

Standard Form of Agreement

General Terms and Conditions – Current as at Jul 2023

1 What Your Agreement looks like

1.1 Our Agreement and these General Terms and Conditions

1.1.1 This document is referred to as the "**General Terms and Conditions**" and forms the basis of Our Standard Form of Agreement, setting out the general terms and conditions applicable in respect of Mobile Devices that You may offer to purchase (whether on an Instalment Plan or otherwise) or subscribe to from us (as applicable).

1.1.2 Each of the following documents constitutes Our "standard form of agreement":

- (a) these General Terms and Conditions;
- (b) in respect of a Mobile Device purchased by You (whether on an Instalment Plan or otherwise), the applicable Mobile Device Terms; and
- (c) in respect of a Mobile Device subscribed to by You from Us, the applicable Mobile Device Subscription Terms,

(together, the **Standard Form of Agreement**).

1.2 What makes up Your Agreement?

1.2.1 The agreement applicable to a Mobile Device, as applicable, (**Agreement**) consists of:

- (a) these General Terms and Conditions;
- (b) where You have purchased a Mobile Device under an Instalment Plan,
 - (i) Your Application Form; and
 - (ii) the Mobile Device Terms;
- (c) where You have purchased a Mobile Device outright,
 - (i) Your Mobile Device Order Form; and
 - (ii) the Mobile Device Terms;
- (d) where You have subscribed to a Mobile Device from Us:
 - (i) Your Mobile Device Subscription Order Form; and
 - (ii) the Mobile Device Subscription Terms; and
- (e) any other terms and conditions that each party agrees from time-to-time form part of this Agreement.

1.3 Agreement Start Time – when You become bound

1.3.1 You acknowledge that We:

- (a) may accept or reject an Application Form, Mobile Device Order Form or Mobile Device Subscription Order Form in Our absolute discretion; and
- (b) are not required to provide You with Our reasons in connection with any such acceptance or rejection.

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- 1.3.2 If You are:
- (a) purchasing a Mobile Device under an Instalment Plan and we accept Your Application Form, Your Agreement begins at the time We accept Your Application Form;
 - (b) purchasing a Mobile Device outright, and we accept Your Mobile Device Order Form, Your Agreement begins at the time We accept Mobile Device Order Form; or
 - (c) subscribing for a Mobile Device from Us, and we accept Your Mobile Device Subscription Order Form, Your Agreement begins at the time We accept the Mobile Device Subscription Order Form, **(Agreement Start Time)**.

1.4 Term of the Agreement

- 1.4.1 Other than in respect of the subscription of a Mobile Device from Us, there is no specified or minimum term in respect of this Agreement, which will continue until it is terminated in accordance with its terms.
- 1.4.2 In respect of the subscription of a Mobile Device from Us, the term of this Agreement is the subscription period set out in the applicable Mobile Device Subscription Order Form, unless and until it is earlier terminated in accordance with its terms.
- 1.4.3 You may terminate this Agreement at any time in accordance with clause 4 and any other applicable terms of the Agreement.

1.5 Changes to the Agreement

- 1.5.1 For various reasons (including the management of Our liability under agreements with Our suppliers, increases in costs and expenses that are beyond Our control and Our exposure to various risks (including regulatory, reputational and operational risks) or changes to Our business model) from time to time We may change one or more of the documents comprising the Agreement.
- 1.5.2 Changes made pursuant to clause 1.5.1 may impact Your Agreement. However, as Your ongoing satisfaction is important to Us, We will always endeavour to act reasonably, and We note We have also given You the Customer Termination Option and where such change has had, or will have, a material adverse effect on You (and, if applicable, Your right to possess and use a Mobile Device under the Mobile Device subscription) and You exercise Your Customer Termination Option as a result, such termination will not constitute an Acceleration Trigger Event for the purposes of the purchase of a Mobile Device on an Instalment Plan, and will be an Excluded Event for the purposes of a Mobile Device subscription and what happens when the Agreement in respect thereof is terminated.

1.6 Notice period for changes to the Agreement

- 1.6.1 To the extent that We believe that changes to the Agreement will:
- (a) have a detrimental impact on You or the End User, wherever reasonably practicable We will endeavour to provide You with at least 6 weeks' prior notice before the change takes effect; and
 - (b) not have a detrimental impact on You or the End User, We are not required to provide notice before such change takes effect (with such changes being notified to You through the Website and/or via email).
- 1.6.2 Where a change is required without delay to comply with laws and regulations, or We believe the changes are necessary for security, fraud prevention or technical reasons, We cannot ensure that We will be able to notify You before We make such changes (but We will let You know as soon as reasonably possible).
- 1.6.3 Without limiting Your rights to terminate after changes take effect, in relation to changes in respect of which We have given You reasonable prior notice, unless You terminate before those changes take effect, You will be deemed to have accepted those changes upon their taking effect.

2 What You must and must not do

2.1 What You must do

- 2.1.1 By submitting Your Application Form or Your Mobile Device Order Form or Your Mobile Device Subscription Order Form, You acknowledge that We may be required to keep Our suppliers updated as to certain customer information, and You agree to:
- (a) comply with all applicable laws and regulations;
 - (b) comply promptly with any reasonable requests We may make from time to time;
 - (c) fulfil each of Your obligations under this Agreement promptly;
 - (d) if you have purchased a Mobile Device under an Instalment Plan or have subscribed for a Mobile Device, notify Us promptly of any changes to:
 - (i) Your residential address;
 - (ii) Your preferred email address; and

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- (iii) any relevant details in connection with Your Nominated Card (including the relevant debit or credit card number or expiry date, or the corresponding billing address).

2.1.2 By submitting Your Application Form or Your Mobile Device Order Form or Your Mobile Device Subscription Order Form, You confirm to Us that You have authority to:

- (a) disclose all of the information (including Personal Information) included in that form;
- (b) use the relevant nominated email address, billing address and physical delivery address; and
- (c) provide the relevant documentation for identity verification purposes (if required),

and that You are not engaging in any unlawful or unauthorised conduct (and You indemnify Us for any such unlawful or unauthorised conduct).

2.2 What You must not do

2.2.1 You must not at any time:

- (a) complete or submit an Application Form or Mobile Device Order Form or Mobile Device Subscription Order Form, or provide any documents, on behalf of any person (whether or not that person is proposed to be an End User or not) without that person's permission and authority (and by submitting an Application Form, Mobile Device Order Form or Mobile Device Subscription Order Form and the associated documents You represent and warrant to Us that You have all necessary permissions and authority to submit such form and associated documents);
- (b) permit anyone (including an End User that is not You) to use any goods or services provided to You under this Agreement in a manner that would constitute a breach of this Agreement (if it were You acting instead of that person);
- (c) seek to transfer Your Account, or any or all of the value standing to the credit of Your Account, to any other Account, person or entity (but this does not prevent You from permitting another End User to use that Account, for which You remain liable at all times).

3 How We will communicate with You

3.1.1 We may contact You using:

- (a) where required by law or regulation, any means permitted by such law or regulation; and
- (b) in the absence of any such requirements, any means that We consider reasonable in the circumstances, including by phone, SMS/MMS, email or in writing.

4 Termination

4.1 Termination by You

4.1.1 You have the right to terminate this Agreement subject to all applicable terms of this Agreement (the **Customer Termination Option**), with such termination taking effect in accordance with clause 4.1.3.

4.1.2 You may exercise the Customer Termination Option:

- (a) if your Agreement relates to the purchase of a Mobile Device under an Instalment Plan, at any time;
- (b) if your Agreement relates to the subscription of a Mobile Device from Us, at any time in the subscription period for the subscription of the Mobile Device after the first 30 days from the Agreement Start Time;
- (c) by notifying Us by contacting Our Customer Service Team (contact details available [here](#)); and
- (d) by complying with the Customer Termination Option Conditions and all other applicable terms of this Agreement.

4.1.3 Should You exercise the Customer Termination Option:

- (a) such termination of the Agreement will only become effective:
 - (i) once all amounts owing and/or payable by You to Us have been received in cleared and immediately available funds (including any Outstanding Balance on the Mobile Device); and
 - (ii) subject to the satisfaction of any and all Customer Termination Option Conditions and other terms that may apply in connection with this Agreement; and
- (b) without limiting Your rights under the Australian Consumer Law (including any rights to a refund), and unless expressly stated otherwise in this Agreement, You acknowledge that in respect of such termination there is no accompanying or resulting right for You to seek a refund for any products or services.

4.2 Termination by Us

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- 4.2.1 Without limiting any other cancellation rights under this Agreement, We may terminate this Agreement immediately if:
- (a) required in connection with an emergency;
 - (b) We (or Our suppliers) suspect that there has been fraud or attempted fraud in connection with Your Account or this Agreement;
 - (c) required in accordance with any applicable laws or regulations;
 - (d) We are so directed to do so by a relevant authority; or
 - (e) You are declared bankrupt (if You are an individual) or (to the extent permitted by law) 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 or other entity).

4.2.2 **We may also terminate this Agreement on reasonable prior notice if:**

- (a) You breach a material term of this Agreement (including failure to pay any amount when it becomes due and payable);
- (b) We have reasonable grounds (including, without limitation, based on previous payment and collections history) to believe that You may not, or may not be able to, pay any amount as and when it will fall due (but not where You are complying with a separate payment arrangement that has been agreed between You and Us); or
- (c) We are otherwise permitted to do so by this Agreement.

5 Payments, fees and Credits

5.1 Payments automatically deducted

- 5.1.1 We will, in respect of all payments due in connection with this Agreement, attempt to automatically deduct such payment on the following dates:
- (a) for each payment that is a recurring payment (e.g. a monthly instalment or fee), other than a Late Payment Fee, on the relevant due date for payment;
 - (b) for payment for the outright purchase of a Mobile Device, at or shortly after the time of confirming the payment for the Mobile Device;
 - (c) for each voluntary payment (e.g. a voluntarily top-up or repayment), at or shortly after the time of confirming the payment of the relevant product or service;
 - (d) for each Late Payment Fee, at the time such Late Payment Fee is incurred in accordance with the terms of this Agreement;
 - (e) for each other fee or charge payable under the Agreement, at the time such fee, charge or amount is payable or incurred in accordance with the terms of this Agreement or if not specified, on demand by Us; and
 - (f) for each amount that becomes overdue, either as a single payment or as a series of smaller payments on each day (or at less frequent intervals at Our discretion) while any amount remains outstanding (until such amount has been collected in full, and You acknowledge that We accept no liability for any resulting transaction charges (or similar amounts) that may result from Our attempts to collect such overdue amounts).

5.2 Credit and debit card payments

5.2.1 You represent and warrant to Us in respect of each Nominated Card that You are either:

- (a) the Nominated Card Holder; or
- (b) authorised by each relevant Nominated Card Holder,

to use that Nominated Card to make each of the payments due in connection with this Agreement.

5.2.2 You acknowledge that We may assume that a person is the Nominated Card Holder where that person supplies Us with the following details:

- (a) card number;
- (b) the type of card; and
- (c) the approximate date (within 2 business days) of a charge applied in Our favour using that Nominated Card.

5.2.3 We may disclose (and You consent to such disclosure) to each Nominated Card Holder details of any payments applied to the relevant Nominated Card in respect of the relevant Account (including the time, date and amount of any payment, the personal details of the relevant Account Holder and/or End User for that Account).

5.2.4 In respect of each Nominated Card, We (or Our suppliers) may perform a pre-authorisation transaction against Your Nominated Card for a nominal amount (for example, \$1.00). This transaction may appear as a pending transaction against the Nominated Card, but will be removed shortly after (and typically within 10 business days). Please contact Our Customer Service Team if such transaction has not been removed within that period.

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5.3 Late and dishonoured payments

- 5.3.1 If we are unable to process payment for the outright purchase of a Mobile Device using the payment details provided in the Mobile Device Order Form, the Mobile Device Order Form will be rejected.
- 5.3.2 If Your Account goes into arrears (that is, We have been unable to collect the full amount of a payment that has fallen due), in addition to all other amounts and our rights, We may charge, and You must pay to Us, Late Payment Fees where an amount is not paid in full within 15 days of its due date and in addition to the foregoing, where such amount is not paid in full within 60 days of its due date.
- 5.3.3 To avoid the application of any Late Payment Fee and any interruption of any Services, You acknowledge that:
- (a) if in respect of an Account for which We cannot collect each payment in full (by debiting the Nominated Card in respect of that Account) as a result of a problem for which You are responsible (such as providing incorrect details for the Nominated Card, or having insufficient funds or credit in respect of such Nominated Card), We will attempt to repeat the collection of such amount, either as a single payment or as a series of smaller payments daily (or at less frequent intervals at Our discretion) until payment has been collected in full; and
 - (b) We are not liable for any fees that may be incurred as a result of Our attempts to collect payments that are overdue (for example, any dishonour or overdrawn fees that the relevant financial institution may levy in respect of the Nominated Card).
- 5.3.4 To assist You to manage Your Account (to avoid going into arrears, receiving any Late Payment Fees and any resulting interruptions to any Services), We will send You various notifications from time to time to help You keep on top of payments and the balance on Your Account.

5.4 Limitations on Services and Mobile Devices when in arrears

- 5.4.1 If, notwithstanding Our notifications to You (and the End User, if that is not You) and Our attempts to collect overdue payments, Your Account remains in arrears, We may limit the use of the relevant Mobile Device through various technical and other measures available from time to time (for example, through IMEI Blocking).
- 5.4.2 We will always use reasonable endeavours to notify You several times before We impose any interruption on the Services We provide to You, or take action in respect of any Mobile Devices (including, where appropriate, the reporting of any suspected criminal or fraudulent behaviour to the relevant law enforcement agencies), but it is Your responsibility to ensure that Your Account is not in arrears and does not go into default (except where the circumstances are beyond Your control, for example, due to administrative and technical errors for which You are not responsible).
- 5.4.3 Subject to Your rights under the Australian Consumer Law, to the maximum extent permitted by law, We accept no liability in connection with any decision to so limit the use of a relevant Mobile Device, or to report certain suspected behaviour, in accordance with this Agreement.

5.5 Credits

- 5.5.1 We may, in Our absolute discretion, from time to time apply credits towards Your Account (each such credit being a Credit).
- 5.5.2 You acknowledge that such Credits:
- (a) are not redeemable for cash (or similar);
 - (b) are available for use by You solely towards amounts incurred on the Account in respect of which such Credits were granted (the Credited Account);
 - (c) will be applied automatically towards amounts incurred on the Credited Account;
 - (d) are not transferrable and may not be used in connection with any other Account (including other Accounts that may be held by You or the End User in respect of the Credited Account); and
 - (e) expire upon termination of the Credited Account.

6 Your rights under the Australian Consumer Law

- 6.1.1 Under Australian law, You have certain rights (including to repair, replacements and refunds) that cannot be limited or excluded (and nothing in this Agreement seeks to limit or exclude any of those rights).

7 Personal Information and Privacy Policy

- 7.1.1 You acknowledge that We (or Our suppliers on Our behalf) will collect, store, use, disclose and otherwise handle certain Personal Information about You.
- 7.1.2 We collect Personal Information about You in order to assess Your Application Form, Mobile Device Order Form or Mobile Device Subscription Order Form, provide You with a Mobile Device, process payments in connection with the Mobile Device, contact You in connection with this Agreement as needed, deal with any enquiries You submit to Us, and for purposes otherwise set out in Our Privacy Policy (a copy of which is available [here](#)).
- 7.1.3 The information You provide may be disclosed to the Integrated Public Number Database, emergency services and

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third parties that help Us deliver Our products and services (including Our information technology suppliers, communication suppliers, professional advisers and Our business partners) or as required by law. If You do not provide this information, We may not be able to provide a Mobile Device to You.

7.1.4 We may disclose Your Personal Information to recipients that are located outside of Australia, including to cloud service providers, payment service providers, software support vendors, offshore processing providers, professional advisers, and third parties in respect of any financing or mergers and acquisitions (and similar) transactions who may be located in various countries, including China, countries within the European Union, India, Japan, Malaysia, New Zealand, Philippines, Singapore, the United Kingdom and the United States of America.

7.1.5 The manner in which Personal Information is collected, used, stored, disclosed and otherwise handled by Us (or Our suppliers on Our behalf) is as set out in the Privacy Policy (a copy of which is available [here](#)). Our Privacy Policy also explains:

- (a) how You may access and correct Your Personal Information;
- (b) how You can lodge a complaint regarding the handling of Your Personal Information; and
- (c) how We will handle any complaint.

If You would like any further information about the Privacy Policy or Our practices in this regard, please contact Our Customer Service Team. By providing Your Personal Information to Us, You consent to the collection, use, storage and disclosure of that information as described in the Privacy Policy and this collection notice.

7.1.6 You acknowledge that We may, to protect Our legitimate financial interests (and to manage Our credit and fraud risks), provide "default information" (as defined in the Privacy Act) to any "credit reporting bodies" (as defined in the Privacy Act) in accordance with any applicable laws and regulations and Our Privacy Policy, and that, to the extent permitted by law, We exclude any liability for disclosing such information, other than to the extent that We are in breach of any applicable laws and regulations, and You provide Your consent to such disclosure.

8 Complaints and payment assistance (financial hardship)

8.1.1 Customer complaints

8.1.2 If You have a complaint about the Mobile Device, You can contact Our Customer Service Team and they will handle Your complaint in accordance with Our Complaints Policy (a copy of which is available [here](#)).

8.2 Payment assistance

8.2.1 If at any time You believe You are in a situation of financial hardship, We invite You to contact Our Customer Service Team to discuss Your situation confidentially, and to see if You qualify for assistance in accordance with Our Payment Assistance Policy (a copy of which is available [here](#)).

9 Exclusion of liability

9.1.1 Without limiting Your rights under the Australian Consumer Law, and to the maximum extent permitted by law, We exclude all liability for any loss to the extent caused or contributed to by You, the Account Holder or any relevant End User (including as a result of any act or omission of You, such as Account Holder or End User).

10 Common terms

10.1 Transfer of this Agreement by Us

10.1.1 You acknowledge that We may:

- (a) assign some or all of Our rights under this Agreement to any person, at any time, without Your consent or providing You with prior notice; and
- (b) novate this Agreement to any other person by written notice to You either from Us, or the person to whom this Agreement will be novated.

10.1.2 Unless You consent otherwise, any novation must be on terms and conditions no less favourable to You than the terms and conditions of this Agreement in force immediately before that novation and You agree to cooperate with Our reasonable requests in connection with such novation.

10.2 No transfer of this Agreement by You

10.2.1 You may not assign or novate any or all of Your rights and obligations under this Agreement (unless We provide Our prior written consent in Our reasonable discretion).

10.3 Notices

10.3.1 You acknowledge that any notice We may or are required to provide under or in connection with this Agreement may be sent by Us to You via:

- (a) email or post (to the relevant address last notified to Us through the Account Portal or via a Mobile Device Order Form);
- (b) SMS/MMS to Your mobile phone number; or
- (c) any prescribed means as contemplated in clause 3.1.1.

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10.4 No waiver

10.4.1 No failure or delay to exercise any right under this Agreement constitutes any waiver of that right (except to the extent that such right is waived expressly in writing).

10.5 Events outside of Our control

10.5.1 By submitting Your Application Form, Mobile Device Order Form or Mobile Device Subscription Order Form, You acknowledge that certain events may not be within Our control, and may affect Our ability to perform Our obligations under this Agreement (such obligations being **Affected Obligations**).

10.5.2 To the extent permitted under the Australian Consumer Law, We will not be liable for Affected Obligations, however We will use reasonable endeavours to notify You of such event (and We will endeavour to provide You with prior notice, if reasonably practicable to do so).

10.6 Severability

10.6.1 The invalidity or unenforceability of any provision (or any part thereof) of this Agreement will not affect or prejudice the validity or enforceability of the remainder of this Agreement.

10.7 Governing law

10.7.1 This Agreement is governed by the laws of the Commonwealth of Australia and the laws of the Australian State or Territory in which You were normally residing at the time this Agreement is entered into between each of You and Us.

10.7.2 Each of You and Us submits to the exclusive jurisdiction of the courts of the Commonwealth of Australia, its States and Territories.

10.8 Survival

10.8.1 Each of the following clauses survives termination of this Agreement:

- (a) 4.3 (Consequences of termination);
- (b) 5.1 to 5.5 (Payments, fees and Credits);
- (c) 6 (Your rights under the Australian Consumer Law);
- (d) 7 (Personal Information and Privacy);
- (e) 8 (Complaints and payment assistance (financial hardship));
- (f) 9 (Exclusion of liability);
- (g) 10.7 (Governing law);
- (h) 10.8 (Survival); and
- (i) each other provision which by its nature is intended to survive.

11 How to get help

11.1.1 If You need or would like to discuss any aspects of this Agreement (including in respect of any Mobile Device), then please contact Our Customer Service Team:

- (a) using the chat function through the Website;
- (b) by emailing Us at support@koganmobiledevices.com.au; and/or
- (c) by calling Our Customer Service Team on 1800 945 025 (in Australia).

12 Dictionary for this document

12.1.1 Each of the following capitalised terms have the corresponding meaning in these General Terms and Conditions.

30-Day Cancellation Option means, in the case of the purchase of a Mobile Device has the meaning given in the Mobile Device Terms, and in the case of the subscription of a Mobile Device from Us has the meaning given in the Mobile Device Subscription Terms.

Acceleration Trigger Event means, in the case of the purchase of a Mobile Device on an Instalment Plan has the meaning given in the Mobile Device Terms, and in the case of the subscription of a Mobile Device from Us has the meaning given in the Mobile Device Subscription Terms.

Account means, in respect of an Account Holder and the provision of Services to an End User, the account established on behalf of that Account Holder on Our (and Our third party suppliers') systems for the provision of such Services to that End User.

Account Holder means, in relation to an Application Form, Mobile Device Order Form, or Mobile Device Subscription Order Form accepted by Us, the person who completed that form (or on whose behalf that form was completed).

Account Portal means, in respect of an Account Holder, the online account available through the Website (or such other technological means that We make available to You from time to time) and established by, or on behalf of, that Account Holder.

Affected Obligations has the meaning given in clause 10.5.1.

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Agreement has, in relation to an Account Holder or a person purchasing a Mobile Device outright, purchasing a Mobile Device on an Instalment Plan, or leasing a Mobile Device from Us, the meaning given in clause 1.2.1.

Agreement Start Time has the meaning given in clause 1.3.2.

Application Form means the online application form for the purchase of one or more goods and services provided online through the Website.

Australian Consumer Law means Schedule 2 of the Competition and Consumer Act 2010 (Cth) (and similar State-based consumer laws).

Complaints Policy means the policy so entitled, as amended from time to time (and available [here](#)).

Credited Account has the meaning given in clause 5.5.2.

Customer Service Team means Our customer service team, contactable in accordance with clause 11.

Customer Termination Option has the meaning given in clause 4.1.1.

Customer Termination Option Conditions means:

- (a) Cancellation Option in respect of a Mobile Device the subject of an Instalment Plan for which the Purchase Price has not yet been paid in full pursuant to that Instalment Plan, if the circumstances of termination:
 - (i) mean that the exercise of the Customer Termination Option will constitute an Acceleration Trigger Event, You must pay in full the Outstanding Balance in respect of that Mobile Device in accordance with clause 3.4 of the Mobile Device Terms; or
 - (ii) are in connection with an election by You to return or swap the Mobile Device under the 30-Day Cancellation Option, You must comply with the provisions of clause 4.5 of the Mobile Device Terms;
- (b) in respect of a Mobile Device You have subscribed to from Us:
 - (i) You pay to Us:
 - A. other than in the case of an Excluded Event, the Outstanding Balance in respect of that Mobile Device; and
 - B. any other amounts due but unpaid, or payable under the Agreement; and
 - (ii) You at Your own expense return the Mobile Device to Us,each, in accordance with clause 2.4 of the Mobile Device Subscription Terms;
- (c) each other condition (if any) expressed in any document comprising part of this Agreement (including, as applicable, the Mobile Device Terms and the Mobile Device Subscription Terms) to be a Customer Termination Option Condition for the purposes of this Agreement.

End User means, at any time in relation to an Account:

- (a) a person authorised by the relevant Account Holder to use the relevant goods and services We provide in respect of that Account under this Agreement; or
- (b) where no such person is so authorised, the relevant Account Holder.

Excluded Event has the meaning given in the Mobile Device Subscription Terms.

Payment Assistance Policy means the policy so entitled, as amended from time to time (and available [here](#)).

General Terms and Conditions has the meaning given in clause 1.1.1.

IMEI Blocking means a method utilised by Us to block use of a Mobile Device.

Instalment Plan has the meaning given in the Mobile Device Terms.

Late Payment Fee means:

- (a) if You do not pay an amount as and when required to be paid under the Agreement and such amount is not paid in full within 15 days of its due date, \$10; and
- (b) in addition to the foregoing, if an amount required to be paid under the Agreement is not paid in full within 60 days of its due date, \$30.

Mobile Device means,

- (a) in respect of an Account Holder and an Application Form for the purchase of a Mobile Device under an Instalment Plan that has been accepted by Us, the device sold to that Account Holder and sent to the Account Holder's nominated delivery address;
- (b) in respect of the outright purchase of a Mobile Device via a Mobile Device Order Form that has been accepted by Us, the device sold to that purchaser and sent to the purchaser's nominated delivery address;

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and

- (c) in respect of the subscription of a Mobile Device from Us via a Mobile Device Subscription Order Form that has been accepted by Us, the device subscribed to by that purchaser and sent to the purchaser's nominated delivery address,

and also includes, where the context requires, any mobile device that is incorrectly returned to Us.

Mobile Device Subscription Order Form means the online order form for the subscription from Us of one or more Mobile Devices provided online through the Website.

Mobile Device Order Form means the online order form for the outright purchase of one or more Mobile Devices provided online through the Website.

Mobile Device Subscription Terms means the document so entitled and available [here](#), as amended and restated from time to time.

Mobile Device Terms means the document so entitled and available [here](#), as amended and restated from time to time.

Nominated Card means, at any time in respect of an Account and the relevant Account Holder, the credit card or debit card nominated by that Account Holder from time to time for the payment of all amounts owing by that Account Holder in respect of the relevant Account and in respect of the outright purchase of a Mobile Device, the credit card or debit card nominated by the purchaser in the Mobile Device Order Form.

Nominated Card Holder means in respect of a Nominated Card, the account holder in respect of that Nominated Card.

Credit has the meaning given in clause 5.5.

Website means the website with the following URL address: www.koganmobiledevices.com.au

Outstanding Balance means, in the case of the purchase of a Mobile Device has the meaning given in the Mobile Device Terms, or in the case of the subscription of a Mobile Device from Us has the meaning given in the Mobile Device Subscription Terms.

Personal Information has the meaning given under the Privacy Act.

Privacy Act means Privacy Act 1988 (Cth).

Privacy Policy means the policy so entitled, as available on the Website from time to time.

Purchase Price in relation to a Mobile Device the subject of an Instalment Plan, has the meaning given in the Mobile Device Terms.

Services means each of the services provided to You by Us in connection with this Agreement (and includes, where the context requires, the provision of goods, such as the sale of a Mobile Device).

Standard Form of Agreement has the meaning given in clause 1.1.2.

We, Us and Our are references to nu mobile Pty Limited, and our permitted assigns and persons to whom we novate this Agreement. We use the Kogan and Kogan Mobile brand and names with the authorisation of Kogan.com Ltd.

You and Your are references to the Account Holder who contracts with Us for the purchase of a Mobile Device from Us (on an Instalment Plan or otherwise), or for the subscription of a Mobile Device from Us (and, where the context requires, includes the End User, where such service or Mobile Device is to be used by an End User who is not the Account Holder).