

# LIVECONNECTED'S TERMS & CONDITIONS

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## 1. ABOUT LIVECONNECTED'S TERMS & CONDITIONS

- a. These are our standard *LiveConnected* terms for *consumers and business customers*.
- b. The meaning of the words printed *like this* is set out at the end of *these terms* at clause 18.
- c. These *terms*, together with *your application*, the *service description*, our Privacy Policy as set out in section 4, the *standard pricing table*, the *Optus Mobile Fair Go Policy* and the *appendices*, forms the *agreement with LiveConnected*. To understand *your* rights and obligations *you* need to read all of the documents that relate to *you* and the *service you* select.
- d. The *service description* is a detailed description of each of the services *LiveConnected* offers, including the different features, options and availability of a service.
- e. The *standard pricing table* sets out the fees or charges *we* may charge *you* for *your* use of the *service*. It also contains other information such as eligibility criteria and specific details of any *pricing plans* and some *specials we* offer. Please check the *standard pricing table* carefully to see what fees and charges apply to *your* use of the *service*.
- f. The *appendices* contain further information that may apply to *your* use of the *service*, such as details of certain call charges, *our* usage policies and some *specials*. The *service description* or *standard pricing table* will refer *you* to an *appendix* if it is relevant to *your* use of the *service*.
- g. *You* may obtain a copy of the latest version of the *LiveConnected terms*, *service description*, *standard pricing table* and *appendices* from *LiveConnected* or on *our* website: [www.LiveConnected.com.au](http://www.LiveConnected.com.au)

## 2. THE AGREEMENT

### 2.1. THE AGREEMENT

- 2.1a. The *agreement* is made up of:
- i. your on line application,
  - ii. these *LiveConnected* terms,
  - iii. the service description,
  - iv. the standard pricing table, and
  - v. the appendices.
- 2.1b. The agreement is either a fixed-length agreement or non fixed-length agreement.

### 2.2. WHEN DOES THE *AGREEMENT* APPLY?

The *agreement* applies if you are a *consumer* or if you are a business customer.

### 2.3. WHAT HAPPENS IF THERE IS AN INCONSISTENCY BETWEEN THE DIFFERENT PARTS OF THE *AGREEMENT*?

- 2.3a. If anything in these *LiveConnected* terms is inconsistent with a provision in another part of the *agreement*, then unless otherwise stated, the *LiveConnected* terms prevail to the extent of the inconsistency.
- 2.3b. Clause 15, 'What *you* and *we* are liable for', below prevails over all other terms.

### 2.4. WHEN DOES THE *AGREEMENT* START?

The agreement starts when we accept your application which you must submit online.

### 2.5. WHEN WILL *WE* START PROVIDING THE *SERVICE TO YOU* UNDER THE *AGREEMENT*?

*We* will provide the *service to you* under the *agreement* from the *service start date*.

### 2.6. FOR HOW LONG WILL *WE* PROVIDE THE *SERVICE TO YOU* IN ACCORDANCE WITH THE *AGREEMENT*?

- 2.6a. If the *agreement* is a *non fixed-length agreement*, *we* will provide the *service to you* in accordance with the *agreement* until the *service is cancelled* in accordance with clause 13, '*Cancelling the service*', below.
- 2.6b. If the *agreement* is a *fixed-length agreement*, *we* will provide the *service to you* in accordance with the *agreement*:
- i. for the minimum term, or
  - ii. until the service is cancelled in accordance with clauses 13.1 or 13.3 below, or
  - iii. if neither you nor we cancel the service at the end of the minimum term (see clause 2.7 below), until the service is cancelled in accordance with clauses 13.1 to 13.3 below.

## 2.7. WHAT HAPPENS AT THE END OF THE *MINIMUM TERM* IF THE *AGREEMENT* IS A *FIXED-LENGTH AGREEMENT*?

- 2.7a. If the *agreement* is a *fixed-length agreement* and neither you nor we cancel the *service* at the end of the *minimum term*, the *agreement* will convert to a *non-fixed length agreement* and we will continue to supply the *service* to you on that basis in accordance with the *agreement*.
- 2.7b. If you do not wish to continue to use the *service* on a month-to-month basis after the end of the *minimum term*, you must inform *LiveConnected* (in accordance with clause 13, '*Cancelling the service*', below) by giving *LiveConnected* 30 days notice before the end of the *minimum term* that you wish to *cancel the service* at the end of the *minimum term*.
- 2.7c. If we choose not to provide the *service* to you after the end of the *minimum term*, we will give you notice of this (in accordance with clause 13, '*Cancelling the service*', below) by giving you 30 days notice before the end of the *minimum term*.
- 2.7d. If we wish to change the terms of the *agreement*, including any fees or charges, at the end of the *minimum term*, we will give you notice of this (in accordance with clause 3 below) before the end of the *minimum term*.

## 2.8. RESPONSIBILITY FOR PERSONS WHO YOU ALLOW TO USE THE *SERVICE*

You must ensure that any person you allow to use the *service* complies with the *agreement* as if they were you.

### 3. CHANGING THE AGREEMENT?

#### 3.1. WHEN CAN WE MAKE CHANGES TO FIXED LENGTH OR NON FIXED LENGTH AGREEMENTS?

We can make any type of change to a fixed length agreement or a non-fixed length agreement if:

- 3.1a. the change will benefit or will not adversely affect you;
- 3.1b. you agree to the change; or
- 3.1c. we:
  - i. reasonably expect the change to adversely affect you; and
  - ii. give you reasonable notice of the change; and,
  - iii. if your agreement is a fixed length agreement, we also make sure that we comply with our obligations set out below.

#### 3.2. WHAT MUST WE DO IF WE MAKE CHANGES TO FIXED LENGTH AGREEMENTS?

- 3.2a. Generally, if we make a change to a *fixed length agreement* which *impacts you* and it is not of the type listed in clauses 3.6 or 3.7 below, we must give *you notice in writing* of the change on *fair terms* and the right to *cancel the service*.
- 3.2b. If we make a change to a *fixed length agreement* which is of the type listed in clauses 3.6 or 3.7 below, we must comply with *our* obligations set out in clauses 3.6 or 3.7.

#### 3.3. WHEN DO WE CONSIDER THAT A CHANGE WILL IMPACT YOU?

We consider that a change will *impact you* if *you* have used or been billed for the service affected by the change during the 6 months before *our* notice and we consider that the change will have more than a minor detrimental impact on *you*.

#### 3.4. WHAT DO WE MEAN BY NOTICE IN WRITING?

When we have to give *you notice in writing* under clause 3.5 below of a change to the *agreement*, we can do so by giving it to *you* in person, sending it to *you* by mail or to *your* email address, by bill message or bill insert, or in the case of pre-paid services, by making the information available on our website or at retail outlets and informing *you* (by recorded message, text message or in writing) of how to obtain information about the change.

#### 3.5. WHAT DO WE MEAN BY FAIR TERMS?

- 3.5a. When we have to give *you* notice of a change on *fair terms*, we will:
  - i. give you 21 days notice in writing of the change before the change occurs, and
  - ii. offer you the right to cancel the service within 42 days from the date of our notice in writing.
- 3.5b. If *you* choose to *cancel the service* under clause 3.5(a)(ii) above,
  - i. we will cancel the service on the date on which you notify *LiveConnected* that you wish to cancel the service (which must be within 42 days from the date of our notice in writing)

- ii. you will only have to pay
  - 1. your usage charges or access fees (incurred to the date on which you notify *LiveConnected* you wish to cancel the service); and
  - 2. any outstanding amounts that cover installation costs or equipment charges (in relation to equipment that can be used in connection with services provided by any third party).

3.5c. If you have overpaid for the *service* because

- i. the service is cancelled during a billing cycle; or
- ii. the change related to a price increase that became effective prior to the date your service was cancelled

then *your* account (if you continue to have any account with *LiveConnected*) will be credited with the amount you have overpaid, or if you have stopped obtaining the *service*, we will use reasonable endeavours to notify you that you have overpaid and refund the overpayment.

### 3.6. CHANGES THAT WE CAN MAKE TO FIXED LENGTH AGREEMENTS, EVEN IF THE CHANGE IMPACTS YOU

3.6a. If the *agreement* is a *fixed-length agreement*, we can make changes to the *agreement* even if they *impact you*,

- i. if the change is in relation to the cost of international services or roaming. In this case, as our rates for international services or roaming are subject to variation, we can change the charges and do not need to tell you individually beforehand. Before you travel overseas you should contact *LiveConnected* or see our website for indicative pricing. Go to [www.LiveConnected.com.au](http://www.LiveConnected.com.au) for further information;
- ii. if the change is required by law or is in relation to a fee or charge to account for a tax imposed by law and it is fair and reasonable for *LiveConnected* to do so. If we expect the change to adversely affect you, we will whenever possible, try to give you at least 21 days notice in writing of the change.

We would consider it fair and reasonable for *LiveConnected* to make a change to the *agreement* to account for a *tax* imposed by law, if the *tax* imposed is directed at you, the end-user and relates to your use of, and charges you must pay *LiveConnected* for use of, the *service*. An example of this would be where we pass on to you an increase in the rate of a transaction tax, such as GST or stamp duty.

We would not consider it fair and reasonable to pass on a *tax* imposed by law if the *tax* imposed is directed at *LiveConnected*, the supplier, and affects the cost to *LiveConnected* of supplying the *service* to you.

3.6b. If the *agreement* is a *fixed-length agreement*, we can make changes to the *agreement*, if the change is in relation to a fee or charge for a service ancillary to the supply of the *service* (for example, a billing fee or credit card transaction fee). If the change *impacts you* we will offer you:

- i. Use of a reasonable alternative at no fee or charge, or

- ii. a right to cancel the service without incurring fees or charges other than usage charges and access fees (incurred to the date on which the service is cancelled, which is the date on which you notify *LiveConnected* you wish to cancel the service),
- 3.6c. If the agreement is a *fixed-length agreement*, we can make changes to the *agreement*, if the change is to increase the price of a content or premium service (where we are passing on an increase in the cost charged to *LiveConnected* by the *supplier* who supplies that *content service* or premium service to *LiveConnected*. If the change *impacts you* we will:
- i. wherever possible, still try to give you at least 21 days notice in writing of the increase in price if you have used the content or premium service within the previous six (6) months; and
  - ii. allow you to elect to not use the content or premium service without attracting any additional charges.
- 3.6d. If the agreement is a *fixed-length agreement*, we can make changes to the *agreement*, if the change is a result of another *carrier* or service provider varying their agreement with *LiveConnected* so that we need to make changes to the *agreement*. If the change *impacts you* we will :
- i. whenever possible, still try to give you at least 21 days notice in writing of the change , and
  - ii. give you 42 days from the date of the notice in which you may cancel the service without incurring fees or charges other than:
    - 1. usage charges or access fees (incurred to the date on which you notify *LiveConnected* you wish to cancel the service); and
    - 2. any outstanding amounts that cover installation costs or equipment charges (in relation to equipment that can be used in connection with services provided by any third party).

### 3.7. CHANGES THAT ARE LIKELY TO BENEFIT YOU OR HAVE A NEUTRAL OR MINOR DETRIMENTAL IMPACT ON YOU

- 3.7a. We can make changes to a *fixed length agreement* relating to the characteristics of the *service* (including price) if the change is likely to benefit *you* or have a neutral or minor detrimental impact on *you*.
- 3.7b. If *you* can demonstrate that such a change has had more than a minor detrimental impact on *you* and the change is not of a type described in paragraph 3.6 we:
- i. will offer you the right to cancel the service without incurring fees or charges other than:
    - 1. usage charges or access fees (incurred to the date on which the service is cancelled, which is the date on which you notify *LiveConnected* you wish to cancel the service); and
    - 2. any outstanding amounts that cover installation costs or equipment charges (in relation to equipment that can be used in connection with services provided by any third party); and
  - ii. may offer you an alternative remedy to address the impact the change has had on you.

Some examples of a change that would benefit *you*:

- if we decrease a call charge or access fee; or
- if we offer a new feature of the *service*.

Some examples of a change that we consider would have a minor detrimental impact on *you*:

- Withdrawing a minor feature of the *service*;
- Changing the *content* available with *your* service;
- a small increase in a content charge.

An example of a change that would have a neutral impact on *you* would be changing the URL or website address for accessing information using the *service*.

### 3.8. HOW CAN YOU CHANGE ANYTHING IN THE AGREEMENT?

Unless expressly allowed in the *agreement*, *you* cannot make any changes to the *agreement* without first obtaining *our* written consent.



#### 4. YOUR APPLICATION FOR THE SUPPLY OF THE SERVICE

##### 4.1. WHAT IS THE SERVICE?

The *service* you have selected is detailed in the *service description*.

##### 4.2. WHEN MAY WE REFUSE YOUR APPLICATION?

We may refuse your application if:

- 4.2a. *you* do not provide satisfactory proof of identification,
- 4.2b. *you* do not meet the eligibility criteria for the *service*,
- 4.2c. the *service* is not available at the location where *you* wish to acquire the *service*, or
- 4.2d. *you* do not have an appropriate *credit rating*.

## 5. PRIVACY AND HOW WE DEAL WITH YOUR PERSONAL INFORMATION

### 5.1. PRIVACY POLICY

Live Connected Pty Limited is committed to maintaining the privacy of your personal information. This Privacy Policy sets out how we deal with personal information. Any changes to the Live Connected Privacy Policy, will be found on our website at [www.LiveConnected.com.au](http://www.LiveConnected.com.au).

### 5.2. IS LIVE CONNECTED BOUND BY THE NATIONAL PRIVACY PRINCIPLES?

As a private sector company, we are bound by provisions of the Privacy Act 1988, including the National Privacy Principles. If you use Live Connected services whilst 'roaming' in a country outside Australia, the treatment of your personal information may be subject to laws and regulations that apply in that country and you should therefore be aware of this. To the extent that Live Connected is required to comply with relevant local laws, it will do so, respecting your data's privacy as far as possible.

### 5.3. HOW LIVE CONNECTED COLLECTS PERSONAL INFORMATION

We may collect your personal information when you register with us in order that we can provide to you from time to time information from us or to provide you with opportunities to enter competitions or participate in Live Connected and Live Connected sponsored promotions. You acknowledge by submitting to us any data and also by becoming a Live Connected customer, this and that Live Connected may from time to time email, phone or mail you with information about Live Connected, our latest offers and other relevant information.

We collect and collate your personal information when you supply it to us and when you use Live Connected services, including your preferences, your location, who you contact and who contacts you while you are using our network. BUT such information will not be divulged to any person or organisation other than as required by law.

We will require your personal information for the purpose of providing you with Live Connected services. If you do not provide us with your personal information we may not be able to supply you with Live Connected services.

### 5.4. USE OF YOUR PERSONAL INFORMATION AND CREDIT INFORMATION

We will securely hold your personal information and Live Connected will not deal in any manner with such data other than for Live Connected to utilise it for statistical and marketing analysis AND in such event, no personal or sensitive information will be used at all, and ONLY generic information such as might be found in a census will be distilled from it, WITH NO identification of any individual or any individual data AT ALL. If the form or results of analysis or collation of any of the information we

collect about you might be considered as 'sensitive', then we will ask your permission in order for Live Connected to use or share this information with third parties.

5.5. (SECTION REMOVED).

5.6. DATA AND CONNECTION TO LIVE CONNECTED SERVICES -WHEN YOU CONNECT TO LIVE CONNECTED SERVICES WE:

- 5.6a. may collect information about the way you use Live Connected services, your preferences, your location when using Live Connected services the type of person or organisation you contact and who may contact you when you use Live Connected services;
- 5.6b. will use your information to create and maintain data for accounts and billing, provide you with Live Connected services, enable you to communicate using the Live Connected network, collect your payments and prevent fraud and improper use (including prevention of unauthorised access, use, modification, disclosure or other misuse) and in so doing will ensure that only authorized personnel associated with Live Connected have access to your personal information and data;
- 5.6c. may send information to your handset about Live Connected services and our products, including special promotions or offers from our sponsors and our content providers;
- 5.6d. may use your personal information to conduct direct marketing to you (subject of course to your right to 'unsubscribe' mentioned above);
- 5.6e. will monitor and record calls between you and Live Connected Customer Care for training, quality and contractual purposes;
- 5.6f. will capture personal information when we are obligated to when you are the purchaser of a prepaid telephone service (even if you are not the end user);
- 5.6g. may pass your personal information on to other parties that are expressly authorised by Live Connected only for the purposes of supplying telecommunications services or fixing network and/or service faults;
- 5.6h. will provide your personal information to government agencies as required by law (e.g. Australian enforcement and revenue protection agencies, the Australian Government and ACMA);
- 5.6i. may share your information with other members of our group of companies, and any associated entities within the meanings ascribed to such terms by the Corporations Act; and
- 5.6j. may contact you about other products and services offered by and available from other companies in our group of companies'.

Your application for Live Connected services or a 'Handset Instalment Plan' may be subject to a credit assessment, verification of your personal details and an employment check. If we form the view that all or any of these checks are such that from a credit assessment standpoint, they are to us unsatisfactory, we will not enter into an agreement with you. In such event, we will ensure that your information and data supplied to us for the purposes of the application, is disposed of within five (5) business days.

We may provide information about you to a credit-reporting agency for the purpose of obtaining a consumer credit report about you and allowing the credit-reporting agency to create or maintain a credit information file containing information about you. This is limited to identifying information,

general particulars of your account, notice of payments more than sixty (60) days overdue, cheques dishonoured more than once and serious credit infringements. This information may be given before, during or after the provision of credit and services to you.

Where relevant, we may obtain information about you from a business that provides information about the commercial credit-worthiness of persons for the purpose of assessing your application for credit and collecting any overdue payments. If you apply for commercial credit, we may obtain a consumer credit report about you from a credit-reporting agency for the purpose of assessing your application for commercial credit and collecting overdue payments.

## 5.7. ACCURACY OF YOUR INFORMATION

You acknowledge that all information you provide to Live Connected as it requires, is true and correct and you must ensure that all your personal details are accurate, complete and not misleading. You must also tell us if any of your details change, within five (5) business days of such change occurring or arising.

## 5.8. ACCESS TO PERSONAL INFORMATION

You have the right to seek or obtain a copy of personal information about you that we may hold. We will handle such requests for access to personal information in accordance with the National Privacy Principles.

As long as we can verify your identity, the person you speak to may be able to provide you with the information you require over the telephone. If you wish to have a copy of that information we ask that you put your request in writing and email us.

If you believe we hold personal information about you that you consider to be inaccurate, incomplete or out of date you should contact us to ensure that our records are as up to date as can be. In some cases it is necessary for us to keep a record of what we know or understand to be correct at a particular time. However, in those circumstances, if you request, we will take reasonable steps to associate with the relevant record of your personal information, a statement to the effect that you claim the information is inaccurate, incomplete or out of date.

## 5.9. COMPLAINTS

You can obtain more information about the way Live Connected manages your personal information, or complain about breaches of your privacy in writing to:

[privacy\\_commissioner@LiveConnected.com.au](mailto:privacy_commissioner@LiveConnected.com.au)

## 5.10. CONSENT

- 5.10a. By providing *your personal information* to *LiveConnected* and obtaining the *service*, you acknowledge and consent to the collection, use and disclosure of *your personal information* as set out in this clause 0 and in accordance with *our* privacy policy. You may obtain a copy of *our* privacy policy from *LiveConnected* or on *our* website:  
[www.LiveConnected.com.au/privacy](http://www.LiveConnected.com.au/privacy)
- 5.10b. You agree that Live Connected will collect personal information about you or information about you or your business or your corporation (if you are applying in the name of a corporation, including but not limited to your electronic contact details such as email address and telephone service numbers. You agree to Live Connected using this information in accordance with the Live Connected Privacy Policy.
- 5.10c. You consent and acknowledge that you understand that Section 18(E)(1) Privacy Act 1988 allows us to give a credit reporting agency certain personal information about you; The information we disclose to a credit reporting agency includes permitted information which will allow you to be identified, the fact that you have applied for credit and the amount, the fact that we are a current credit provider to you, repayments that are more than 60 days overdue and for which debt collection action has started, information that in our opinion you have committed a serious credit infringement (that is, acted fraudulently or shown as intention not to comply with your credit obligations) and cheques drawn by you for \$100 or more which have been dishonored more than once; Agree to our obtaining from a credit reporting agency a credit report containing information about your personal credit worthiness for all purposes of assessing your application and assisting in collecting overdue payments and to our obtaining information about your commercial activities or commercial credit worthiness (Section 18L(4) Privacy Act 1988) from any business which provides information about the commercial credit worthiness of persons, your accountant or any other supplier to you; Agree to our giving to and obtaining from any credit provider named in your Application or in a credit report (Section 18N Privacy Act 1988) on you issued by a credit reporting agency, information about your credit arrangements for the purpose of assessing your Application, notifying a default by you, allowing another credit provider to ascertain the status of your arrangements with us where you are in default with one or more other credit providers and generally assessing your credit worthiness; and Understand the information exchanged can include any information about your business, personal and/or commercial credit worthiness, credit standing, credit history or credit capacity which the Privacy Act allows credit providers to give to or receive from each other.

## 6. USING THE SERVICE

### 6.1. CONNECTING THE SERVICE

- 6.1a. You must reasonably co-operate with *LiveConnected* to allow *LiveConnected*, or a *supplier*, to establish and supply the *service* to you safely and efficiently. If you do not do so, we may be entitled to cancel the *service* under clause 13.3 or suspend the *service* under clause 14.1.
- 6.1b. Porting of relevant communications services in order for us to provide the services under our agreement with you, will occur on a suitable day between the hours of 8am to 8pm Mon-Fri and 10am to 6pm on Saturdays (AEDST/AEST), except national public holidays and will take place within thirty (30) days of the authorisation date on the online form that you complete.
- 6.1c. You direct that your existing mobile service numbers, the details of which you have provided to Live Connected, are to be ported to Live Connected. The mobile service numbers, the identity of your new service provider, Live Connected and network type are to be disclosed to other network providers and portability service suppliers for the purpose of complaint handling, network fault management, and the routing of calls and SMS messages to your mobile service number after porting activity has taken place. You must complete and sign a new MNP Customer Authorisation for the purposes of carrying out the port to Live Connected. In circumstances where this MNP Authorisation expires, additional details are to be added or where editing or deleting details are required, you will complete any blank spaces, missing or incomplete information on this MNP Customer Authorisation.
- 6.1d. You acknowledge as customer that you are authorised to request the porting of the mobile service numbers listed on the requisite form. You acknowledge that you have been advised that by porting the mobile service numbers listed on this form, the service and/or related services associated with that number may or may not be disconnected from the existing mobile service provider, and may result in finalisation of the account. The Authorisation Date is the date you complete online the MNP Customer Authorisation. You further acknowledge that this MNP Customer Authorisation is valid for 30 days from the Authorisation Date. There may be costs and obligations associated with your existing mobile service and with porting your mobile service numbers. You may or may not have an existing contract with your existing mobile service provider; and you understand and acknowledge that your current contract may or may not include an obligation to make an early termination payment to your existing service provider.

### 6.2. TRANSFER OF SERVICES TO US -

- 6.2a. Changing your current arrangements: If in providing the Services, we need to change your arrangements with your current Supplier, then we will do so in accordance with this clause.
- 6.2b. Transfer to us: By entering into this Agreement you:
- i. authorise us to sign on your behalf and in your name forms of authority to your current Supplier to transfer your accounts into our name; and
  - ii. authorise your current Supplier of telecommunications services to transfer to us all telecommunications services relating to the telephone numbers transferred to us; and
  - iii. will remain responsible for all amounts owing to your current Supplier of telecommunications services for any services they supply, or have supplied, to you.

- 6.2c. Credits: If your current Supplier credits us with any amount concerning services provided before the date of transfer, we will credit that amount to your account.
- 6.2d. Charges for Transferred Services: If your current Supplier raises a proper charge relating to a service it provided to you before the commencement of Services under clause 2.2, we will advise you accordingly, and you must pay your current Supplier that amount. If you dispute the amount claimed, you must notify us in writing.
- 6.2e. Indemnity: We will not accept any liability for any amounts owing by you to your current Supplier for services which your current Supplier provided to you prior to the commencement of Services. You must indemnify us against any claims made by your current Supplier to us in relation to any such amounts.

### 6.3. TRANSFER OF SERVICES FROM US TO ANOTHER SUPPLIER

- 6.3a. Transfer: If in the future you ask us to transfer any of the Services to another Supplier, then you remain responsible to us for amounts payable prior to the transfer, and you will immediately pay us that amount on receipt of our invoice.
- 6.3b. If after the transfer you elect to use any of our Services by the use of an override code, you agree to pay us for any charges incurred for those Services.
- 6.3c. Termination of Services: The provision of Services ceases when we transfer those accounts to another Supplier.
- 6.3d. Billing: We will endeavour to bill you for those Services within the next normal billing period but we reserve the right to issue subsequent invoices in relation to unbilled fees and charges.
- 6.3e. Dispute: If we become aware of other proper charges (including fees payable to any other Supplier) for those Services up to the date of transfer, or we resolve any dispute so that any liability of ours relating to those Services is quantified, then you will immediately pay us all such amounts on receipt of our invoice.
- 6.3f. Credits: We will credit you with any amount credited to us by another Supplier for those Services provided up to the date of transfer.

#### 6.4. QUALITY OF THE SERVICE

We will provide the *service* to *you* with due care and skill. In the event of unexpected faults we will use reasonable endeavours to ensure the *service* is restored as soon as possible.

#### 6.5. BLOCKING CALLS

We may at any time after providing you with reasonable notice, block access to a number (other than an emergency service number) if we reasonably require this to be done for technical, operational or commercial reasons. We will use our best endeavours to complete whatever needs to be done and restore your service.

#### 6.6. PERMITTED USES OF THE SERVICE

- 6.6a. When *you* use the *service*, *you* must comply with:
- i. all laws,
  - ii. all directions by a regulator,
  - iii. all notices issued by authorisation of or under law (for example, under the Copyright Act 1968 (Cth)), and
  - iv. reasonable directions by *LiveConnected*.
- 6.6b. *You* must not use, or attempt to use, the *service*:
- i. to break any law or to infringe another person's rights (including damaging any property or injuring or killing any person or infringing someone's copyright),
  - ii. to transmit, publish or communicate material which is defamatory, offensive, abusive, indecent, menacing or unwanted,
  - iii. to expose *LiveConnected* to liability, or
  - iv. in any way which damages, interferes with or interrupts the service, the *LiveConnected* network or a supplier's network used to supply the service.
- 6.6c. We may ask *you* to stop doing something which we reasonably believe is contrary to paragraph (b) above. *You* must immediately comply with any such request. If *you* do not, then we may take any steps reasonably necessary to ensure compliance with paragraph (b) above or the request.
- 6.6d. *You* acknowledge that, where the *service* is a carriage service, we, or any supplier whose network is used to supply the *service*, may be required to intercept communications over the *service* and may also monitor *your* usage of the *service* and communications sent over it.
- 6.6e. If *you* do not comply with this clause, we may be entitled to cancel the *service* under clause 13.3 or suspend the service under 14.1.

#### 6.7. UNUSUALLY HIGH USE

We may contact you if we become aware of an unusually high use of the service by you (including to verify any costs or charges which *you* may have incurred) however we are under no obligation to do so. For example, if *you* suddenly make an unusually high volume of calls to international destinations using the *service* we may contact *you* to determine whether that use is likely to continue. If so, we



may ask *you* to make a pre-payment usage charge under clause 9.2b. Please note that *we* may also be entitled to suspend the *service* under clause 14.1a.iv for an *unusually high use* of the *service*.

#### 6.8. COMPLIANCE WITH THIRD PARTY RULES

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

## 7. EQUIPMENT

### 7.1. WHAT ARE *YOUR* RESPONSIBILITIES IN RELATION TO EQUIPMENT?

- 7.1a. *You* must ensure that all equipment *you* use in connection with the *service* and the way *you* use that equipment complies with:
- i. all laws,
  - ii. all directions by a regulator,
  - iii. all notices issued by authorisation of or under law (for example, under the Copyright Act 1968 (Cth)), and
  - iv. reasonable directions by *LiveConnected*.
- 7.1b. If *you* breach paragraph (a) above, *we* may:
- i. disconnect the equipment from the *service*;
  - ii. suspend the *service* in accordance with clause 14.1(a) or
  - iii. cancel the *service* in accordance with clause 13.3(a).
- 7.1c. *We* will try to give *you* reasonable notice before *we* disconnect the equipment under paragraph (b)(i) above, but *we* may disconnect the equipment, suspend the *service* or cancel the *service* immediately if there is an emergency.

### 7.2. EQUIPMENT PURCHASED FROM *LIVECONNECTED*

Equipment purchased by *you* from *LiveConnected* or any of *our personnel*:

- 7.2a. *You* may purchase equipment from *LiveConnected* or any of *our personnel* to use in connection with the *service*.
- 7.2b. Subject to *our* obligations under the *statutory warranties* (see clause 15.2), *you* will own the equipment and be responsible for the equipment from when *you* receive it.

## 8. NETWORK MAINTENANCE, FAULT REPORTING AND RECTIFICATION

### 8.1. MAINTENANCE ON THE NETWORK USED TO SUPPLY THE SERVICE

- 8.1a. We may conduct maintenance on the *LiveConnected network* and maintenance may be conducted on a *supplier's network* used to supply the *service*.
- 8.1b. We will try to conduct scheduled maintenance on the *LiveConnected network* outside normal business hours, but we may not always be able to do so.

### 8.2. REPORTING FAULTS

- 8.2a. We will provide a 24 hour fault reporting service for *you* to report faults.
- 8.2b. Before *you* report a fault to *LiveConnected*, *you* must take all reasonable steps to ensure that the fault is not caused by any equipment that *we* are not responsible for such as equipment that is owned by *you* or is not provided by *LiveConnected* for *you* to use in connection with the *service*.

### 8.3. ASSISTING LIVECONNECTED IN INVESTIGATING AND REPAIRING A FAULT

*You* must provide all reasonable assistance to enable *LiveConnected* or *our personnel*, or where necessary a *supplier*, to investigate and repair a fault.

### 8.4. OUR RESPONSIBILITY FOR REPAIRING FAULTS

- 8.4a. We will repair faults within *the LiveConnected network*.
- 8.4b. Unless the *service description* expressly provides otherwise, *we* are not responsible for repairing any fault in the *service* where the fault arises in or is caused by:
- i. a *supplier's network*,
  - ii. equipment that *we* are not responsible for such as equipment that is owned by *you* or is not provided by *LiveConnected* for *you* to use in connection with the *service*, or
  - iii. facilities outside the *LiveConnected network*.
- 8.4c. Where:
- i. the fault arises in or is caused by a *supplier's network*,
  - ii. *we* become aware of the fault, and
  - iii. *we* are not responsible for the repair of that fault,

*we* will notify the *supplier* of the fault and request that the fault be corrected promptly, but *we* will not bear any further liability or responsibility.

- 8.4d. Where the fault arises in or is caused by equipment that *we* are not responsible for such as equipment that is owned by *you* or is not provided by *LiveConnected* for *you* to use in connection with the *service*, *we* are not responsible for the repair of that fault. If *you* ask *LiveConnected* to investigate and repair such a fault:

- i. we will give you an estimate of the probable cost of investigating the fault and, if you agree to pay those costs, we will undertake an investigation and we will then charge you for the cost of investigation,
  - ii. if we have investigated the fault, we will use reasonable endeavours to inform you of the fault's probable cause, and
  - iii. if you request *LiveConnected* to repair the fault and we agree to repair the fault, we will give you an estimate of the probable cost of repairing the fault and we will then charge you for the cost of repairing the fault.
- 8.4e. If we investigate a fault and determine that the fault is attributable to an *excluded event*, then we may charge *you* for any costs *we* incur in investigating and repairing the fault.

## 8.5. LOSS OF ACCESS

If you lose access to the service it is important to notify Live Connected of your loss of service. We will assist you once you let us know about the service problem.

We do not offer a business grade service and so do not guarantee your service may not be interrupted. If it is interrupted, we do not offer refunds or credits for any claims (for loss or damage or inconvenience or otherwise) during the inavailability period..

## 9. FEES AND CHARGES

### 9.1. WHAT ARE THE FEES AND CHARGES FOR USING THE SERVICE?

- 9.1a. You must pay:
- i. the fees and charges for the service, which are set out in the standard pricing table or in any applicable special, and
  - ii. any additional fees and charges noted in the agreement (including in your application) or notified by *LiveConnected* in accordance with the agreement from time to time.
- 9.1b. You must pay all fees and charges which are incurred for the *service* even if *you* did not authorise its use.
- 9.1c. You must pay the fees and charges for the *service* even if the *service* is unavailable or *you* are unable to access the *service*.

### 9.2. TYPES OF FEES AND CHARGES (INCLUDING ADMINISTRATION CHARGES AND OTHER CHARGES)

- 9.2a. In addition to the fees and charges *you* incur in the normal use of the *service* (including an *access fee*, where applicable), *we* may charge *you* for an administration fee and other similar charges. These costs may include suspension fees or *cancellation fees*, late payment fees, payment dishonour fees and reconnection or reactivation fees. These charges are set out in the *standard pricing table* for your *service*.
- 9.2b. *We* may also ask *you* to make a pre-payment usage charge or request that *you* make an interim good-faith payment (including, for example, if there has been an *unusually high use* of the *service* or if *you* want to activate *roaming*).

### 9.3. HOW DO WE CALCULATE FEES AND CHARGES?

- 9.3a. To calculate fees and charges *we* look at billing information generated or received by *LiveConnected*.
- 9.3b. If *you* use the services of a third party, *you* will be billed at the third party's applicable rates and charges. *We* may bill *you* for *your* use of the services of a third party, acting in *our* capacity as that third party's billing agent only.

### 9.4. INVOICING

We will bill you monthly for the Services in accordance with our current charges as notified to you from time to time. We may vary invoice frequency at our discretion. **All payments are to be processed on-line and advised to us in that manner by way of confirmation by you.**

### 9.5. METHOD OF BILLING

Unless otherwise expressly stated in this Agreement, we will generally bill you in advance for periodic charges, connection and service fees (where applicable) and in arrears for usage charges, although this may vary in certain cases. We will endeavour to bill you within the next normal billing period for

charges billed in arrears, but we reserve the right to bill you for those charges in later billing periods. You understand that the first bill you receive from us will be pro-rata in which you are billed for part of the first month and the whole of the second month in advance. You further understand that this will also apply in respect of all billings by us for any equipment agreed to be provided by *LiveConnected* to you in connection with the Service.

If you are on a cap plan your first and final bill cap limit will be calculated on a pro-rata basis. If you are unsure of your billing cycle please contact customer care via email at [care@liveconnected.com.au](mailto:care@liveconnected.com.au)

#### 9.6. DIRECT DEBIT

When available, we may debit amounts (including any direct debit fees that may be payable) directly from your nominated bank or credit card account as they become owing where you have chosen that method of payment. In any event, if you have provided your bank account or credit card details, where amounts remain outstanding after 30 days we may debit those amounts from your nominated bank or credit card account without further notice unless we have received written notice from you of a bona fide dispute of those amounts. If a direct debit fails or is rejected, we reserve the right to pass on any charges that we may incur due to the failure or rejection. If you fail to notify us of new credit card details at least fifteen (15) days prior to the expiry of your current card being debited for payments, you will be charged and agree to pay the remaining month's access fee in advance.

#### 9.7. SUPPLIER CHARGES

We may pass on any charges another Supplier charges to us (including increases and special or one-off charges) without notice to you.

#### 9.8. OTHER CHARGES

You will pay us in accordance with clause 8 any charge which any other Supplier or other person renders to us for connection or initiation of any Service or for cancellation of any Service.

#### 9.9. INTEREST

We reserve the right to charge interest on any part of the charges not paid to us by the due date. Interest, calculated daily, will be charged from the due date until payment at a rate of 9% per annum being the rate we currently charge. We will notify you of changes to the rate from time to time (the varied rate) and you agree to pay interest on such varied rate.

#### 9.10. DIRECT DEBIT DISHONOUR FEES

We reserve the right to charge you all dishonour fees incurred by us if a direct debit used to pay a bill is dishonoured.

#### 9.11. SPECIALS

- 9.11a. We may offer you a *special* from time to time (including a *special* in relation to a particular *pricing plan*).
- 9.11b. We will notify you of any *specials* offered to you either through general advertising or by specifically advising you. The terms of each *special* will either be set out in the *standard pricing table* for the relevant service, in an *appendix*, in advertising material or you will be advised separately in writing.
- 9.11c. A *special* may be an offer to vary the price or the terms of supply (including the *minimum term*), and it may be subject to certain conditions.
- 9.11d. If you validly accept a *special*, the terms of the *special* will prevail to the extent that the terms of the *special* are inconsistent with the terms of the *agreement*. Otherwise, the terms and conditions of the *agreement* continue to apply.
- 9.11e. After the *special* expires, we may end the *special* and the full terms and conditions of the *agreement* will apply.

## 9.12. VARIABLE CHARGES

- 9.12a. Some fees and charges for the *service* are subject to variation, such as charges relating to:
  - i. international services or roaming; and
  - ii. content or premium services.
- 9.12b. You should contact *LiveConnected* before travelling overseas.

## 10. PAYMENTS

### 10.1. HOW OFTEN WILL WE BILL YOU?

- 10.1a. We will bill *you* on a regular basis (either in advance or in arrears), unless otherwise set out in the *service description*
- 10.1b. When your *excess* and/or *excluded* usage exceeds Live Connected's internal assessment of a safe credit limit for your service which we generally set around \$200, we will first notify you of your excess and subsequently debit the entire *excess* and/or *excluded* usage amount from your nominated account.
- 10.1c. If your usage is excessively high in the billing month, your nominated account may be debited more than once. You authorise us to make such debits to your nominated account.
- 10.1d. You will receive a notification from us, once your account has been debited.
- 10.1e. If *you* have insufficient funds in your nominated account and your debit is unsuccessful then we will suspend your service. Please advise us when you have sufficient funds in your nominated account and once the payment is processed your account is re-activated. There is no fee to re-activate your service. If however your service remains suspended over 21 days we reserve the right to cancel your service without the 30 day notice period. You will be liable for any outstanding fees and charges. If you are having payment difficulty contact us as soon as possible.

### 10.2. WHAT WILL APPEAR ON YOUR BILL?

We will try to include on *your* bill all charges for the relevant billing period. However, this is not always possible and we may include these unbilled charges in a later bill(s).

### 10.3. WE MAY USE A BILLING AGENT TO BILL YOU

We may bill *you* using a billing agent (which may be another *LiveConnected* group company).

### 10.4. LIVECONNECTED PAYMENT METHOD TO USE

*You* must pay by the online payment method as set out in the payment notification, on the bill or on *our* website.

### 10.5. WHEN MUST YOU PAY YOUR BILL?

Subject to clause 12.2, *you* must pay the entire amount billed by the due date specified in the payment notification, bill or as otherwise notified by *LiveConnected*.

### 10.6. WHAT HAPPENS IF YOU DO NOT PAY YOUR BILL BY THE DUE DATE?

If *you* do not pay *your* bill by the date the payment is due, we may:

- 10.6a. charge *you* a late fee. *You* should see the relevant *standard pricing table* for the *service* concerned to check the late fee that applies;



- 10.6b. suspend or *cancel the service*, in accordance with clause 13 or 14 as relevant or the relevant *service description*. If we suspend or *cancel the service*, we may charge you a suspension fee or *cancellation fee*. If the *service* is *cancelled* and the *service* disconnected or deactivated, you may have to pay a reconnection or reactivation fee for the reconnection or reactivation of the *service*. You should see the relevant *standard pricing table* for the *service* concerned to check what fees apply, and if fees do apply, what that fee is;
- 10.6c. engage a mercantile agent to recover the money you owe *LiveConnected*. If we engage a mercantile agent, we may charge you a recovery fee;
- 10.6d. institute legal proceedings against you to recover the money you owe *LiveConnected*. If we institute legal proceedings, we may seek to recover our reasonable legal costs reasonable incurred; and
- 10.6e. on-sell any unpaid amounts to a third party. If we do this, any outstanding amounts will be payable to that third party.

#### 10.7. WHAT HAPPENS IF YOU HAVE OVERPAID AS A RESULT OF A BILLING ERROR?

If you have overpaid as a result of a billing error:

- 10.7a. your account will be credited with the amount you have overpaid, or
- 10.7b. if you have stopped obtaining the *service*, we will use reasonable endeavours to notify you that you have overpaid and refund the over payment.

#### 10.8. TAXES (INCLUDING GST)

- 10.8a. Unless otherwise indicated, the fees and charges set out in the *agreement* include any amount on account of *tax*.
- 10.8b. Where the fees and charges do not include an amount on account of *tax*, if any *tax* is payable by *LiveConnected* in relation to, or on any supply under or in connection with the *agreement*, we will increase the *tax* exclusive fees and charges by an additional amount on account of the *tax*. You must pay the additional amount at the same time you pay the fees and charges. This applies where the *tax*, such as GST, is directed at, and imposed on, you, the end-user.

## 11. DIRECT DEBIT - OUR COMMITMENT TO YOU

This section outlines our service commitment to you, in respect of the Direct Debit Request (DDR) arrangements made between Live Connected Pty Ltd (Live Connected) and you. It sets out your rights, our commitment to you and your responsibilities to us. It also provides information for you as to where you can go for assistance in relation to your rights and responsibilities, should it be required.

### 11.1. INITIAL TERMS OF THE ARRANGEMENT

In terms of the DDR arrangements made between us and signed by you, we will periodically debit your nominated account for the agreed amount for telecommunications and associated services.

### 11.2. DRAWING ARRANGEMENTS

The first drawing under this DDR arrangement will occur on the date you apply online to us and place your order to do business with us in accordance with the terms of this agreement. You should ensure that you are aware that the amount to be debited (exclusive of any direct debit fees) will be displayed in the shopping cart summary as 'what you pay today-once off'. If any drawing falls due on a non-business day, it will be debited to your account on either the next business day following or on the previous business day preceding the scheduled drawing date as you have agreed with us. We will give you at least fourteen (14) days notice in writing should there be any changes to the terms of the drawing arrangement made with you. This notice will state any changes to the drawing arrangements. If you wish to discuss any changes to the terms of the drawing arrangement please contact our customer service team via the online support portal which you can find at <http://support.liveconnected.com.au>

### 11.3. YOUR RIGHTS

If you want to make changes to the drawing arrangements please contact our customer service team via the online support portal.

### 11.4. ENQUIRIES

Direct all enquiries to us, rather than to your financial institution, and these should be made at least ten (10) business days prior to the next scheduled drawing date. All communications addressed to us should include your six (6) digit customer account number. All personal customer information held by us will be kept confidential except the information provided to our financial institution to initiate the drawing to your nominated account. If the divulging of such information will be problematic for you, please contact our customer service team via the online support portal. We direct you to our Privacy terms which are also found on our website.

### 11.5. DISPUTES

If you believe that a drawing has been initiated incorrectly, we ask you to take the matter up directly with us by contacting our customer service team via the online support portal. You will receive a refund of the drawing amount if we cannot substantiate the reason for the drawing.

## 11.6. YOUR COMMITMENT TO US

It is your responsibility to ensure that:

- 11.6a. your nominated account can accept direct debits (your financial institution can confirm this);
- 11.6b. on the drawing date there are sufficient cleared funds in the nominated account; and
- 11.6c. you advise us if the nominated account is transferred or closed.

If your drawing is returned or dishonored by your financial institution, we will contact you to arrange an alternative method of payment. Late payment fees may apply. Any transaction fees payable by us in respect of the above will be added to our monthly bill to you from us.

## 12. COMPLAINTS AND DISPUTES

### 12.1. MAKING COMPLAINTS

- 12.1a. If *you* have any complaints in connection with the *service*, *you* may complain by contacting us via the online support portal.
- 12.1b. We will handle *your* complaint in accordance with *our* complaints procedure. *You* may obtain a copy of this procedure on our website, <http://www.liveconnected.com.au>
- 12.1c. We will use *our* best endeavours to resolve *your* complaint, however if *we* are not able to resolve *your* complaint to *your* satisfaction, *you* can take *your* complaint through other avenues, such as the Telecommunications Industry Ombudsman.

### 12.2. SUSPENSION OF PAYMENT OBLIGATIONS

Where *your* complaint is about a fee or charge for the use of the *service*, provided *we* reasonably believe *your* complaint is bona fide, if *you* pay by direct debit, *we* will protect *your* account and reverse any incorrect fees or charges that have been applied to *your* account, once the complaint has been investigated and resolved.

All other fees and charges that are not in dispute are due and payable.

### 12.3. FINANCIAL HARDSHIP POLICY

The Live Connected Financial Hardship Policy contains information about how we can assist customers who are experiencing financial hardship. *You* may obtain a copy of this policy on our website, <http://www.liveconnected.com.au>

## 13. CANCELLING THE SERVICE

### 13.1. YOUR RIGHT TO CANCEL THE SERVICE

- 13.1a. You may cancel the service at any time by:
- i. giving *LiveConnected* thirty (30) days notice (please note that you are required to give *LiveConnected* this notice if you do not wish to continue to use the service after the end of the minimum term of a fixed-length agreement, otherwise we will continue to supply the service to you – see clause 2.7b above), or
  - ii. giving *LiveConnected* notice, if:
    1. we breach a material term of the agreement and we cannot remedy that breach, including where there are prolonged or repeated interruptions to your access to or use of, the service and the loss was not as a result of circumstances reasonably attributable to you or equipment that we are not responsible for, such as equipment that is owned by you or is not provided by *LiveConnected* for you to use in connection with the service; or
    2. we breach a material term of the agreement and we can remedy that breach, but we do not remedy that breach within 30 days after you give *LiveConnected* notice requiring *LiveConnected* to do so; or
    3. any intervening event prevents the supply of the service in accordance with the *agreement* for more than 14 days.
- 13.1b. If you acquire the *service* from *LiveConnected* through a sales method regulated by door-to-door sales and/or outbound telemarketing legislation in *your* state or territory, you may *cancel the service* before the end of the cooling-off period set out in the relevant legislation;
- 13.1c. If the *agreement* is a *fixed-length agreement*, you may also *cancel the service* in accordance with clause 3 above. Clause 3 sets out the circumstances which give you the right to *cancel the service* if we change the *agreement*.

### 13.2. OUR RIGHT TO CANCEL THE SERVICE - NON FIXED-LENGTH AGREEMENT

If the *agreement* is a *non fixed-length agreement*, we may *cancel the service* at any time by giving you at least 30 days notice.

### 13.3. OUR RIGHT TO CANCEL THE SERVICE - NON FIXED-LENGTH AGREEMENT AND FIXED-LENGTH AGREEMENT

- 13.3a. We may *cancel the service* at any time if:
- i. there is an emergency,
  - ii. we reasonably suspect fraud by you or any other person in connection with the service,
  - iii. any amount owing to *LiveConnected* in respect of the service (which is not the subject of a valid dispute under clause 12 above) is not paid by its due date and we give you notice requiring payment of that amount and you fail to pay that amount in full within ten (10) business days after we give you that notice, unless otherwise set out in the agreement,

- iv. we reasonably consider you a credit risk because you have not paid amounts owing to *LiveConnected* or any *LiveConnected* group company (which is not the subject of a valid dispute under clause 12 above) in respect of any service by its due date and you are given notice requiring payment of that amount by that *LiveConnected* group company and you fail to pay that amount in full within the required period,
  - v. you breach a material term of the agreement (including for the avoidance of doubt, but not limited to, clauses 6.1 and 6.6 above or your obligations relating to the use of the service set out in the service description or otherwise misuse either the service (for example in breach of the Optus Mobile Fair Go™ Policy, Optus Local and Long Distance Fair Go™ Policy or Optus Internet Acceptable Use Policy) or breach clause 7.1 above) and you cannot remedy that breach,
  - vi. you breach a material term of the agreement (other than a breach which separately gives rise to rights under this clause) (including for the avoidance of doubt, but not limited to, clauses 6.1 and 6.6 above or your obligations relating to the Use of the service set out in the service description or otherwise misuse either the service (for example in breach of the Optus Mobile Fair Go™ Policy, Optus Local and Long Distance Fair Go™ Policy or Optus Internet Acceptable Use Policy) or breach clause 7.1 above) and you can remedy that breach, and you do not remedy that breach within 30 days after we give you notice requiring you to do so,
  - vii. we are required to do so to comply with an order, instruction, request or notice of a regulator, an emergency services organisation, any other competent authority or by authorisation of or under law (for example, under the Copyright Act 1968 (Cth)),
  - viii. you suffer an insolvency event and we reasonably believe we are unlikely to receive payment for amounts due,
  - ix. you die or if you are a partnership and the partnership is dissolved or an application is made to dissolve the partnership, and we reasonably believe we are unlikely to receive payment for amounts due,
  - x. the service is suspended for more than 14 days, unless otherwise set out in the agreement,
  - xi. any intervening event prevents the supply of the service in accordance with the agreement for more than 14 days, or
  - xii. we are otherwise entitled to do so under the agreement.
- 13.3b. In most circumstances, we will give you as much notice as we reasonably can before we *cancel the service*. However, in some circumstances, for example in an emergency or if we consider your use of the *service* is unreasonable we may *cancel the service* without notice to you.

#### 13.4. HOW CAN YOU CANCEL THE SERVICE?

- 13.4a. You can ask *LiveConnected* to *cancel the service* by logging a cancellation notice online through the *LiveConnected online support page*. You will then receive a confirmation email from *LiveConnected*, This will be notice to *cancel the service*.
- 13.4b. You may also be able to *cancel the service* by electing to have an equivalent service to the *service* supplied by another *carrier* or *carriage service provider* (including, by *churning*). That *carrier* or *carriage service provider* will inform *LiveConnected* that you have elected to have the relevant service supplied by them or have *churned* to them and we will *cancel the service* immediately.

### 13.5. WHEN WILL THE SERVICE BE CANCELLED?

The service will be cancelled on the cancellation date. You will not be able to use the service after the cancellation date.

### 13.6. WHAT HAPPENS WHEN THE SERVICE IS CANCELLED?

- 13.6a. The agreement terminates when the service is cancelled.
- 13.6b. If the service is cancelled:
- i. you are liable for any charges incurred (including the cancellation fee, and outstanding equipment charges if any) up to, and including, the cancellation date (you should check the service description and standard pricing table for your service for details of any applicable cancellation fee),
  - ii. because an intervening event prevents the supply of the service in accordance with the agreement for more than 14 days (under clause 13.1(a)(ii)(3) or 11.3(a)(xi) above), you are liable for any charges incurred (including outstanding equipment charges if any) up to the cancellation date. However, unless it is fair and reasonable for *LiveConnected* to do so, we will not charge you any cancellation fee in these circumstances,
  - iii. you authorise *LiveConnected* to apply any over payment on your account and/or money that you have paid in advance for the service which is being cancelled to pay for any undisputed outstanding charges (including the cancellation fee, if any),
  - iv. subject to paragraph (iii) above and unless otherwise set out in the service description (for example we may not refund or redeem for cash any unused prepaid credits on a pre-paid service), we will refund any over payment on your account and any money that you have paid in advance for the service which is being cancelled on a pro-rata basis to you, and
  - v. if you are required under the service description to pay for the service by direct debit payment (either from your credit card or from your nominated bank account), you authorise *LiveConnected* to debit any undisputed outstanding charges (including any cancellation fee, if any) from your credit card or bank account.

### 13.7. CANCELLATION FEES FOR MOBILE SERVICES

You, the customer, agree to the terms of your product, and agree that early termination charges may apply if you terminate the agreement between you and Live Connected. The early termination charge is outlined in clause 13.7d. You also acknowledge that if your contract has a minimum term and you terminate during the minimum term you will lose any deposit you may have paid.

- 13.7a. If the *service is cancelled* as a result of circumstances reasonably attributable to *you*:
- i. before the service start date, you must pay *LiveConnected* all infrastructure and installation costs incurred by *LiveConnected* in connection with preparations for supplying the service to you, this may also include costs related to credit checking and SIM cards and
  - ii. during the minimum term, subject to clause 3, you must pay *LiveConnected* the cancellation fee.
- 13.7b. If *you* wish to reinstate the *service* you should contact *LiveConnected*. If the *service is cancelled* as a result of circumstances reasonably attributable to *you* and *we* reinstate the *service*, then *you* may have to pay *LiveConnected* a reconnection or reactivation fee.
- 13.7c. If *you* are able to use the *service* after the *cancellation date*, *you* are liable for any charges incurred by *you* for that use, in addition to any other charges under this clause 13.6.
- 13.7d. Cancellation fees vary according to your plan and are outlined in the Critical Information Summary for your plan. If you're unsure of the cancellation fee please contact our support team through: <http://support.liveconnected.com.au>



## 14. SUSPENDING THE SERVICE

### 14.1. LIVECONNECTED'S RIGHTS TO SUSPEND THE SERVICE

- 14.1a. We may suspend the *service* at any time, if:
- i. there is an emergency,
  - ii. doing so is necessary to allow *LiveConnected* or a supplier to repair, maintain or service any part of the *LiveConnected* network or a supplier's network used to supply the service,
  - iii. we reasonably suspect fraud by you or any other person in connection with the service,
  - iv. we reasonably believe there has been an unusually high use of the service,
  - v. any amount owing to *LiveConnected* in respect of the service (which is not the subject of a valid dispute under clause 12 above) is not paid by its due date and we give you notice requiring payment of that amount and you fail to pay that amount in full within ten (10) business days after we give you that notice, unless otherwise set out in the agreement,
  - vi. we reasonably consider you a credit risk because you have not paid amounts owing to *LiveConnected* or any *LiveConnected* group company (which is not the subject of a valid dispute under clause 12 above) in respect of any service is not paid by its due date and you are given notice requiring payment of that amount by that *LiveConnected* group company and you fail to pay that amount in full within the required period,
  - vii. you breach a material term of the agreement (including for the avoidance of doubt, but not limited to, clauses 6.1 and 6.6 above or your obligations relating to the use of the service set out in the service description or otherwise misuse either the service (for example in breach of the Optus Mobile Fair Go™ Policy) or breach clause 7.1 above) and you cannot remedy that breach,
  - viii. you breach a material term of the agreement (other than a breach which separately gives rise to rights under this paragraph) (including for the avoidance of doubt, but not limited to, clauses 6.1 and 6.6 above or your obligations relating to the use of the service set out in the service description or otherwise misuse either the service (for example in breach of the Optus Mobile Fair Go™ Policy) or breach clause 7.1 above) and you can remedy that breach, and you do not remedy that breach within 30 days after we give you notice requiring you to do so,
  - ix. we are required to do so to comply with an order, instruction, request or notice of a regulator, an emergency services organisation, any other competent authority or by authorisation of or under law (for example, under the Copyright Act 1968 (Cth)),
  - x. problems are experienced interconnecting the *LiveConnected* network with any supplier's network,
  - xi. you suffer an insolvency event and we reasonably believe we are unlikely to receive payment for amounts due,
  - xii. you die or if you are a partnership and the partnership is dissolved or an application is made to dissolve the partnership, and we reasonably believe we are unlikely to receive payment for amounts due, or
  - xiii. we are otherwise entitled to do so under the agreement.
- 14.1b. In most circumstances, we will give *you* as much notice as we reasonably can before we suspend the *service*. However, in some circumstances, for example in an emergency or if we consider *your* use of the *service* is unreasonable and in breach of *Optus Mobile Fair Go* Policy,

*Optus* Local and Long Distance Fair Go Policy or *Optus* Internet Acceptable Use Policy, we may suspend the *service* without notice to *you*.

- 14.1c. If we suspend the *service*, we may later *cancel the service* for the same or a different reason.

#### 14.2. WHAT HAPPENS WHEN THE *SERVICE* IS SUSPENDED

- 14.2a. If the *service* is suspended, *you* will have to pay *access fees* for the *service* while it is suspended.
- 14.2b. If the *service* is suspended and the suspension was not as a result of circumstances reasonably attributable to *you* or equipment that *we* are not responsible for, such as equipment that is owned by *you* or is not provided by *LiveConnected* for *you* to use in connection with the *service*, *you* will be entitled to a refund or a rebate of any *access fees* for the period of suspension. *You* should contact customer service for *your* refund or rebate.
- 14.2c. If the *service* is suspended as a result of circumstances reasonably attributable to *you*, *you* may have to pay *LiveConnected* a suspension fee. *You* should check the relevant *standard pricing table* for the *service* concerned to see if a suspension fee applies.
- 14.2d. If *you* wish to lift the suspension *you* should contact *LiveConnected* via the online support portal which *you* can access at <http://support.liveconnected.com.au>

## 15. WHAT ARE YOU AND WE LIABLE FOR

### 15.1. YOUR LIABILITY TO LIVECONNECTED

- 15.1a. You are liable to *LiveConnected* for any breach of the *agreement* by you that causes foreseeable substantial *loss* to *LiveConnected*.
- 15.1b. You are not liable to *LiveConnected* for any *consequential losses* we suffer or for any costs, expenses, *losses* or charges that we incur which are not a direct result of something you have done.

### 15.2. OUR LIABILITY TO YOU

- 15.2a. We have responsibilities and obligations under the law, including under:
- i. the Telecommunications Legislation,
  - ii. the Trade Practices Act, and
  - iii. applicable laws, regulations and codes.

Nothing in the *agreement* removes or limits any rights that you have under existing laws or regulations.

For example, under the *Trade Practices Act*, if you purchase goods or services which cost less than a prescribed amount (currently \$40,000) or which are goods or services ordinarily acquired for personal, domestic or household use or consumption, certain conditions and warranties are implied into the *agreement* for the purchase of those goods or services which we cannot and do not exclude (***statutory warranties***).

*Statutory warranties* apply in addition to any other express warranties to which you may be entitled under this *agreement*.

The *statutory warranties* that are implied into your *agreement* for goods, are that the goods must be of merchantable quality, fit for their purpose or job you have made known to *LiveConnected* or that is self evident, match the description or sample given to you prior to purchase and be free from defects or faults (unless these are made known to you prior to purchase).

The *statutory warranties* that are implied into your *agreement* for services, are that the services must be rendered with due care and skill and any materials used must be fit for purpose.

If the goods or services we supply do not comply with the *statutory warranties*, you are entitled to either have the goods repaired or replaced or you may be entitled to a refund. You may also be entitled to compensation for other *loss* and/or damage suffered.

You may also have different rights and obligations under state or territory fair trading legislation. For example in Victoria:

- in addition to the *statutory warranties* set out above, services must be fit for the purposes for which services of that kind are commonly purchased (having regard to the price, terms of supply and other relevant circumstances) and

- if the goods we supply do not comply with the *statutory warranties*, you must return the goods to *LiveConnected* (or allow *LiveConnected* to take possession) and we are liable to you for money paid if you return the goods to *LiveConnected*.

15.2b. We are liable to you for:

- i. any damage to your property which has been caused by the fault, negligence or fraud by *LiveConnected* or our personnel during installation, repair or maintenance,
- ii. interruptions in your use of the service as a result of a fault or negligence of *LiveConnected* or our personnel, to the extent of a refund or rebate for the period of the interruption and compensation for any reasonable loss incurred, and
- iii. death or personal injury caused by *LiveConnected* or our personnel.

15.2c. If you have contributed to any loss or damage you are claiming against *LiveConnected*, our liability is reduced to the extent of your contribution.

15.2d. Subject to our obligations under the *statutory warranties* (see clause 15.2(a) above), we are not liable to you for any *consequential losses* you suffer or for any costs, expenses, loss or charges that you incur.

## 16. ASSIGNING THE AGREEMENT TO A THIRD PARTY

### 16.1. HOW CAN WE ASSIGN OUR RESPONSIBILITIES TO A THIRD PARTY

- 16.1a. We may assign some or all of *our* rights under the *agreement* (where those rights are assignable) to any person.
- 16.1b. We may transfer some or all of *our* obligations under the *agreement* to any *LiveConnected group company* that is able to perform those obligations.
- 16.1c. We may perform any of *our* obligations under the *agreement* by arranging for them to be performed by another person, including a *supplier* or another *LiveConnected group company*. We will still be responsible for the performance of the obligations.

## 17. GENERAL

### 17.1. WHICH LAWS AND COURTS GOVERN THE AGREEMENT?

- 17.1a. The *agreement* is governed by the laws of the Commonwealth of Australia and the laws of the state or territory in which *you* normally reside.
- 17.1b. *You and we* submit to the exclusive jurisdiction of the courts of the Commonwealth, and its states and territories.

### 17.2. INTELLECTUAL PROPERTY PROTECTIONS

- 17.2a. *We* own all material (including *intellectual property rights*) developed by *LiveConnected* or *our personnel*, or at *our* or their direction.
- 17.2b. *We* may permit *you* to use this material, or other material licensed by *LiveConnected*, as part of the *service*. This permission is subject to any conditions which *we* may impose from time to time and will cease when the *service* is *cancelled*.
- 17.2c. *You* must not infringe any person's *intellectual property rights* (such as by using, copying or distributing data or software without the permission of the owner) in using the *service*. If *you* breach this paragraph, *we* may suspend the *service* under clause 14.1(a) or *cancel the service* under clause 13.3(a).

### 17.3. WHAT HAPPENS IF YOU CAN'T FULFIL YOUR OBLIGATIONS OR WE CAN'T FULFIL OUR OBLIGATIONS UNDER THE AGREEMENT BECAUSE OF AN EVENT OUTSIDE YOUR OR OUR CONTROL?

- 17.3a. If an *intervening event* occurs which affects *you* from performing any of *your* obligations under the *agreement* (other than an obligation to pay money), then *you* will not be liable for failing to perform that obligation. *You* must notify *LiveConnected* of the *intervening event* and use *your* best efforts to resume performance in accordance with the *agreement* as soon as reasonably possible. *Our* obligations continue during the *intervening event*, except if *we* are not able to perform *our* obligations because *you* are unable to perform *your* obligations due to the *intervening event*.
- 17.3b. If an *intervening event* occurs which affects *LiveConnected* (or any of *our personnel*) from performing any of *our* obligations under the *agreement* (other than an obligation to pay money), then *we* will not be liable for failing to perform that obligation. *We* must notify *you* of the *intervening event* and use *our* best efforts to resume performance in accordance with the *agreement* as soon as reasonably possible. *Your* obligations continue during the *intervening event*, except if *you* are not able to perform *your* obligations because *we* are unable to perform *our* obligations due to the *intervening event*.

### 17.4. WHAT HAPPENS IF YOU BECOME A CARRIER OR CARRIAGE SERVICE PROVIDER?

- 17.4a. You represent that you are not a carrier or carriage service provider.
- 17.4b. If *you* are or become a *carrier* or *carriage service provider*, *we* may immediately *cancel the service* by giving *you* notice.

17.4c. If *we cancel the service* under this clause, we will negotiate in good faith with *you* to enter into an alternative agreement governing supply of the *service*, on terms to be agreed.

#### 17.5. WHEN DO WE WAIVE A RIGHT WE HAVE UNDER THE AGREEMENT?

If *you* breach the *agreement* and *we* do not exercise a right that *we* have because of *your breach*, *we* do not necessarily waive *our* entitlement to exercise that right because of *your breach* at any later time.

#### 17.6. PAYMENT OF COMMISSION BY *LIVECONNECTED*

*We* may pay a commission to any of *our personnel* in connection with the *agreement*.

#### 17.7. INFORMATION ABOUT *YOUR* RIGHTS

Information and advice about *your* rights can be obtained by contacting the Australian Communications and Media Authority, the Telecommunications Industry Ombudsman, the Australian Competition and Consumer Commission or the relevant Department of Fair Trading or Department of Consumer Affairs in *your* state or territory.

## 18. WHAT DO TERMS IN THE AGREEMENT MEAN?

### 18.1. DEFINITIONS

**access fee** means the fixed payment for access to the *service* payable on a regular basis (often monthly). The *access fee* is payable regardless of the actual usage of the *service*. A minimum monthly charge and minimum monthly service charge are also *access fees*.

**agreement** means the terms and conditions on which *we* supply the *service* to *you*.

**appendices** means the appendices containing information relevant to the *service*.

**application** means the part of the *agreement* which is the written or verbal application *you* complete to request that *we* supply the *service* to *you*.

**cancel the service** means that the *service* is cancelled and the *agreement* is terminated.

**cancel the service for convenience** means to *cancel the service* in circumstances where *you* have not breached the *agreement* and there is no other event which triggers the right to *cancel the service*.

**cancellation date** means:

the date 30 days after *you* notify *LiveConnected* that *you* wish to *cancel the service*, unless *we* agree otherwise,

the date at least 30 days after *we* notify *you* that *we* will be *cancelling the service*, or

as otherwise set out in the *agreement*.

**cancellation fee** means the cancellation fee or termination charge which may be payable on *cancellation of the service*. Unless otherwise indicated in the *service description*, any *cancellation fee* payable is set out in the *standard pricing table*.

**charging zone** refers to the geographic zone within which a particular service number can be used, which in turn determines the applicable charging zone, as prescribed by ACMA's Telecommunication Numbering Plan 1997.

**churn** means to change from having a service supplied by one *carrier* or *carriage service provider* to having the service supplied by another *carrier* or *carriage service provider*.

**consequential loss** means any *loss* of revenue or profits, *loss* of anticipated savings, *loss* of data, *loss* of value of equipment, any penalties or fines imposed by a *regulator* and any *loss* that is an indirect *loss*.

**Consumer** means a person who acquires and uses the *service* for personal, domestic or household use only.

**LiveConnected's Terms and Conditions** means this document.

**content** means:



(a) all forms of information, including text, pictures, animations, video, sound recordings, software, separately or combined, and

(b) any content service,

sent and received across a *network*. For the avoidance of doubt, *content* includes, but is not limited to, SMS and MMS.

**credit rating** means information about *your* credit worthiness, credit standing, credit history or credit capacity that credit providers are entitled to give to each other under the *Privacy Act 1998* (Cth).

**equipment charges** means any payment for equipment obtained from *LiveConnected* including, for example, phones or modems and includes the cost of any software or licences supplied to operate in conjunction with that equipment.

**excluded event** means:

(a) a breach of the *agreement* by *you*,

(b) a negligent or fraudulent act or omission by *you* or any of *your personnel*, or

(c) a failure of any of *your* equipment.

**Excluded usage** means any calls, text and/or data that are not included in your Cap Allowance.

**Excess usage** means any calls, text and/or data that go above the Cap Allowance.

**fixed-length agreement** means an *agreement* that has a *minimum term*, during which time neither *you* nor *we* are free to change the terms of the *agreement* or to *cancel the service*, other than as specifically provided for in the *agreement*. A *fixed-length agreement* does not include a month-to-month agreement.

**insolvency event** means:

(a) bankruptcy proceedings are commenced against *you*, or *you* are declared bankrupt,

(b) any step is taken to enter into any scheme of arrangement between *you* and *your* creditors,

(c) any step is taken by a mortgagee to enter into possession or dispose of the whole or any part of *your* assets or business,

(d) any step is taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a liquidator, a provisional liquidator, an administrator or other like person to *you* or to the whole or any part of *your* assets or business,

(e) *you* suspend payment of *your* debts generally, or

(f) *you* are, or become, unable to pay *your* debts when they are due or *you* are, or are presumed to be, insolvent for the purposes of any provision of the *Corporations Act 2001* (Cth).

**intellectual property rights** means any intellectual or industrial property rights (including any registered or unregistered trademarks, patents, designs, or copyright).

**intervening event** is an event outside *your* or *our* reasonable control which interferes with the operation of the *network* we use to supply the *service* and results in ongoing disruption to the *service*. An *intervening event* includes but is not limited to the following events where those events are outside *your* or *our* reasonable control: failure of any electrical power supply, failure of air-conditioning or humidity control, electromagnetic interference, fire, storm, flood, earthquake, accident, war, the change or introduction of any law or regulation (including the *Telecommunications Legislation*) or an act or omission of any third party or any failure of any equipment owned or operated by any third party (including any *regulator*, any *supplier* or any of their *personnel*).

**minimum term** means the period of time for which *you* have agreed to receive the *service* under a *fixed-length agreement*. The *minimum term* begins on the *service start date* and runs for the period of time stated on the *application*, unless otherwise set out in the *agreement*. For a non fixed-length *agreement*, there is no *minimum term*.

**loss** means any loss, cost, liability or damage, including reasonable legal costs.

**network** means any interconnected telecommunications equipment, *facilities*, or cabling.

**non fixed-length agreement** means an agreement that does not have a minimum term, or a fixed-length agreement where the minimum term has expired. A non fixed-length agreement includes a month-to-month agreement.

**LiveConnected group company** means Live Connected Pty Ltd (ABN 14 140 094 113) and each of its *related corporations*.

**The network** means the *network* used to supply the *service*, as set out in the *service description*.

**LiveConnected owned equipment** means any equipment *we*, or *our personnel*, may provide or lease to *you* to use in connection with the *service*.

**personal information** means information about *you* from which *your* identity is apparent or can reasonably be ascertained. *Personal information* includes *your* name, address and other details, and *your* personal or commercial *credit rating*.

**personnel** of a person means that person's employees, agents, contractors or other representatives and, in the case of *LiveConnected*, includes the employees, agents, contractors or other representatives of any *LiveConnected group company*.

**premises** means locations:

- (a) at which *we* supply the *service*, and/or
- (b) to which *we* need to have access to supply the *service*.

**pricing plan** contains information about the terms and conditions and prices of the plan *you* have selected in *your* application. *You* may also hear a *pricing plan* referred to as a 'rate plan'.

**regulator** means the Australian Communications and Media Authority, the Australian Competition and Consumer Commission, the Australian Communications Industry Forum Limited, the Telecommunications Industry Ombudsman or any other relevant government or statutory body or authority.

**related corporation** of a company means another company that is related to that entity in any of the ways specified in section 50 of the *Corporations Act 2001* (Cth).

**roaming** means the ability to use the *network* of overseas mobile *carriers* when travelling overseas.

**service** means the service, with the features requested in the *application* as described in the *service description*, and any related goods (including equipment) and ancillary services which *we* supply to *you* in connection with that service.

**service description** means the part of the *agreement* entitled '*service description*', which is *our* standard service description for *consumers* describing the *service*.

**service start date** for the *service* means the date on which *we* start supplying that *service* to *you*, unless otherwise specified in the *service description*.

**special** means a special promotion or offer made by *LiveConnected* in connection with the *service*.

**standard pricing table** means the part of the *agreement* entitled '*standard pricing table*', which is *our* standard rate plan, pricing and charges list for *consumers* for the *service*.

**supplier** means any supplier of goods or services (including interconnection services) which are used directly or indirectly by *LiveConnected* to supply the *service* to *you*. Where a *supplier* supplies goods or services to *you* directly, that *supplier* is not acting in its capacity as *supplier*, but rather is a third party providing services directly to *you*.

**tax** means any value-added or goods and services tax, withholding tax, charge (and associated penalty or interest), rate, duty or impost imposed by any authority at any time but does not include any taxes on income or capital gains.

**Telecommunications Legislation** means the Telecommunications Act 1997 (Cth), the Telecommunications (Consumer Protection and Service Standards) Act 1999 (Cth) and Part XIB, Part XIC and related provision of the Trade Practices Act.

**tethered modem** refers to the use of a mobile phone as a modem when connected to a computer or laptop, enabling connection to the internet over a mobile network. The connection to the computer or laptop may be either with cables or wireless. Use of a mobile phone as a *tethered modem* requires both an active mobile service together with a tethered modem data plan.

**Trade Practices Act** means the Trade Practices Act 1974 (Cth).

**you** means the person who fills out the *application* (and **your** and **yours** is to be construed accordingly). Only one person may fill out the *application*.

**we** means the *LiveConnected group company* specified in the *service description* as supplying the *service* (and **LiveConnected** and **ours** is to be construed accordingly).

**unusually high use** means high out of pattern usage of the *service* on a short term basis or a sustained high usage which exceeds the general average usage of customers on a similar *pricing plan* or who have accepted a similar *special*.

## 18.2. INTERPRETATION

- 18.2a. The following words have the same means in the *agreement* as they have in the *Telecommunications Legislation*:
- i. carriage service,
  - ii. carriage service provider,
  - iii. carrier,
  - iv. content service, and
  - v. facility.
- 18.2b. A term which is defined in any part of the *agreement* has the same meaning in every other part of the *agreement*.
- 18.2c. The singular includes the plural and vice versa.
- 18.2d. Different grammatical forms of the same word(s) have the same meaning.
- 18.2e. Examples or words of inclusion are illustrative only and do not limit what else might be included.
- 18.2f. A reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them.
- 18.2g. A reference to A\$, \$A, dollar or \$ is to Australian currency, unless otherwise stated.