warranty referred to in clause 6.3 above, or you place an order for additional Mobile Hardware, then the charges for the repair or replacement and/or additional Mobile Hardware will be in accordance with our then current standard charges and you agree to pay all such applicable charges.
- 6.6 You acknowledge that any mobile hardware you purchase from a third party supplier will be your responsibility in terms of any warranty or service requirements.
- 6.7 You acknowledge that you continue to hold any manufacturers' warranties on your mobile hardware if it is any existing device or a device purchased from a third party supplier, and we will not be responsible for managing such warranties.
- 6.8 You acknowledge that we are not responsible for any loss of data or other information that may occur in the course of or in connection with the repair of any Mobile Hardware. We recommend that you back-up all data on all item(s) of Mobile Hardware before those items are sent to us for repair or replacement.
- 6.9 You acknowledge that we are not under any obligation to ensure the continued availability of the make and model of any Mobile Hardware we provide to you.

- 6.10 You agree not to resell, lease or rent any Mobile Hardware to any other person unless title in the Mobile Hardware has passed to you.
- 6.11 You acknowledge that access to the Mobile Services is dependant upon your equipment and hardware. If the products you use do not support all of the Mobile Services, we are under no obligation to ensure your access to those Mobile Services.
- 6.12 If your mobile device and/or SIM card becomes lost or stolen, or it is otherwise not in your possession, you must contact Customer Services immediately so we can prevent further calls being made from it. This is important as you will be liable for all Charges up to the time you advise us of its loss or theft. We are not liable for any loss to you as a result of loss, theft or unauthorised use of your mobile device or SIM card.
- 6.13 You must not remove any trademarks or logos from any of the Mobile Hardware.

7 SIMCARDS

- 7.1 All SIMcards belong to TelstraClear or its service providers and you may not sell, assign, transfer, encumber or otherwise deal in any SIMcard.

8 RESTRICTION

- 8.1 In addition to our rights under clause 11 of the Standard Terms, we may, without prior notification, bar or restrict any user's use of any or all of the Mobile Services if that user tampers with or is using the Mobile Services or any handset or equipment in a way that causes interference to the Network, or that is offensive or otherwise disruptive.
- 8.2 All applicable Charges will continue to accrue with respect to any restricted Mobile Service. We may require you to pay a reconnection charge as a condition of lifting any such restriction.
- 8.3 We may change or restrict the right to roam to and from overseas networks at any time during the Initial Term.

9 NO CLAIMS

- 9.1 Without limiting clause 17.5 of the Standard Terms, you may not bring a claim against any other network operator and/or third party supplier (including their officers, employees, contractors and agents) in connection with or arising from the Mobile Services.

10 TERMINATION

- 10.1 Without limiting clause 12 of the Standard Terms or clause 3.1 above, we may stop providing any Mobile Service or terminate this Agreement if any of our licences or rights to operate on the Network and/or sell the Mobile Services are suspended or terminated (including the termination of any agreement with a telecommunications provider in relation to the Mobile Services).
- 10.2 If you give up any or all of the Mobile Services under clause 12.2 of the Standard Terms or we terminate all or part of the Agreement under clause 12.3 of the Standard Terms, then we may require you to pay:
- all Charges for the Mobile Services incurred up to and including the date of disconnection; and
 - any outstanding Charges and other moneys payable by you for the Mobile Services.

- the early termination charges set out on the TelstraClear website, www.telstraclear.co.nz/go/bizmobileetc.

- 10.3 The above early termination charges replace the early termination charges referred to in clause 13.2 of the Standard Terms, in relation to the Mobile Services only.

11 INFORMATION

- 11.1 You agree that we may collect information about you and your use of the Mobile Services. This information may be obtained from you or generated within the Network when you or anyone else uses the Mobile Services. You agree that:
- we may share information about you and your use of the Mobile Services with our third party suppliers to allow those suppliers to provide the Mobile Services and to comply with interception capability, security, fraud investigation co-operation or emergency response services requirements; and
 - our third party suppliers may use the information about you and your use of the Mobile Services for the purposes described above.

12 CHANGES AND OTHER TERMS

- 12.1 Notwithstanding anything in clause 21.2 of the Standard Terms, we may change any aspect of the pricing plans and these Mobile Service Terms and Conditions, by giving you 60 days' notice in writing.
- 12.2 Other terms may apply to some of the Mobile Services. Where that is the case we will tell you about those terms. Once agreed in writing those terms will be part of this Agreement.

13 SERVICES PROVIDED BY THIRD PARTIES OVER THE NETWORK

- 13.1 We take no responsibility for the accuracy, completeness or currency of any content or material or Mobile Services that you may access or have provided to you by a third party or for any charges that you may incur by your use of such content, materials or services.
- 13.2 We are not responsible for:
- ensuring that the information you access or make available through using the Mobile Services will be private or secure or free from viruses or other harmful things;
 - any transactions you enter into through use of the Mobile Services or any dealings between you and any advertisers or other third parties using the Mobile Services or your participation in any promotions;
 - any delay in receipt of information you select for transmission to your mobile phone; and
 - fixing any faults in any part of the Internet beyond our Network.

14 BIZMOBILE (VOICE AND DATA) PRICING PLANS

- 14.1 We reserve the right to refuse to sell a BizMobile pricing plan to any person or business for any reason including if we believe (in our discretion) that person or business is not a business.
- 14.2 If you downgrade the BizMobile pricing plan on any of your Mobile Services, then you may be liable to pay early termination charges as described in clause 10.2 above in respect of those Mobile Services.

14.3 BizMobile Voice plans

- a) If your BizMobile Voice plan includes any bundled minutes and you do not use all of your bundle of minutes in any month the unused portion at the end of the month cannot be carried forward or redeemed. Bundled minutes do not include calls to international numbers, 0900 calls, operator assisted and directory related services and calls to special numbers.
- b) All mobile to land (national and international) and mobile to mobile calls made within New Zealand are calculated to the nearest second at 1/60th the appropriate per minute rate, then rounded up to the nearest cent. There is a one minute minimum charge for all calls.
- c) All international roaming calls, operator assisted calls and calls to 0900 numbers are charged on a minute plus minute basis.
- d) For calls to 0900 and other premium numbers you will be charged both the 0900 rate (or other premium number rate) and the applicable mobile calling rate.

14.4 BizMobile Data and BizMobile Group Data

- a) Data used in each data session will be charged against your data plan allowance in whole 10KB packets, with part packets rounded up. Megabyte usage is based on the amount of data transferred (both uploading and downloading).
- b) If your BizMobile Data or Group Data plan includes any bundled megabytes, and you do not use all of your bundle of megabytes in any month the unused megabytes at the end of the month cannot be carried forward or redeemed.
- c) All international roaming data is charged on a per MB basis.

14.5 BlackBerry

- a) Data used in each data session will be charged against your data plan allowance in whole 5KB packets, with part packets rounded up. Megabyte usage is based on the amount of data transferred (both uploading and downloading).
- b) If your BlackBerry plan includes any bundled megabytes, and you do not use all of your bundle of megabytes in any month the unused megabytes at the end of the month cannot be carried forward or redeemed.

15. FAIR USE POLICY

- 15.1 All Mobile Services are subject to our Fair Use Policy.
- 15.2 We may apply our Fair Use Policy where in our reasonable opinion your usage of our Mobile Services is excessive and/or unreasonable as detailed in this clause.
- 15.3 We have developed our Fair Use Policy by reference to our average customer profiles and estimated customer usage of our Mobile Services.
- 15.4 If your usage of our Mobile Services exceeds estimated usage patterns over any month, then your usage will be excessive and/or unreasonable.
- 15.5 If your usage is excessive and/or unreasonable we may contact you to advise you that your usage is in breach of our Fair Use Policy.
- 15.6 If your excessive or unreasonable usage continues after receipt of a request to stop or alter the nature of such usage, we may without further notice:

- (a) apply charges to your account for the excessive and/or unreasonable element of your usage;
- (b) suspend, modify or restrict your use of the Mobile Services; and/or
- (c) withdraw your access to the Services.

16. RESTRICTED USE

16.1 In addition to our rights to suspend under Schedule 1 of this Agreement, we can suspend, bar, re-direct or restrict your usage of any or all of the Mobile Services or disconnect your connection and end this service description without telling you if:

- (a) your usage of the Mobile Services is unusual or excessive;
- (b) you continue to use the Mobile Services in breach of our Fair Use Policy set out in clause 15 of this service description after we have contacted you to discuss your excessive usage;
- (c) you tamper with or modify any SIM card other than in accordance with instructions given to you by us;
- (d) we suspect you of using the Mobile Services for any illegal or fraudulent activity; or
- (e) all of the Mobile Services are permanently or temporarily (for any reason) unavailable to you;

In those circumstances, all Charges for any Mobile Services will still be payable by you in accordance with this Agreement.

17. ROAMING

Service outside New Zealand

17.1 You acknowledge that service outside of New Zealand is provided by our external carriers and is subject to those carriers' terms and conditions.

Charges

- 17.2 Unless otherwise advised, from time to time, all outgoing calls are charged at airtime rates based on the charges from the external carriers. This airtime rate will vary from carrier to carrier. International rates will also apply where you make international calls (including calls to voicemail).
- 17.3 Charges may change without prior notice and all prices are indicative only. If your pricing plan includes monthly minutes, these minutes do not apply to roaming charges, 0800 (1800) and other special numbers may be charged for by external carriers.
- 17.4 Text messages sent while roaming have a surcharge applied by the external carrier. The surcharge rate will vary from carrier to carrier.
- 17.5 Incoming calls are charged at the international rate applicable at the time the call is made to you. Some external carriers may add an incoming call rate from the time you answer the call.
- 17.6 You agree to pay all Charges in full when they are due. There may be delays in TelstraClear receiving notice from external carriers of charges to be billed to you. This does not affect TelstraClear's right to charge you or receive payment from you.

Liability

17.7 As roaming involves services provided by parties other than TelstraClear, you agree that we will not be responsible for the way in which any external carrier provides or fails to provide any service (including disconnection, lack of coverage or the performance of that carrier's network).

Data Roaming

- 17.8 You must have a data capable device connected for overseas data roaming.
- 17.9 You agree to be charged for using data roaming at the rates set out by external carriers advertised by us, either on our website at www.telstraclear.co.nz or via other means from time to time. While we frequently update our website, we accept no liability for fluctuating prices with overseas carriers. We recommend you check on pricing with overseas networks at the time of roaming. For the sake of clarity, clause 17.6 also applies to data roaming charges.
- 17.10 You acknowledge costs are measured on data volume. The speed at which a device receives data impacts volume and therefore price. Since overseas networks vary their data speeds ensuing charges will relate to the amount downloaded rather than time spent online.

18. BLACKBERRY

- 18.1 The software licence terms are those which are either accepted by you when you access the software or as displayed at www.blackberry.com. These terms apply directly between you and RIM (Research in Motion Inc, the owners of BlackBerry®). You agree to abide by those Blackberry software licence terms at all times.