

# amaysim General Terms for the Standard Form of Agreement (SFOA)

Valid as of 20 March 2014

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## **1. About these terms and conditions**

### **1.1. These General Terms, and the Standard Form of Agreement**

- 1.1.1. This document is known as the “General Terms”, and states the standard terms and conditions for the supply and use of the amaysim mobile telephone service.
- 1.1.2. The General Terms are part of amaysim’s Standard Form of Agreement (“SFOA”). The documents that form the SFOA are:
- your application (whether made over the internet, by telephone or on paper);
  - these General Terms;
  - the Service Description;
  - the Price Table
  - applicable Special Conditions and Service Descriptions; and
  - the Dictionary.
- 1.1.3. In the SFOA, terms that are defined in the Dictionary will start with a capital letter. For example, in the statement “amaysim will supply the Service”, the word “Service” is capitalised to indicate that it is defined in the Dictionary.
- 1.1.4. If any document that is part of the SFOA (as listed in clause 1.1.2) contains a term or condition that contradicts a term or condition in another document that is part of the SFOA, the term or condition from the document that is listed first in clause 1.1.2 will apply.
- 1.1.5. To understand your rights and obligations as well as our obligations to you, you need to read all of the documents that form the SFOA. The following is a brief summary of each document in the SFOA:
- The Service Description is the detailed description of the Service that we offer, including payment options, payment features, requirements to use the Service, and availability of the Service.
  - The Price Table sets out all fees and charges that we may charge you for using the service, for late payments and other items such as Value Added Services. Please check the [Price Table] carefully to see which charges and fees apply to you for the use of the Service.
  - The Dictionary explains the terms and expressions which we use in the documents that form the Agreement

1.1.6. You may download the latest version of all documents that make up the SFOA from our website [www.amaysim.com.au](http://www.amaysim.com.au).

1.1.7. The SFOA is your entire Agreement with us with respect to the Supply of the Services. No other document or representation by any person (unless we agree in writing) specifies how you will purchase, or we will supply, the Services, or specify any warranty in connection with the Services.

## **1.2. What is the Agreement, and when does it start and finish?**

1.2.1. When you first activate your amaysim SIM Card, you will enter into a contract with us (amaysim Australia Pty Ltd ABN 65 143 613 478) on the terms of the SFOA. That contract is known as the “**Agreement**”.

1.2.2. The Agreement does not have a minimum term. The Service can be cancelled at any time, and this Agreement will come to an end as soon as the terminating party's remaining obligations are met (for example, the payment of all outstanding bills).

1.2.3. The Agreement starts with the Activation of your amaysim SIM Card. You activate your amaysim SIM Card either online at our website [www.amaysim.com.au](http://www.amaysim.com.au) or by calling the Activation Hotline from a mobile phone using the amaysim SIM Card which is to be activated.

## **1.3. Responsibility for Persons you allow to use the Service**

You agree that you are responsible for any use of the Service associated with your amaysim SIM Card by any other person (unless that person has used the Service because of something we should or should not have done). For example, you will be responsible for paying all usage charges incurred by a person using the Service associated with your amaysim SIM Card.

## **2. Changing the Agreement**

### **2.1. Changes to the Agreement we must tell you about in advance**

2.1.1. Except for changes described in clause 2.2, we will give you at least 21 days notice in writing (normally, by email) before we make a change to the Agreement that may be detrimental to you, or that could interfere with your enjoyment of the Service. For example, we would provide you with notice of an increase in the price for any part of the Service.

- 2.1.2. Whenever we make a change to the Agreement, the revised Agreement will be available for download on our website [www.amaysim.com.au](http://www.amaysim.com.au).

## **2.2. Changes to the Agreement we are not required to tell you about in advance**

- 2.2.1. We can change the Agreement without first telling you about the change if the change is beneficial to you, or does not interfere with your enjoyment of the Service. For example, we would not need to tell you about a reduction in the price for any part of the Service, or if a new service function becomes available.
- 2.2.2. We can change the Agreement without first telling you about the change in limited circumstances where we are permitted to do so by law, including:
- charges for international Service and for roaming charges (current roaming charges are available on our website [www.amaysim.com.au](http://www.amaysim.com.au));
  - changes required by law, such as an adjustment to the GST.

## **2.3. All other changes**

Except as otherwise authorised by this clause 2 or otherwise by this Agreement, neither you nor we can change this Agreement unless both of us agree to the change in writing.

## **3. Dealing with Personal Information**

### **3.1. Identification**

- 3.1.1. As a carriage service provider, we may be required under Australian law to establish the identity of our customers before we activate your amaysim SIM Card. If we are unable to establish your identity, or if you give us false or inaccurate information, we will be unable to supply the Service to you.
- 3.1.2. In order for us to meet our legal obligations, we may require that you provide additional information about yourself or proof of your identity from time to time, and we may suspend the service if you fail to supply the required information.
- 3.1.3. You must provide us with any change of residential address within a period of 14 days of that change. You can either change your address details in your Personal Login Area on our website [www.amaysim.com.au](http://www.amaysim.com.au) or by calling our Service Hotline on 1300 808 300.

### **3.2. Collecting and using Personal Information**

- 3.2.1. We will collect and use any Personal Information about you in accordance with applicable law, and our privacy policy (as amended from time to time).
- 3.2.2. We may collect and use Personal Information from you, or we may collect and use Personal Information about you from a credit provider or a credit reporting agency.
- 3.2.3. We may use your Personal Information to provide you with information about other goods and services, special offers, and promotions that are related to the Service which we supply you with.
- 3.2.4. We may use your Personal Information to provide the Service to you, or to facilitate the supply of the Service to you by others.
- 3.2.5. We may be permitted or required by law to collect or disclose your Personal Information in some circumstances, including to assist:
  - Emergency Services;
  - law enforcement agencies and Government agencies, including for the enforcement of criminal and other laws; and
  - the operator of the Integrated Public Number Database (IPND) (an industry-wide data base of all telephone numbers and customer details).
- 3.2.6. We may disclose your Personal Information to entities that provide services to us relating to the provision of the Service, including SMS or email resenders and to handle payments with regards to you using the Service.
- 3.2.7. We may use and disclose your Personal Information for purposes related to the supply of the Service, including billing, account management and payment reconciliation.
- 3.2.8. In your Personal Log-in Area on our website [www.amaysim.com.au](http://www.amaysim.com.au) or by calling our Service Centre on 1300 808 300 you can access and correct most Personal Information we retain about you at any time. Some personal information can only be accessed or corrected through our Service Centre.

- 3.2.9. You give your consent to our use, and the use by any of our suppliers, of any Personal Information we collect from you, provided such use is made in accordance with this Agreement, our privacy policy (as amended from time to time) and relevant privacy laws.

### **3.3. Opting Out**

You may opt out of the receipt of certain material, such as promotional, marketing, or advertising material about amaysim products. If you tell us you opt out of the receipt of such material, you will only receive information we are required by law to provide to you or information pertaining directly to your account. You can opt out in your Personal Log-in Area on our website [www.amaysim.com.au](http://www.amaysim.com.au) or by calling our Service Hotline on 1300 808 300.

## **4. Invoices and Payment**

### **4.1. Pre-paid Invoices**

- 4.1.1. A record of your usage of the Service can be accessed in your Personal Login Area on our website [www.amaysim.com.au](http://www.amaysim.com.au). Your usage records do not constitute an invoice.
- 4.1.2. Upon purchase of Airtime Credit we will provide you with a digital invoice in pdf or other common format. The digital invoice constitutes a tax invoice for the recharge amount. Paper invoices can be produced by our service team upon request and will be charged at the rate set out in the Price Table.

### **4.2. Post-paid Invoicing**

- 4.2.1. A record of your usage of the Service can be accessed in your Personal Login Area on our website [www.amaysim.com.au](http://www.amaysim.com.au). Your usage records do not constitute an invoice.
- 4.2.2. We will send you a bill during each calendar month (unless we elect not to) for the services you have used in the previous billing period. Your bill may also include details of any previously billed amounts that are overdue for payment.
- 4.2.3. Your bill will specify the total amount payable for your use of the Service, however, your bill will not contain details of individual calls you have made in the relevant billing period. Call details can be accessed from your Personal Login Area on our website [www.amaysim.com.au](http://www.amaysim.com.au).



4.2.4. In some circumstances, your bill may include charges for usage of the Service for a previous billing period. For example, if you have been travelling abroad and there has been a delay by the international service provider in providing details of your usage to us, international usage charges may appear in later billing periods.

4.2.5. We will provide your bill in pdf or other common format. The digital bill constitutes a tax invoice for your use of the Service. Paper invoices can be produced by our Service Centre upon request and will be charged at the rate set out in the Price Table.

### **4.3. Post-paid Billing Frequency**

4.3.1. You will receive your first bill in the month following the activation of your Post-paid Payment Option.

4.3.2. We will normally bill you on the same day of the month. Your billing day will be determined by the day on which your Post-paid Payment Option is activated:

- If your Post-paid Payment Option was activated on one of the first 28 days of the month, you will normally be billed on the corresponding day in each subsequent month (for example, if activated on the 20<sup>th</sup> of the month, your billing day will normally be the 20<sup>th</sup> of the month);
- If your Post-paid Payment Option was activated between the 28th and the 31st day of a month, you will be billed on either the corresponding day in a subsequent month, or the last day of the subsequent month if the month has fewer days than the original activation month (for example, if activated on the 31<sup>st</sup> of a month, in a non-leap year February you will be billed on the 28th or in April on the 30th of April).

4.3.3. Your bill will be available for download in your Personal Login Area on our website [www.amaysim.com.au](http://www.amaysim.com.au). We will not send you a paper bill by mail, unless you ask us to via the Service Centre, in which case you will be charged at the rate as set out in the Price Table.

4.3.4. We will attempt to notify you each month when your bill is ready for download. Even if we are unable to notify you (for example, if your email address is changed), your bill will be available online and it is your responsibility to check your bill.

- 4.3.5. We may choose not to issue a bill for amounts of less than \$10.00. A bill will be issued once the amount you owe to us exceeds \$10.00, or if more than 160 days have passed since your last bill was issued. To clarify, if we choose not to issue a bill in accordance with this clause, this does not imply or mean that you are excused from paying for your use of the Service. Your obligation to pay the outstanding amount you owe to us is deferred until we issue a bill.

#### **4.4. Payment of Your Post-paid Invoice**

- 4.4.1. Unless clause 4.4.2 applies, you may pay your bill by any payment method as set out on the bill, which may include electronic funds transfer, BPAY, credit or debit card.
- 4.4.2. In some circumstances, we may impose restrictions on your payment options, including:
- limiting your payment methods (for example, following a credit assessment, we may require that you pay by credit card or debit card, or we may exclude payment by credit or debit card);
  - limiting the number of credit or debit cards that you are able to register;
  - limiting the number of times you can change the registered credit or debit card; or
  - place a limit on the credit available to you.

#### **4.5. Due Date**

- 4.5.1. If you do not use direct debit, you must pay the entire amount of your invoice on the due date as specified on your invoice (unless we agree otherwise, for example, because of a legitimately disputed invoice).
- 4.5.2. If you do use direct debit, we will charge your nominated payment method on the due date or the closest business day (unless we agree otherwise, for example, because of a legitimately disputed invoice).

- 4.5.3. If you choose to provide us with a verified bank account for the purpose of a one-off or recurring direct debit transaction, we will debit your nominated bank account, fourteen calendar (14) days from the issue date of your invoice (the Due Date). You acknowledge and agree that the Due Date may be less than the ten (10) working days prescribed in the Telecommunications Consumer Protection Code.
- 4.5.4. If you choose to provide us with credit card details for the purpose of a one-off or recurring direct debit transaction, we will debit your nominated credit card account, ten calendar (10) days from the issue date of your invoice (the Due Date). You acknowledge and agree that the Due Date may be less than the ten (10) working days prescribed in the Telecommunications Consumer Protection Code.

#### **4.6. Late or Dishonoured Payment**

- 4.6.1. If you do not pay your bill by the date it is due we may charge you a Late Payment Fee, as set out in the Price Table.
- 4.6.2. If a direct debit fails or is rejected due to a problem for which you are responsible (for example, insufficient funds or credit, or inaccurate account information), we will attempt to repeat the direct debit two times in the following two weeks. For each dishonoured direct debit we may charge you a dishonour fee as set out in the Price Table, and we may pass on any charges we incur as a result of the failed or rejected direct debit to you.
- 4.6.3. If you are a Pre-paid customer and are using Automatic Recharge we will deactivate the Automatic Recharge facility immediately upon the first dishonoured direct debit or credit card charge back.
- 4.6.4. If you fail to pay your bills by their due dates on 2 or more occasions in any 6 month period, or if direct debits repeatedly fail or are rejected due to problems for which you are responsible (for example, insufficient funds or credit, or inaccurate account information), we may change your payment option to the Pre-paid Payment Option without consulting you. If we change your payment option to the Pre-paid Payment Option in accordance with this clause, we may at our discretion temporarily or permanently refuse to allow you to use the Post-paid Payment Option.
- 4.6.5. If we change your payment option to the Pre-paid Payment Option in accordance with clause 4.6.3, you must purchase Airtime Credit before you can use the Service. However, you will not be able to purchase Airtime Credit until any outstanding amounts you owe to us are paid in full.

#### **4.7. Set Off**

If you owe any amount to us for any reasons (irrespective of whether you use the Post-paid Payment Option or Pre-paid Payment Option), we may apply any amount you pay to us (for any reason) to set off against the amount owed by you. For example, if you owe an amount to us for your use of the Service following the reversal of a purchase by credit card of Airtime Credit, any amount you subsequently pay to purchase Airtime Credit will be first applied to paying the money you owe.

#### **4.8. Overpayment**

If you use the Post-paid Payment Option and you pay to us more than the amount you owe to us at any time, your account will be credited with the amount that you have overpaid. Your next bill will be reduced by the amount of credit in your account.

#### **4.9. Taxation, including Goods and Services Tax**

4.9.1. Unless otherwise indicated all fees and charges that are set out in the Price Table are inclusive of tax where applicable, including goods and services tax.

4.9.2. If any new tax or government impost is introduced, or if the rate of any existing tax is changed, which applies directly to the price of goods or services, we will make appropriate adjustments to the fees and charges in the Price Table.

#### **4.10. MSN Maintenance Option**

4.10.1. If you use the Post-paid Payment Option and you have not used the Service by actively tolling for more than 90 days, we assume that you no longer want to use the Service. Therefore, the Service normally will be cancelled automatically if more than 90 days have passed since your last chargeable use of the Service. However, if you want to keep your MSN active without using the Service you may choose to pay the MSN Maintenance Fee, which will prevent this automatic cancellation (called the "*MSN Maintenance Option*").

4.10.2. If you would like to exercise the MSN Maintenance Option, you must contact us by calling our Service Centre on 1300 808 300. Once you have selected this option, we will charge the MSN Maintenance Fee in each billing period unless:

- you make chargeable use of the Service during that billing period; or

- you notify us that you no longer want to exercise the MSN Maintenance Option (in which case, we may cancel the Service if more than 90 days have passed since your last chargeable use of the Service).

## **5. Changing the Pre-paid or Post-paid Payment Option**

### **5.1. Voluntary Change from Post-paid to Pre-paid**

- 5.1.1. If you are a Post-paid Payment Option customer and you wish to change your Payment Option to the Pre-paid Payment Option you may do so at any time by making the appropriate selection in your Personal Login Area on our website [www.amaysim.com.au](http://www.amaysim.com.au), or by calling our Service Centre on 1300 808 300. Your Payment Option will be changed from the Post-paid Payment Option to the Pre-paid Payment Option on the same day as you notify us of the change.
- 5.1.2. As stated in clause 4.6.4, you must first pay your last Post-paid Payment Option bill in full before you can purchase Airtime Credit. In order to ensure the continuity of the Service a minimum Airtime Credit of \$15.00 needs to be purchased upon changing the Payment Option. This purchase of Airtime Credit will be added to your final Post-paid Payment Option bill, which will be issued at the time you request to change to the Pre-paid Payment Option.
- 5.1.3. If you want to change your Pre-paid Payment Option back to the Post-paid Payment Option, you can do so. However, you cannot make this change until at least thirty days after your Pre-paid Payment Option has been activated.

### **5.2. Change from Pre-paid to Post-paid**

- 5.2.1. If you are a Pre-paid customer and you wish to change your Payment Option to Post-paid, you may do so with our approval. Our approval will be subject to a credit check so that we can assess your creditworthiness. We are under no obligation to approve your use of the Post-paid Payment Option. To apply to become a Post-paid Payment Option customer, either make the appropriate selection in your Personal Login Area on our website [www.amaysim.com.au](http://www.amaysim.com.au), or call our Service Centre on 1300 808 300.
- 5.2.2. If we approve your request to become a Post-paid Payment Option customer, your Post-paid Payment Option will be activated immediately.

- 5.2.3. If you have valid Airtime Credit at the time you change from the Pre-paid Payment Option to the Post-paid Payment Option, all of your Airtime Credit will be credited to your Post-paid account, and your next Post-paid Payment Option bill will be reduced by the amount of your account's credit.

### **5.3. Same Payment Option Requirement**

All amaysim SIM Cards that are activated in your customer account must have the same Payment Option (in other words, all of your amaysim SIM Cards must be paid using only the Pre-paid Payment Option or only the Post-paid Payment Option). However, you can choose different payment methods (e.g. auto top up and pay as you go) for each Pre-paid Payment Option amaysim SIM Card.

## **6. Using the Service**

### **6.1. Use of the Service**

- 6.1.1. When you are using the Service you must comply with:

- the law;
- all directions by relevant authorities;
- the amaysim Fair Go Policy; and
- all reasonable directions from us, including all directions we are required by law or our suppliers to make.

- 6.1.2. You must not use or to attempt to use the Service:

- to infringe or interfere with the legal rights of any other person;
- to transmit, publish or communicate material which is defamatory, offensive, abusive, indecent, menacing, unwanted or otherwise prohibited by law;
- to expose us or any of our suppliers to liability (other than the obligation to supply the Service to you in accordance with this Agreement);
- in any way which damages, interferes with or interrupts the Service, the network or a supplier's network used to supply the Service;

- to resell, distribute or reproduce any part of the Service, or operate a contact centre, telemarketing business or related business without our prior approval in writing;
- to make or receive calls or send or receive content using the Service other than for your own personal or business (on AS YOU GO plan only) use;
- to wholesale the Service, including by transmitting, refiling or aggregating domestic or international network traffic;
- to operate a carriage service, or to act as a carrier (as those terms are defined in the Telecommunications Act 1997); or
- to use the Service (including any amaysim SIM Card) in connection with a device that switches or reroutes calls to or from the Service.

6.1.3. We may ask you to stop doing something which we reasonably believe is prohibited by this Agreement. If you do not comply with our request within two business days we or our supplier may take all reasonable steps to ensure compliance, including suspending or cancelling the Service without further notice to you, and notifying relevant authorities.

6.1.4. You acknowledge that we or any other supplier whose network is used to supply the Service, may be required by law to intercept communications over the Service or to monitor your usage of the Service and communications sent over it.

6.1.5. You acknowledge that we or our suppliers may restrict or block access to any number or Service (other than an emergency number or Service) if required for technical, operational or commercial reasons.

## **6.2. Exceptionally High Use**

6.2.1. For your protection and to protect the integrity of the Service, we may contact you, or we may suspend your use of the Service, if we become aware of, or reasonably suspect, use of the Service that is unusual. For example, if you make an unusually high volume of international calls or if we see an exceptionally high usage of Value Added Services we may contact you to confirm you are aware of this use of the Service, or we may suspend the Service until we are able to discuss the high volume usage with you.

- 6.2.2. If we exercise our rights to contact you or suspend the Service in accordance with clause 6.2.1, you agree that we may do any reasonable thing to satisfy ourselves that the unusual use of the Service is appropriate, which may include requiring you to provide evidence of your identity, or your ability to pay for the unusual use of the Service.

### **6.3. Third Party Compliance**

When you use the Service it is your responsibility to comply with any rules imposed by any third party whose content or service you access using the Service or whose network your data traverses.

### **6.4. Using Equipment**

- 6.4.1. If you use your own equipment in connection with the Services (for example, you own mobile telephone), you must ensure that your equipment:
- complies with all relevant laws and directions of relevant authorities; and
  - complies with all of our reasonable requirements.
- 6.4.2. If your equipment does not meet the requirements of this Agreement, we may, without notice to you:
- prevent access by your equipment to the Service;
  - suspend your access to the Service; or
  - cancel the Service and terminate this Agreement.

### **6.5. Intellectual Property**

- 6.5.1. In the course of using the Service, you may encounter material in which we, or our suppliers, own intellectual property rights (for example, trademarks, copyright material and confidential information).



- 6.5.2. You acknowledge that nothing in this Agreement grants any right to you to use any material in which we or any of our suppliers own intellectual property rights, and you may not use, promote, copy, publish, republish, redistribute, recommunicate, or otherwise exploit any such material without the prior written consent of us or our suppliers. To clarify, examples of prohibited uses of such material include framing, linking, posting to news groups and any other form of copying.
- 6.5.3. You agree that you will indemnify (that is, pay without further obligation) us and our suppliers against any losses and costs (including legal costs) we or our suppliers may suffer as a result of any breach of clause 6.5.2.
- 6.5.4. You agree that you will immediately tell us if you become aware of any unauthorised use (whether by you or any other person) of any material in which we or any of our suppliers own intellectual property rights.

## **7. Your rights as a consumer, and our limitations on responsibility**

- 7.1.1. You have certain rights at law, including under the *Trade Practices Act 1974*, that cannot be limited or excluded. Nothing in this clause or otherwise in the Agreement limits or excludes any of these rights.
- 7.1.2. At law, including under the *Trade Practices Act 1974*, certain conditions and warranties may be implied into this Agreement that cannot be excluded from this Agreement. Where these conditions and warranties relate to goods or services that are not of a kind ordinarily acquired for personal, domestic or household use and it is fair and reasonable for us to do so, our liability to you for breach of any such conditions and warranties is limited to resupplying, repairing or replacing the goods or services.
- 7.1.3. In addition to your rights under this Agreement and the *Trade Practices Act*, you may also have rights under legislation, regulations, telecommunications industry codes, guidelines and dispute resolution processes and the general law, such as:
- the *Telecommunications Act 1997*;
  - fair trading legislation and regulations in your State or Territory;
  - industry codes registered with the Australian Communications and Media Authority (or its successor), including the Telecommunications Consumer Protection Code;

- by contacting the Australian Competition and Consumer Commission or the office of fair trading in your State or Territory; and
- by contacting the Telecommunications Industry Ombudsman.

7.1.4. You acknowledge that the Service is a telecommunications service that by its nature is dependent, directly and indirectly, on related services provided by third party suppliers (in other words, suppliers who provide services to us). We do not control, and are not responsible for, any interruption, degradation or failure of the service to the extent it is caused or contributed to by these third party suppliers.

7.1.5. Except where we are liable to you under this Agreement or under laws referred to in clauses 7.1.1 or 7.1.2, you agree that you accept all risk for your use of the Service, and neither we nor our suppliers will have any liability to you for loss suffered in connection with your use of the Service (this includes liability in contract, tort (including negligence) or liability for lost profits, lost revenue, lost savings, any consequential or indirect loss or any claim by a third party, even if we knew such loss or liability was possible or was otherwise foreseeable).

7.1.6. You acknowledge that we do not control, and neither we nor our suppliers have any responsibility for:

- your right or ability to use, access or transmit any third party content using the Service;
- the accuracy or the completeness of any content which you may use, access or transmit using the Service;
- the consequence of you using, accessing or transmitting any content using the Service, including without limitation any virus or other harmful software; and
- any charges which a third party may impose on you in connection with your use of their service that you access through the Service.

## **8. Suspending the Service**

### **8.1. When we may suspend the Service**

8.1.1. We may suspend the Service at any time, without notice:

- when we are required to do so by law;

- if we are directed to do so by a relevant authority;
- in the case of an emergency;
- if we or our suppliers consider it is appropriate to do so to reduce the incidence of fraud;
- if you fail to make a payment for your use of the Service by the due date for that payment;
- if there is any delay, dispute or disruption in your payment for the Service, including if any credit or debit card transaction is delayed or reversed for any reason;
- if you are a Post-paid customer, and we reasonably consider that you will not, or will be unable to, pay for your use of the Service;
- it is necessary to allow us or our supplier to rectify a failure or malfunction of the Service, or to perform an upgrade or to maintain the Service;
- to reduce or prevent interference with the Service or the mobile digital network operated by our supplier;
- an event that is not within our control prevents us from supplying the Service to you;
- we suspect you, or a person using your amaysim SIM Card, is misusing the Service, is not authorised to use the Service or repeatedly violates the amaysim Fair Go Policy;
- we reasonably believe that a request to activate or cancel the Service has not been authorised by you; or
- we are otherwise authorised to do so by this Agreement,

provided we have otherwise complied with, and such suspension is not prohibited by, relevant laws, regulations and industry codes.

## **8.2. Request by you for us to suspend the Service**

- 8.2.1. You may ask us to suspend the Service at any time (for example, following the loss or theft of your amaysim SIM Card), in which case you will not be liable for any use of the Service associated with your amaysim SIM Card after you request such suspension.
- 8.2.2. Following a request by you to suspend the Service, the Service will remain suspended until:
- you ask us to resume the Service; and
  - we notify you that the Service has been resumed.

## **9. Cancellation of Service and termination of this Agreement**

### **9.1. Cancellation by you**

- 9.1.1. You may cancel the Service at any time by giving us notice. You can give us notice by doing any of the following:
- contacting our Service Centre on 1300 808 300; or
  - sending an email to [service@amaysim.com.au](mailto:service@amaysim.com.au)
- 9.1.2. If you cancel the Service you must send your amaysim SIM Card to amaysim Australia Pty Ltd., PO Box R567, Royal Exchange, NSW 1225, Australia.
- 9.1.3. If you are using the Pre-paid Payment Option this Agreement will terminate once we receive both your notice of cancellation and your amaysim SIM Card. Any unused Airtime Credit will be cancelled and no refund will be payable, except if we otherwise tell you in writing or if you have cancelled this Agreement following a serious breach of this Agreement by us, in which case we will refund the fair value of unused Airtime Credit.
- 9.1.4. If you are using the Post-paid Payment Option, this Agreement will terminate at the end of the billing period ending after the following have occurred:
- we have received both your notice of cancellation and your amaysim SIM Card; and
  - all amounts owed by you to us for your use of the Service have been paid in full.

9.1.5. In addition to your rights to cancel the Service under this clause, you may have rights to cancel the Service or terminate this Agreement under the laws in force in the State or Territory in which you reside (for example, you may have rights to a statutory cooling-off period, which may include termination and refund rights in some circumstances). We will comply with any such laws where they apply to this Agreement, and nothing in this clause or otherwise in this Agreement limits or excludes any of these rights.

## **9.2. Cancellation by us**

9.2.1. We have the right to cancel the Service immediately if:

- we are required to do so by law;
- we are directed to do so by a relevant authority;
- there is an emergency;
- you are a Post-paid customer and we reasonably consider that you will not, or will be unable to, pay for your use of the Service;
- you are a Post-paid customer and you are declared bankrupt (if you are an individual) or a receiver, liquidator, provisional liquidator or administrator is appointed to you or you enter into an arrangement with your creditors, or you become insolvent or are wound up (if you are a company);
- you breach a material term of this Agreement;
- the supply of the Service to you is suspended for more than 14 days;
- an event that is not within our control prevents us from supplying the Service for a period of more than 14 days;
- we suspect you, or a person using your amaysim SIM Card, is misusing the Service, is not authorised to use the Service or you are repeatedly violating the amaysim Fair Go Policy; or
- we are otherwise authorised to do so by this Agreement.

9.2.2. We will provide you with notice of the cancellation of the Service. We are not required to provide notice to you before cancellation of the Service, although we will make reasonable efforts to do so if reasonably possible.

9.2.3. If we cancel the Service you must send your amaysim SIM Card to amaysim Australia Pty Ltd. PO Box R567, Royal Exchange, NSW 1225, Australia.

9.2.4. If you are using the Post-paid Payment Option and your account is in credit due to an earlier overpayment by you and we cancel the Service, we will deduct from that credit all amounts owed by you to us for your use of the Service. Following such deduction, if your account remains in credit, we will refund the amount of remaining credit to you.

### **9.3. Automatic Cancellation**

9.3.1. If you use the Pre-paid Payment Option, the Service will be cancelled automatically if more than 180 days have passed since your last recharge of Airtime Credit (for the purposes of this clause, your last recharge may be Activation of your amaysim SIM Card).

9.3.2. If you use the Post-paid Payment Option and you have not told us that you would like to retain your access to the Service by exercising the MSN Maintenance Option, the Service will be cancelled automatically if more than 90 days have passed since your last chargeable use of the Service.

9.3.3. If we receive an MNP Notice requiring that your MSN be ported to another service provider, your access to the Service will be cancelled automatically.

9.3.4. Following automatic cancellation of the Service, you must send your amaysim SIM Card to amaysim Australia Pty Ltd., PO Box R567, Royal Exchange, NSW 1225, Australia.

### **9.4. Termination of this Agreement**

9.4.1. Termination means that this Agreement is at an end, and only occurs once all obligations under this Agreement have been met (or the party to whom an obligation is owed has consented in writing to the waiver of that obligation).

9.4.2. We may terminate your service at any time at our discretion with 30 days written cancellation notice or termination notice in the form of email and/or written letter to your service address.

9.4.3. If you are using the Pre-paid Payment Option, this Agreement will terminate as soon as we cancel the Service. Any unused Airtime Credit will be cancelled and no refund will be payable.

9.4.4. If you are using the Post-paid Payment Option, this Agreement will terminate at the end of the billing period which ends after the two following events have occurred:

- we have received your amaysim SIM Card; and
- all amounts owed by you to us for your use of the Service have been paid in full.

## **9.5. Consequences of termination**

Following termination of the Agreement:

- you will not be able to use the Service; and
- you will no longer be able to use your mobile number, unless you have ported that number to another telecommunications carrier.

## **10. Transfer of this Agreement**

10.1.1. You agree that we may assign all or part of our rights under this Agreement to any person at any time, without providing notice to you.

10.1.2. You agree and give your consent that this Agreement may be novated (that is, amaysim will be replaced as a party to this Agreement by another person) to any other person by either us or the person to whom this Agreement will be novated giving notice to you, provided that the novation is on terms no less favourable to you than the terms of this Agreement immediately before the novation.

10.1.3. You cannot assign or novate all or part of your rights and obligations under this Agreement (other than in accordance with this paragraph).

## **11. Disputes, Complaints and Faults**

### **11.1. Raising a dispute or making a complaint**

11.1.1. If you wish to dispute any aspect of the Service (including billing), or if you wish to make a complaint about any aspect of the Service, you can do so by calling 1300 808 300.

11.1.2. All disputes or complaints will be handled in accordance with our Complaints Handling Policy, which is available from our website [www.amaysim.com.au](http://www.amaysim.com.au)

11.1.3. We will use best endeavours to resolve your dispute or complaint. However, if you are not satisfied with how we handle your dispute or complaint, you may refer the dispute or complaint to external arbiters, such as:

- the Telecommunications Industry Ombudsman;
- the fair trading or consumer affairs office in your State or Territory; or
- the Privacy Commissioner.

## **11.2. Financial hardship**

11.2.1. If you are in a situation of financial hardship, you can contact us on 1300 808 300. We will offer you assistance in accordance with our Financial Hardship Policy, which is available from our website [www.amaysim.com.au](http://www.amaysim.com.au).

## **11.3. Fault Reporting**

11.3.1. If you experience any problem, disruption or other fault with the Service, you may report the problem, disruption or fault to us on 1300 808 300.

11.3.2. We will investigate, or arrange for our suppliers to investigate, each reported fault and will take an action necessary to rectify the fault.

## **12. General**

### **12.1. Governing Law**

12.1.1. The laws of the Commonwealth of Australia and the laws of the state or territory in which you normally reside govern this Agreement.

12.1.2. You and we submit to the exclusive jurisdiction of the courts of the Commonwealth of Australia, its states and territories

### **12.2. Waiving Rights**

12.2.1. If we do not exercise a right that we have under this Agreement we do not waive our entitlement to exercise that right at a later stage.

12.2.2. A right under this Agreement may only be waived by us in writing.



### **12.3. Events not within our control**

If an event that is not within our control affects our ability to perform any obligations under this Agreement, including the supply of the Service, then we will not be liable for failing to perform that obligation. We will make best efforts to notify you of any such event.

### **12.4. Information about your rights**

12.4.1. You should contact us on 1300 808 300 if you need to discuss any aspect of the Service or this Agreement.

12.4.2. If we do not satisfactorily deal with any issues you may have with the Service or this Agreement, further information and advice can be obtained by contacting the Australian Communications and Media Authority (ACMA), the Telecommunications Industry Ombudsman (TIO), the Australian Competition and Consumer Commission (ACCC) or the relevant Department of Fair Trading or Department of Consumer Affairs in your state or territory.

### **13. Commissions**

You acknowledge that we may pay commissions to agents or other parties who introduce you to us, or assist us in making this Agreement with you.

### **14. Contacting us**

By Phone: 1300 808 300 (567 from your amaysim mobile)

Hours of Operation:

Monday - Friday 8.00 am – 07.00 pm AEST

Saturday, Sunday, Public Holidays 10.00 am - 6.00 pm AEST

By Email: [service@amaysim.com.au](mailto:service@amaysim.com.au)

By Mail

PO Box R567

Royal Exchange NSW 1225

### **15. Contacting other services**

The following public services may assist you in your use of the Service:

- National Relay Service: TTY/Voice – 133 677

- National Relay Service: Speak and Listen – 1300 555 727
- Translating and Interpreting Service (National) – 131 450