

# Standard Form of Agreement



**dodo**<sup>®</sup>

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## **DODO SFOA GENERAL TERMS AND CONDITIONS**

### **1. ABOUT THESE TERMS AND CONDITIONS**

- 1.1 Under the Telecommunications Act 1997, Dodo Australia Pty Ltd (**Dodo**) may contract with its customers either on an individual basis or by way of a standard form of agreement (**SFOA**). Dodo has chosen to supply Services to You by way of a SFOA. The terms and conditions constituting Dodo's SFOA are set out below. When You acquire a Consumer Service from Dodo, these terms and conditions will apply to You.
- 1.2 The Dodo SFOA is divided into the following sections:
- General Terms and Conditions; and
  - Specific Service Terms and Conditions which include the general features, types of Charges, provisioning and maintenance which apply to a specific Service.
- 1.3 To understand Your rights and obligations You need to read the General Terms and Conditions, together with the Specific Service Terms and Conditions which relate to the Service which You acquire from Us.
- 1.4 To the extent that there is any inconsistency with the General Terms and Conditions and the Specific Service Terms and Conditions, the Specific Service Terms and Conditions apply.
- 1.5 When You sign up for a specific Service plan with Us, there will be terms and conditions relating to that specific Service plan including details of the contract period, if any, and specific pricing details. These specific Service plan terms and conditions are set out on the Dodo web page and contain the details of the relevant Service. You will also first have to agree to these terms and conditions:
- Verbally if You sign up to a particular Service via the telephone; or
  - on the Dodo Internet site, before We will agree to provide You with that specific Service. Your contract with Us will also include the specific Service plan terms and conditions.

### **2. BECOMING A DODO CUSTOMER**

- 2.1 When You ask Us to provide a Service, We decide whether to supply it to You based on:
- the Service to be provided;
  - Your eligibility for the Service;

- c. its availability to You; and
- d. You meeting Our credit requirements.

2.2. The contract between Us and You begins when We accept Your application for the supply of a Service.

### **NO CONTRACT TERM FOR A SERVICE**

2.3. If We provide a Service to You without a fixed contract term, We will provide the Service in accordance with this SFOA and the terms and conditions for the specific Service plan until the Service is cancelled under clause 10 below.

### **SERVICE WITH CONTRACT TERM**

2.4. If We provide a Service to You with a fixed contract term, We will provide the Service to You in accordance with the SFOA and the terms and conditions for the specific Service:

- a. for the fixed contract term; or
- b. Until the specific Service is cancelled under clause 10 below.

2.5. If neither You nor We cancel the specific Service at the end of the fixed contract term or if the specific Service is not cancelled under clause 10 below, We will continue to provide the Service on a month to month basis in accordance with this SFOA and the Specific Service Terms and Conditions.

2.6. If You do not wish to continue to use the specific Service on a month to month basis after the end of the fixed contract term, You must give Us 30 days notice of Your intention to cancel the specific Service. We will notify You at least 45 days before the end of any fixed contract term to give You sufficient time to decide whether to continue the Service on a month to month basis.

### **3. HOW WE COMMUNICATE**

3.1. We prefer to communicate with Our customers by email or through Our website. Unless You request printed invoices, for which We may charge a fee. We make invoices and other notices available through a password-protected secure account management page on Our website at [www.dodo.com.au](http://www.dodo.com.au).

3.2. The presentation of bills or any other notices may be adversely affected by equipment or conditions beyond Our control. It is Your responsibility to notify Us if the presentation of any bill or notice sent to You is adversely affected. If You fail to pay an outstanding amount because of a presentation problem, We will give a reasonable time to pay any outstanding balance after

the presentation problem has been identified before We take any action under this contract.

3.3. If You acquire a Service that includes a primary email address as part of that Service, You agree that:

- a. We may give You notices under this SFOA by sending an email to that address;
- b. It is Your responsibility to check Your email regularly and make sure that Your email facility is capable of receiving emails from Us. (You may contact Dodo Customer Support on 13BIRD (132473) if You are having difficulties with Your Dodo email account); and
- c. The notice is deemed to have been delivered to You at the time that Our email message leaves Our computer system unless, with 24 hours of sending, We receive a notification that the email has not reached its destination.

### **4. YOUR RESPONSIBILITIES**

#### **PAYMENT FOR SERVICE**

- 4.1. You are responsible for and have to pay for any use of Your Service, whether You authorise it or not.
- 4.2. If You do not disconnect Your Service when You vacate Your Premises, You have to pay for any use of the Service by later occupants or others. We therefore suggest that You make every effort to ensure the disconnection of Your Service when You vacate Premises.

#### **ACCESS TO PREMISES**

- 4.3. We may need access to Your Premises. You agree to provide Us safe access to Your Premises to:
  - a. Install Equipment for a Service You have asked for;
  - b. Inspect, test, maintain and repair or replace Equipment; and
  - c. Recover Our Equipment after Your Service is cancelled.
- 4.4. If You do not own Your Premises, You have to get the owner's permission for Us to access the Premises and install any Equipment.
- 4.5. You owe Us the value of Our Equipment as a debt due if We cannot access Your Premises to recover it.

## 5. USE OF THE SERVICE

- 5.1 Where the SFOA and/or the Specific Service Terms and Conditions state that a Service is provided for a particular purpose, You must only allow the Service to be used for that purpose.
- 5.2 In some circumstances We may monitor usage of Your Service for excessive or unusual usage patterns, but We do not promise to do so. You are responsible for monitoring the use of the Service.
- 5.3 You may not use a Service to commit an offence or allow anybody else to do so.
- 5.4 You are responsible for ensuring that no one interferes with the operation of a Service or makes it unsafe.
- 5.5 You must follow Our reasonable instructions if We determine that Your use of a Service interferes, or threatens to interfere, with the efficiency of Our Network or Our suppliers' Networks.
- 5.6 You must follow Our Acceptable Usage Policy and Fair Go™ Policy when using Our Services. These policies can be found at <http://www.dodo.com.au/terms.asp>
- 5.7 In calculating usage, 1GB (Gigabyte) is equal to 1000MB (Megabytes) and 1MB is equal to 1000KB (Kilobytes).

## 6. LIABILITY

### 6.1 OUR LIABILITY TO YOU

- a. As Your Service is provided to You for personal, domestic or household use, We do not accept liability for losses that result from the use of Your Service in connection with the conduct of a business;
- b. We are liable to You for breach of contract or negligence under the principles applied by the courts, and subject to clause 6.2 below;
- c. We are not liable for any loss to the extent that it is caused by You, for example through Your negligence or breach of contract;
- d. We are not liable for any loss to the extent that it results from Your failure to take reasonable steps to avoid or minimise Your loss; and
- e. subject to clause 6.2 below, We are not liable for any loss caused by Us failing to comply with Our obligations in relation to Your Service where that loss is caused by events outside Our reasonable control, such as failure in Equipment that is not owned by Us, an industrial strike or an act of God.

- 6.2 Our goods come with unconditional warranties under consumer protection legislation, including that they will be reasonably fit for their purpose and match any description or sample, and Our Services come with unconditional warranties that they will be rendered with due care and skill and be reasonably fit for their purpose. Subject to clause 6.1(c), You are entitled, at Your option, to a refund, repair or replacement of the goods or Service for a breach, and to compensation for any other loss.

## YOUR LIABILITY TO US

- 6.3. You are liable to Us for breach of contract or negligence under the principles applied by the courts. However, You are not liable to Us for any loss to the extent that it is caused by Us, for example, through Our negligence or breach of contract.
- 6.4 The provisions set out in this clause 6 will continue unaffected by cancellation or suspension of Your Service.

## 7. MAINTENANCE AND REPAIR OF SERVICES

### GENERAL MAINTENANCE OF THE SERVICE

- 7.1 We will use reasonable care and skill in providing the Services. Given the nature of telecommunications systems, including Our reliance on systems, Equipment and services that We do not own or control, We cannot promise that Our Services will be continuous and fault free. This does not affect Your rights under the statutory warranties as described in clause 6.2.

### MAINTAINING THE SERVICE

- 7.2 Unless We advise You otherwise, We maintain the Services for as long as they are offered to You.
- 7.3 In certain circumstances We are required to repair any faults to the Dodo Home Phone Services within certain regulatory timeframes. For further details read the Customer Service Guarantee for Standard Telephone Services which can be found at [www.dodo.com.au/CSG.asp](http://www.dodo.com.au/CSG.asp).

### EQUIPMENT

- 7.4. Where You use Equipment that does not belong to Us in the course of utilising Our Service, You are responsible for maintaining and repairing that Equipment. We will not be responsible for any faults resulting from Your failure to maintain and repair that Equipment.
- 7.5 Where Your Equipment causes a fault in Your Service that We need to repair, We can charge You a call-out fee and Our

reasonable Charges for repairing the fault. We will tell You the amount of the call-out fee and the hourly rates We charge for repairing faults before We start work.

7.6 You are responsible for any Equipment at Your Premises, including any that belongs to Us. You must pay Us for any loss or damage to Our Equipment at Your Premises, fair wear and tear excepted.

## **YOUR EQUIPMENT**

7.7 You must only connect equipment that complies with relevant technical standards and other relevant requirements. For these standards see the website of the Australian Communication and Media Authority: [www.acma.gov.au](http://www.acma.gov.au).

7.8 You must make any reasonable changes to Your equipment when We ask You to do so to avoid any danger or interference.

7.9 You must advise Us of any changes to Your equipment and/or telecommunications services that may affect Our ability to provide Services to You.

## **8. CHARGES AND PAYMENT**

### **CHARGES**

8.1 The Charges payable for Our Services are set out on the web page setting out the plans for those Services and can be found at [www.dodo.com.au](http://www.dodo.com.au).

8.2 When You apply for a Service from Us We will go through the Charges for that specific Service with You. Some of these Charges will be fixed for the duration of a fixed contract term, for example monthly access fees. Some Charges will be subject to change without notice, for example international calling Charges. Sometimes You will be required to pay a particular Charge in advance.

8.3 If You use Our Service to access a service provided by someone else, and We are charged for that other service, You must pay Us for that other service.

### **BILLS**

8.4 You can access Your current Charges at any time using the account management tool available at [www.dodo.com.au](http://www.dodo.com.au).

8.5 We also issue bills setting out the Charges for Your Services regularly and these bills are sent to You using an agreed billing notification method.

8.6 There may be circumstances where for credit management and usage monitoring purposes We issue an interim bill.

8.7 We try to include all Charges relating to a billing period on a bill. Where that does not happen, bills may include Charges from previous billing periods. We may not set out Charges that were incurred more than 6 months prior to the date of a particular bill.

8.8 We try to ensure that Our bills are accurate and verifiable. Our records are sufficient proof that a Charge is payable unless Our records are shown to be incorrect.

### **DIRECT DEBIT AND CREDIT CARDS**

8.9 We prefer to process payment for Our Services by way of debiting Your credit card or direct debit account.

8.10 It is Your responsibility to ensure that You have sufficient credit or funds available in Your bank account or credit card to pay the bill.

### **LATE OR DISHONOURED PAYMENTS**

8.11 If You do not pay a bill by its due date, We can charge You a late payment charge as set out in clause 8.18.

8.12 If You pay a bill by direct debit and the payment declines, You must also pay Us all fees associated with the direct debit decline other than where We are at fault.

8.13 The administrative fees set out in this clause 8 attract GST.

8.14 We can also suspend or cancel Your Service provided We comply with Our rights to suspend or cancel Your Service as set out in clause 10 below.

### **ADJUSTMENTS**

8.15 We can pay You amounts We owe You by deducting them from amounts You owe Us.

8.16 If You pay any Charges in advance, for example monthly access fees, and they are varied or the Service is cancelled, We will refund You any overpayment and You have to pay Us any underpayment. This clause does not detract from any obligations You may have to give notification to cancel a Service, or to pay early termination fees where applicable.

### **GST**

8.17 GST, if applicable, is included in all prices that We advertise. However, if there is an increase in the rate of GST, We will notify You and increase Our prices accordingly.

## CHARGES THAT APPLY TO ALL SERVICES

8.18 Administrative Charges may apply to Services supplied by Us:

- a. Printed invoices: If You wish to receive paper invoices from Us, You will be charged a fee per invoice;
- b. Payment by direct debit: If You pay Us by means of direct debit from an Australian bank account, a service fee per transaction applies;
- c. Direct debit declined charge: If a direct debit transaction is not processed successfully, except where caused by Our error or the error of Our supplier, a charge declined transaction will apply;
- d. Late payment charge: Where You have not successfully made payment within at least 14 days after payment is due, a Charge may apply; and
- e. Debt Collection: Where a payment is due by more than 28 days and We refer the debt to Our lawyers or a third party, a debt collection administration Charge may apply.

8.19 The amount for Our administrative Charges can be found on Our website at [www.dodo.com.au](http://www.dodo.com.au). In addition, We will have informed You of the exact Charges for printed invoices and payment by direct debit at the time when You sign up to a Dodo Service for a fixed contract term. Any changes to the Charges for printed invoices and payments by direct debit will be dealt with as a contract amendment in accordance with clause 11.

## 9. CREDIT CHECKS AND SECURITY BOND

### CREDIT CHECKS

9.1 You authorise Us to conduct credit checks and searches and to use the information obtained as a result of these checks and searches to assess Your credit worthiness, so long as in doing so We comply with the Privacy Act.

### SECURITY BOND

9.2 At any time, We can require You to provide some form of security, for example a security deposit, a charge or bank guarantee, or pay some or all of the Charges for Your Service in advance. We will only do so if We have reasonable concerns about Your credit worthiness or have reasonable grounds for believing that We may not be paid for the Service. In the case of new Services, We can refuse to provide You the new Services until We receive the security. In the case of existing Services, if

You do not provide the security within 14 days of Our request, We can restrict, suspend or cancel the Service in addition to any other rights that We may have.

9.3 If You cancel all Your Services, We will return the security deposit or advance payment to You less any outstanding Charges owing to Us within a reasonable time.

9.4 Our acceptance of any form of security or advance payment does not affect any other rights or obligations under this SFOA.

## 10. CANCELLING OR SUSPENDING YOUR SERVICE

### YOUR RIGHTS

10.1 You may cancel a Service at any time by giving Us 30 days written notice of Your intention to do so.

10.2 If You cancel your Service before Your fixed contract term for Your Service has expired, for example, You cancel Your Service 11 months into Your 24 month fixed contract term, We can charge You an early termination fee. The amount of the early termination fee will depend on the Service You acquire and when You terminate, and will be set out on the web page containing the plans for Your Service and in the Specific Service Terms and Conditions for Your Service at the time of signup. These can be found at [www.dodo.com.au](http://www.dodo.com.au). In addition, We will have informed You of the exact early termination fee at the time when You sign up to a Dodo Service for a fixed contract term.

10.3 If You cancel a Service before We have provided it to You, We can charge You any reasonable costs We incurred while preparing to provide the Service to You.

### MATERIAL BREACH BY US

10.4. You may cancel Your Service at any time if:

- a. We are in material breach of the SFOA, for example We fail to use reasonable care and skill in providing the Service to You; and
- b. You have told Us in writing of Our material breach and We have failed to remedy it within 14 days of Your written notice; or
- c. The material breach is something We cannot remedy, in which case You can terminate the Service immediately by telling Us.

10.5 We will not charge You an early termination fee if You cancel Your Service as a result of Our material breach.

## YOUR OTHER RIGHTS TO CANCEL

10.6 You can also cancel Your Service by providing Us with reasonable notice if:

- a. We become bankrupt or insolvent or appear likely to do so;
- b. The law requires You to do so; or
- c. the provision of the Service becomes illegal.

10.7 We will not charge You an early termination fee if You cancel a Service for the reasons set out in clause 10.6. above.

## OUR RIGHTS

10.8 Where You acquire a Service on a month by month basis We can cancel Your Service at any time if We:

- a. Get Your consent;
- b. give You 30 days written notice, or as otherwise agreed between You and Us; or
- c. Migrate Your Service to a Service that is not materially worse than Your existing Service.

10.9 Where You are a fixed contract term customer, We can cancel Your Service before the end of the fixed contract term at any time, if:

- a. We get Your consent to do so;
- b. We appropriately offset the effect of the cancellation on You, for example, by providing an appropriate credit or rebate to You;
- c. We migrate You to a Service that is not materially worse than Your existing Service for the remainder of Your fixed contract term; or
- d. We offer to migrate You to an alternative Service for the remainder of Your fixed contract term and We offset any material detrimental effects of the migration caused by any material differences between the cancelled Service and the alternative Service We offer.

10.10 If We cancel Your Service under clause 10.9 above, We will not charge You an early termination fee.

## MATERIAL BREACH BY YOU

10.11 We can cancel Your Service at any time, if:

- a. You are in material breach of the SFOA; and
- b. We have notified You in writing of Your material breach and

You have failed to remedy it within 14 days of the date of the notification; or

- c. The material breach is something that cannot be remedied, in which case We reserve the right to cancel Your Service immediately.

10.12 You will be in material breach of the SFOA if You:

- a. Do not pay the Charges for the Services when they become due and payable as specified in clause 8 of the SFOA;
- b. Use Your Service in a way which We reasonably believe is fraudulent, poses an unacceptable risk to Our security or Network capability or that of Our suppliers or other customers, or is illegal, or to conduct a business; or
- c. Breach any of Your obligations under the Dodo Acceptable Usage Policy and/or Dodo Fair Go Policy.™

10.13 We can charge You any applicable early termination fee if We cancel Your Service under clause 10.12 above.

## SUSPENSION OF YOUR SERVICE

10.14 We can suspend or restrict the provision of Your Service during the period before We cancel Your Service because You are in material breach of the SFOA. If You ask Us to reconnect Your Service following suspension for failing to pay an account, You will have to pay Us a reconnection fee. Even while suspended, You may terminate the Service under clause 10.1 (subject to any early termination fee in accordance with clause 10.2), in which case We will not charge You for (and rebate if necessary) any fixed fees during the period of suspension.

10.15 If any suspension lasts for more than 7 days, We will not charge You any fixed fees during the period of suspension, but We may charge You a reconnection fee to restore Your Service.

## OUR OTHER RIGHTS TO CANCEL, SUSPEND OR RESTRICT YOUR SERVICE

10.16 We can cancel, suspend or restrict Your Service by providing You with reasonable notice if:

- a. the law requires Us to do so;
- b. the Service becomes illegal or We believe on reasonable grounds that it may become illegal;
- c. You die;
- d. there is an emergency that affects Our ability to provide the Service;

- e. We are unable to provide the Service to You due to events outside Our reasonable control, such as failure in Equipment that is not owned or operated by Us, an industrial strike or an act of God; or
  - f. We reasonably believe that providing the Service may cause death, personal injury or damage to property.
- 10.17 We will not charge You for (and will rebate if necessary) any fixed fees during any period of suspension under clause 10.16 exceeding 24 hours. We will not charge You any applicable early termination fee if We cancel Your Service under clause 10.16 above.
- 10.18 You may also terminate Your Service without incurring an early termination fee if suspensions under clause 10.16, or interruptions of the Service:
- a. last for 5 consecutive days ; or
  - b. over a 12 month period amount to a total of 14 days.
- 10.19 We can also cancel, suspend or restrict Your Service by providing You with reasonable notice if:
- a. We cannot enter Your Premises because of Your act or omission when We need to do something in connection with the Service in order to supply the Service or make the Service or related Equipment safe;
  - b. You become bankrupt or insolvent or reasonably appear likely to do so;
  - c. You vacate the Premises to which the Service is connected;
  - d. There is excessive or unusual use of the Service that is in breach of any Dodo Acceptable usage Policy that applies to the Service; or
  - e. We reasonably consider that You pose an Unacceptably High Credit Risk to Us.
- 10.20 We can charge You any applicable early termination fee if We cancel Your Service under clause 10.19 above.
- 10.21 If termination occurs under clause 10.19(c) when You leave Premises to which the Service is connected, We will waive the early termination fee if We are able to provide an equivalent Service from Your new premises that does not require Us to pay a new establishment fee to Our supplier, and You agree to receive the Service at the new premises. If We cannot supply such a Service from the new premises but You agree to receive a similar Service that requires Us to

pay a new establishment fee to Our supplier, We will reduce the early termination fee to take into account any minimum commitment You make in connection with the new service.

- 10.22 If We suspend or restrict Your Service under clause 10.19, You may terminate the Service under clause 10.1 (subject to any early termination fee in accordance with clause 10.2) in which case We will not charge You for (and rebate if necessary) any fixed fees during the period of suspension.

## **MAINTENANCE AND REPAIR WORK**

- 10.23 We can suspend or restrict Your Service temporarily if We reasonably believe it is desirable to do so in order to maintain or restore part of a third party supplier's Network. We will try to perform maintenance and repair work at times that will cause the least inconvenience to Our customers. We will not charge You for (and will rebate if necessary) any fixed fees during any period of suspension exceeding 24 hours. If We have no alternative but to cancel Your Service due to necessary maintenance or restoration of any part of a third party supplier's Network, We will not charge You any applicable early termination fees. You have the right to terminate the Services if any of the events in clause 10.18 arise.

## **IF YOU USE THE SERVICE FOR BUSINESS PURPOSES**

- 10.24 We will provide the Service to You on the condition that Your use of the Service is for personal, household or domestic purposes. If We reasonably believe or You notify Us that You are using the Service for any business purposes, We can ask You to cancel the Service and contract with Us for the supply of a suitable business service. If You do not agree to cancel the Service and contract with Us for the supply of a suitable business service, We can cancel Your Service by giving You 30 days written notice and charge You any applicable early termination fee.

## **REFUNDS OF PREPAYMENTS**

- 10.25 If Your Service is cancelled under this clause 10, We will refund to You any unused portion of Your monthly access fee if this has been paid in advance and any other amount You have prepaid. However, We can deduct from Your refund any amounts that You owe to Us. This clause 10.25 does not detract from any obligations You may have to give written notification to cancel a Service, or to pay early termination fees where applicable.

## 11. AMENDING THESE TERMS AND CONDITIONS

### FIXED CONTRACT TERM CUSTOMERS

11.1 Your monthly access fee, minimum monthly fee, or any early termination fee applies for the term of Your fixed contract term and We cannot change these without Your informed consent.

11.2 In all other circumstances, We may amend these terms and conditions as set out below.

### CHANGES THAT BENEFIT YOU

11.3 If We reasonably believe that the amendment to the SFOA will benefit You or have a neutral impact on You We can make the amendment immediately. For example, We do not have to give a period of notice to You when We reduce call rates or increase Our obligations to You. We will take reasonable steps to bring the general nature of such changes to Your attention (for example, by informing You in a bill that Our current terms and conditions have changed and can be viewed on Our website).

### CHANGES THAT MAY ADVERSELY IMPACT YOU

11.4 Where We reasonably believe that the amendment to the SFOA will have a minor impact on You, We will give You 30 days written notice of the change being implemented by bill message, direct mail or email. We will use this method of notification for example where We withdraw a minor feature of a Service.

11.5 If the change referred to in clause 11.4 above will have more than a minor impact on You, We will allow You to cancel the contract without incurring any early termination fees.

11.6 Where We reasonably consider that an amendment to the SFOA will result in more than a minor detrimental impact to You, We will give You individual notice 21 days prior to the amendment taking effect by bill message, bill insert, direct mail or email, if You have provided an email address for the purpose of receiving notices from Us.

11.7 If any amendment to the SFOA would have a material adverse impact on You, You may elect to cancel Your Service without incurring any early termination fees or other penalty and without being bound by the change.

## 12. OTHER MATTERS

If any term, or part of a term in this SFOA is void or unenforceable, that term, or part, is taken to be removed from the SFOA and not to form part of it. The remaining terms continue to have full effect.

## MEANINGS OF WORDS

**Charge** means a charge specified in the SFOA or for any Service provided by Us to You.

**Consumer** means a person who ordinarily acquires the Services from Us.

**Equipment** means a 'Facility' under the Telecommunications Act 1997 and includes any line, tower, mast, antenna, tunnel, hole, pit or pole used in connection with a Service.

**GST** means the tax imposed by A New Tax System (Goods and Services Tax) Act 1999.

**Network** means a 'telecommunications network' as defined under the Telecommunications Act 1997.

**Premises** means any land, building, structure, vehicle or vessel whether owned, leased or occupied by You, containing Equipment or a Service, or to which a Service is supplied.

**Privacy Act** means the Privacy Act 1988 (Cth), as amended from time to time.

**Service** means any service that We supply to You for personal, domestic and household purposes only, including any goods or Equipment provided in connection with the service, and excludes the use of the service for the conduct of a business.

**Unreasonably High Credit Risk** means there is some doubt in Your ability to pay amounts owing by the due date based on factors such as:

- a. previous payment history and payment behaviour, e.g. late payments, dishonoured payments or failure to pay;
- b. any previous advice from You about a potential inability or unwillingness to pay;
- c. Your usage of the Service is inconsistently high when compared with previous usage patterns;
- d. Your response where We have told You of this unusually high usage; or
- e. pending bankruptcy or insolvency.

**We/Us/Our/Dodo** means Dodo Australia Pty Ltd ACN 097 636 970

**You/Your** means the customer who contracts with Us for a Service, including for supply of that Service to another person, or who seeks to acquire a Service from Us.

## **SPECIFIC SERVICE TERMS AND CONDITIONS**

### **FIXED LINE SERVICES**

#### **1. AVAILABLE FIXED LINE SERVICES**

When You purchase fixed line Services from Us, You may have the option of purchasing:

- a. Our Full Service product: We provide a standard telephone Service and all calls from that Service (including long distance calls and calls to mobiles); or
- b. Our Pre-select product, which includes long distance calls, calls to mobile numbers and international calls – this means that We provide the specific pre-selected Services that You choose but the provider of Your standard telephone Service does not change, (“Fixed Line Service”)

#### **2. WHAT IS A STANDARD TELEPHONE SERVICE?**

A standard telephone Service includes line rental, a telephone number, a telephone directory listing and making and receiving local and long distance calls (“Standard Telephone Service”).

#### **3. WHO CAN SIGN UP TO A FIXED LINE SERVICE?**

Only an occupier of a Premises, or their authorised representative, may sign up to a Standard Telephone Service. We may require evidence, such as a rental agreement, contract of sale, or similar document, to confirm that You have the right to arrange for the connection of a Fixed Line Service.

#### **4. WHAT FEATURES ARE AVAILABLE WITH A STANDARD TELEPHONE SERVICE**

There are a number of enhanced call handling and other features available. More information on such features may be available from Our website.

#### **5. TELEPHONE NUMBERS AND PINS**

- a. The Telecommunications Numbering Plan sets out rules for issuing, transferring and changing telephone numbers. We must comply with the Telecommunications Numbering Plan. In using Your Service, You must not do anything that would be inconsistent with the Telecommunications Numbering Plan or that would adversely affect Our ability to comply.
- b. You do not own or have any legal interest or goodwill in any telephone number or personal identification number (‘PIN’)

issued to You. You are entitled to continue to use any telephone number We issue to You, except in circumstances where the Telecommunications Numbering Plan allows Us to recover the number from You.

- c. You can transfer a telephone number or PIN to another person if You get Our consent first.
- d. Because You have to pay for any use of Your Service (whether You authorise it or not), We recommend You protect the security of any PIN used with Your Service.
- e. For a Service where usage is associated with a PIN, We can change the telephone number that You use to access that Service. However, We will tell You of the change before it takes effect (for example, by placing a recorded voice announcement on the affected Service). Once the telephone number for accessing that Service is changed, it is important that You use the changed telephone number, as You may not be able to access that Service using the old telephone number.

#### **6. PORTING YOUR TELEPHONE NUMBER TO US**

You are normally able to retain Your existing telephone number when You change service providers. If You wish to retain Your existing telephone number You acknowledge that:

- a. You are authorised to request the porting of the telephone number to Us;
- b. By porting the telephone number to Us, the Fixed Line Service and/or any related Services associated with that telephone number may or may not be disconnected from Your previous service provider, and may result in finalisation of the account for that service;
- c. For the purposes of porting Your telephone number, call and message routing, fault management and fraud prevention, You permit Us to disclose relevant details set out above to other service providers; and
- d) Although You have the right to port the telephone number:
  - (i) there may be costs and obligations associated with Your previous Fixed Line Service and the porting of the telephone number;
  - (ii) If You have an existing long term contract with Your previous service provider You may be obliged to make early termination payments to that service provider;
  - (iii) Porting may be unsuccessful if You fail to provide full and

accurate details to Us, or if You cancel Your Fixed Line Service with Your previous service supplier before the port cutover date;

- (iv) If another service provider raises a proper charge with Us relating to a service it provided to You before the porting of Your telephone number to Us, We will advise You accordingly and You must pay the other service provider that amount. If You dispute the amount claimed, You must notify Us in writing. You may also be liable to pay to Us or Your previous service provider charges relating to disputes or investigations by Us or Your previous supplier arising out of the transfer of Your Fixed Line Service to Us;
- (v) We will not accept any liability for any amounts owing by You to another service provider for Services associated with the telephone number prior to the date on which We port Your telephone number to Us; and
- (vi) You hereby authorise Us to take all reasonable steps necessary to port Your telephone number.

## 7. PREMIUM SERVICES

Premium services are content, voice and data services offered by third party providers ('Premium Services'). Due to the potential credit risk associated with Premium Services, We reserve the right to bar access to Premium Services by default. If You wish to gain access to Premium Services You need to contact Our call centre on 13BIRD (132473). If We agree to unbar Premium Services, there may be a delay of up to 7 days until access to the Premium Services are made available.

## 8. INTERIM CHARGES

For credit management purposes:

- a. In this clause, a reference to contact means that We will send You an SMS and an email, provided We have Your mobile and email details ('Contact'). If We have neither, We will attempt to telephone You.
- b. Where You incur excess or usage Charges that are more than four times the monthly plan fee (or \$400, whichever is less), We will Contact You (and also send a letter if We do not have an email address for You) advising You of this fact and of the further thresholds set out below.
- c. Where You incur excess or usage Charges that are more than six times the monthly plan fee (or \$500, whichever is less), then We will Contact You and inform You as follows:

- (i) If You are paying by credit card, We will debit Your card for all excess and usage Charges the following day; or
- (ii) If You are paying by direct debit from a bank account, You must make cleared payment to Us for all excess and usage Charges within one day.

- d. If payment is not made or received as described above, We may suspend all or part of Your Services until such payment is made.
- e. Where You incur excess or usage Charges that are more than eight times the monthly plan fee (or \$600, whichever is less) then We will immediately:
  - (i) If You are paying by credit card, debit Your card for all excess and usage Charges and We may suspend all or part of Your Service If the debit transaction is not successful; or
  - (ii) If You are paying by direct debit from a bank account We may immediately suspend all or part of Your Service until payment in cleared funds is received; and
  - (iii) Contact You to inform You of the situation, confirm any suspension of Service that has been imposed, and give You an opportunity to make payment.
- f. If Your level of excess and usage Charges reaches more than one of these thresholds on the same day, We will apply the procedures that apply to the higher threshold. For example, if Your excess and usage Charges reach both four and six times Your monthly plan fee on the same day, the procedures in paragraph (c) above will apply.

- g. If You incur interim Charges on a regular basis then We suggest that You pay by means of credit card and/or manage Your Dodo account using the Dodo account management tool available at [www.dodo.com.au](http://www.dodo.com.au). The Dodo account management tool enables You to monitor the use of Your Services and enables You to pay Charges before they become due. This will also protect You against unauthorised and excessive use of Your Services.

## 9. RESPONSIBILITY FOR CHARGES

You are responsible for paying all Charges relating to Your Fixed Line Service even if You did not personally make all the telephone calls from that Service nor authorise those calls. Details of the Charges for Fixed Line Services can be found at [www.dodo.com.au](http://www.dodo.com.au). We will also detail the relevant Charges applicable to Your Fixed Line Service when You sign up for this Service.

## 10. EARLY TERMINATION FEE IF APPLICABLE

If You cancel the Fixed Line Service before Your fixed contract term for Your Service has expired, We can charge an early termination fee. Details of when the early termination fee will be applicable are set out in clause 10 of the SFOA.

## 11. ABOUT PRE-SELECTION AND OVER-RIDE CALLS

If You are a Full Service product customer who has contracted to obtain a Fixed Line Service for a fixed contract term, You must not pre-select any calls, including international calls to mobiles ('Pre-selected Services') to a different service provider. If You do acquire Pre-selected Services from a different service provider during the fixed contract term, then We may at Our option:

- a. treat the fact that You have pre-selected certain Services to a different service provider as an election by You to terminate Your Fixed Line Service and Your agreement with Dodo for the supply of that Service, in which case any applicable early termination fee or cancellation Charges may apply;
- b. reverse the Pre-selected Services from the different service provider and continue providing the Fixed Line Service to You; or
- c. continue providing You with local call Services only in accordance with Our standard rates and conditions. Our standard rates are usually higher than the rates charged to customers on a fixed contract term.

## MEANINGS OF WORDS

**Charge** means a charge specified in the SFOA or for any Service provided by Us to You.

**Equipment** means a 'Facility' under the Telecommunications Act 1997 and includes any line, tower, mast, antenna, tunnel, hole, pit or pole used in connection with a Service.

**Premises** means any land, building, structure, vehicle or vessel whether owned, leased or occupied by You, containing Equipment or a Service, or to which a Service is supplied.

**Service** means any service that We supply to You and includes any goods or Equipment provided in connection with a service.

**We/Us/Our/Dodo** means Dodo Australia Pty Ltd ACN 097 636 970

**You/Your** means the customer who contracts with Us for a Service, including for supply of that Service to another person, or who seeks to acquire a Service from Us.

## MOBILE PHONE SERVICES

### 1. AVAILABLE MOBILE PHONE SERVICES

Details about Dodo Mobile Phone and associated Services together with the terms and conditions relating to specific mobile phone plans are available on Our website and can be located at [www.dodo.com.au](http://www.dodo.com.au). The following terms and conditions apply to all Dodo Mobile Phone and associated Services.

### 2. SIM CARDS

We will provide You with a SIM card so that You can access Your Mobile Phone Service. All SIM cards remain Our property. You agree to the following conditions in relation to any SIM card which We provide to You:

- a. We may require You to comply with SIM card activation procedures in order to protect You against unauthorised use of a SIM card;
- b. You must take all reasonable care to keep the SIM card in a safe and good condition;
- c. You must immediately return the SIM card to Us on demand, or if We suspend or terminate Your Mobile Phone Service in accordance with clause 10 of Our SFOA;
- d. If You fail to return the SIM card to Us within 30 days of Our demand, or date of suspension or termination of Your Mobile Phone Service, You must pay Our standard SIM Card replacement fee;
- e. You must notify Us immediately if any SIM card is lost, stolen or destroyed, even if You have not yet activated the SIM card. You will be liable for all Charges attributed to any SIM card supplied to You until such time as You have notified Us of the theft, loss or destruction of such SIM Card; and
- f. You must obtain Our express authorisation, which may be conditional upon the lodgement of a security deposit, to use the SIM card in countries outside of Australia. Using Your SIM Card outside of Australia requires Us to activate Our mobile phone roaming service ('Roaming Service'). The Roaming Service includes Charges for incoming calls at a rate set by the mobile phone supplier of the country in which You receive the calls and a forwarding Charge to all incoming calls forwarded by Us to Your mobile phone. Details of the Roaming Service Charges can be found on Our website at [www.dodo.com.au](http://www.dodo.com.au).

### 3. MOBILE NUMBER PORTABILITY

- 3.1 You are normally able to retain Your existing mobile number when You change mobile service providers. If You wish to retain Your existing mobile number You acknowledge that:
- a. You are authorised to request the porting of the mobile number to Us;
  - b. By porting the mobile number to Us, the mobile service and/or any related services associated with that mobile number may or may not be disconnected from Your previous mobile service provider, and may result in finalisation of the account for that service; and
  - c. For the purposes of porting Your mobile number, call and message routing, fault management and fraud prevention, You permit Us to disclose relevant details set out above to other service providers.
- 3.2 Although You have the right to port the mobile number:
- a. There may be costs and obligations associated with Your previous mobile service and the porting of the mobile number;
  - b. If You have an existing long term contract with Your previous mobile service provider You may be obliged to make early termination payments to that provider;
  - c. Porting may be unsuccessful if You fail to provide full and accurate details to Us, or if You cancel Your mobile service with Your previous service provider before the port cutover date;
  - d. If another service provider raises a proper charge with Us relating to a service it provided to You before the porting of Your mobile number to Us, We will advise You accordingly and You must pay the other supplier that amount. If You dispute the amount claimed, You must notify Us in writing. You may also be liable to pay to Us or Your previous service provider charges relating to disputes or investigations by Us or Your previous service provider arising out of the transfer of Your mobile phone service to Us;
  - e. We will not accept any liability for any amounts owing by You to another service provider for services associated with the mobile number prior to the date on which We port Your mobile number to Us; and
  - f. You hereby authorise Us to take all reasonable steps necessary to port Your mobile number.

### 4. MOBILE PHONES AND ACCESSORIES

- 4.1 You can buy mobile phone handsets ('Handsets') and accessories from Us. Information about the make of Handset and accessories together with specific terms and conditions and prices relating thereto can be found on Our website at [www.dodo.com.au](http://www.dodo.com.au). Title to any Handset and/or accessory purchased from Us will only pass once We receive the full amount payable for such Handset and accessory. Risk in each Handset and/or accessory passes to You on delivery.
- 4.2 Warranty: If you receive a faulty or dead mobile handset on delivery, please contact Dodo immediately and we will arrange to replace the handset or give you a full refund if you prefer. If a product defect becomes apparent within 14 days of the date of invoice, please contact Dodo immediately and we will arrange to replace the handset or give you a full refund if you prefer.
- 4.3 Manufacturer's warranty: If the handset becomes faulty outside the 14 day period but within the manufacturer's warranty period, you may return the handset to the manufacturer's authorised repair centre at your own cost. It is the responsibility of the manufacturer to repair or replace the handset according to the terms of its warranty. In addition to any manufacturer's warranty, you may still contact Dodo if you believe there is a breach of the statutory warranties described below.
- 4.4 Statutory warranties: In addition to any manufacturer's warranty, our goods come with unconditional warranties under consumer protection legislation including that they will be of merchantable quality, reasonably fit for their purpose and match any description or sample. You are entitled, at your option, to a refund, repair or replacement for a breach, and to compensation for any other loss.

### 5. INTERIM CHARGES

For credit management purposes:

- a. In this clause, a reference to contact means that We will send You an SMS and an email, provided We have Your mobile and email details ('Contact'). If We have neither, We will attempt to telephone You.
- b. Where You incur excess or usage Charges that are more than twice the monthly plan fee We will Contact You (and also send a letter if We do not have an email address for You) advising You of this fact and of the further thresholds set out below.
- c. Where You incur excess or usage Charges that are more than four

times the monthly plan fee (or \$400, whichever is less) then We will Contact You and inform You as follows:

- (i) If You are paying by credit card, We will debit Your card for all excess and usage Charges the following day; or
  - (ii) If You are paying by direct debit from a bank account, You must make cleared payment to Us for all excess and usage Charges within one day. If payment is not made or received as described above, We may suspend all or part of Your Services until such payment is made.
- d. Where You incur excess or usage Charges that are more than six times the monthly plan fee (or \$500, whichever is less) then We will immediately:
- (i) If You are paying by credit card, debit Your card for all excess and usage Charges and We may suspend all or part of Your Service if the debit transaction is not successful; or
  - (ii) If You are paying by direct debit from a bank account We may immediately suspend all or part of Your Service until payment in cleared funds is received; and
  - (iii) Contact You to inform You of the situation, confirm any suspension of Service that has been imposed, and give You an opportunity to make payment.
- e. If Your level of excess and usage Charges reaches more than one of these thresholds on the same day, We will apply the procedures that apply to the higher threshold. For example, If Your excess and usage Charges reach both four and six times Your monthly plan fee on the same day, the procedures in paragraph (d) above will apply.

## 6. UNREASONABLE USE

- 6.1 You must follow Our Fair Go™ Policy when using the Our Mobile Phone Services. This policy can be found at <http://www.dodo.com.au/terms.asp>
- 6.2 We further reserve the right to terminate Your Mobile Phone Service if You do any of the following without Our written permission, which can be withheld at Our sole discretion:
- a. Make or receive calls or send or receive content using the Mobile Phone Service other than for Your own personal use;
  - b. Wholesale any Service, including transit, re-file or aggregate domestic or international traffic;
  - c. Use the Service, including any SIM card, in connection with a device that switches or reroutes calls to or from Our Network

or the Network of any supplier;

- d. Use the Service or a value added Service feature to switch devices which overcome the time cap on free or flat call rates, thus keeping a line open potentially for hours and limiting the ability of other customer to access Our Network or the Network of Our supplier; or
- e. Materially breach Our Fair Go™ Policy

## 7. RESPONSIBILITY FOR CHARGES

You are responsible for paying all Charges relating to Your Mobile Phone Service even if You did not personally authorise the Services which incurred the Charges. Details of the Charges for Our Mobile Phone Services can be found at [www.dodo.com.au](http://www.dodo.com.au). We will also detail the relevant Charges applicable to Your Mobile Phone Service when You sign up for this Service.

## 8. EARLY TERMINATION FEE IF APPLICABLE

If You cancel the Mobile Phone Service before the term of any fixed contract term for Your Service has expired, We can charge an early termination fee equal to the monthly fixed charge for each month remaining in Your term or \$400, whichever is less. If You have received a discounted Handset on Your Mobile Phone Service plan, then You may be liable for further early termination fees. The terms and conditions relating to Your specific Mobile Phone Service will set out whether any such early termination fees are applicable. See [www.dodo.com](http://www.dodo.com) for this information. Details of when the early termination fee will be applicable are set out in clause 10 of the General Terms and Conditions.

## MEANINGS OF WORDS

**Charge** means a charge specified in the SFOA or for any Service provided by Us to You.

**Equipment** means a 'Facility' under the Telecommunications Act 1997 and includes any line, tower, mast, antenna, tunnel, hole, pit or pole used in connection with a Service.

**Network** means a 'telecommunications Network' as defined under the Telecommunications Act 1997.

**Service** means any service that We supply to You and includes any goods or Equipment provided in connection with a service.

**We/Us/Our/Dodo** means Dodo Australia Pty Ltd ACN 097 636 970

**You/Your** means the customer who contracts with Us for a Service, including for supply of that Service to another person, or who seeks to acquire a Service from Us.

## **INTERNET SERVICE TERMS AND CONDITIONS**

### **1. PROVISION OF SERVICES**

- 1.1 We provide Dodo Dial Up, Dodo Broadband and Dodo Mobile Wireless Broadband Internet Services ('Dodo Internet Service'). We will provide the Dodo Dial Up Service to You from the date that You order the Service and you pay initial payment required for that Service. If You order a Dodo Broadband or Dodo Mobile Wireless Broadband Service, We will provide the Service to You from the date that the Service is provisioned.
- 1.2 Details about Dodo Internet Service and associated Services together with the terms and conditions relating to specific Internet plans are available on Our website and can be located at [www.dodo.com.au](http://www.dodo.com.au). The following terms and conditions apply to Dodo Internet Service and associated Services.

### **2. YOUR OBLIGATIONS WHEN USING A DODO INTERNET SERVICE**

- 2.1 You must comply with Our Dodo Acceptable Usage Policy and where applicable the Dodo Fair Go™ Policy when using a Dodo Internet Service. These policies can be found at <http://www.dodo.com.au/terms.asp>.
- 2.2 You must comply with all Our reasonable directions regarding the access and use of the Dodo Internet Service.
- 2.3 You warrant that in accessing and using the Dodo Internet Service, You will only use software that You are legally entitled to use.
- 2.4 You acknowledge that We do not and cannot in any way supervise, edit or control the content and form of any information or data accessed through the Dodo Internet Service and We will not be held responsible in any way for any content or information accessed via the Dodo Internet Service, except where We actually provide such content or information.
- 2.5 We disclaim all or any liability for any material on the Internet that You may find offensive, upsetting, defamatory or personally offensive.
- 2.6 You must not access, nor permit any other party to access, the Dodo Internet Service for any purpose or activity of an illegal or fraudulent nature.
- 2.7 You must not reproduce, distribute, transmit, publish, copy, transfer or commercially exploit any information accessed through or received from the Dodo Internet Service that would infringe the intellectual property rights of any person.

- 2.8 The statutory warranties described in clause 6.2 of the General Terms and Conditions of the SFOA apply to Dodo Internet Services We provide, but We strongly encourage You to prepare and maintain sufficient back-up files and data storage capacity for all Your data including electronic messages.
- 2.9 We have no responsibility to provide training in the use of any Dodo Internet Service and/or related applications.

### **3. IP ADDRESSES**

Any IP addresses allotted to You by Us, whether as a static address or dynamically allocated:

- a. remains Our sole property;
- b. may be changed or revoked by Us at Our sole discretion at any time; and
- c. is not transferable.

### **4. EMAIL, ANTI-VIRUS AND ANTI-SPAM FILTERING**

#### **SERVICE TERMS AND CONDITIONS**

- 4.1 **Dodo Email Filtering Service:** You can elect to acquire a Dodo Email Filtering Service. This Service uses automated processes in an attempt to identify undesirable emails and diverts such emails to a quarantine folder stored on Our server.
- a. We keep a quarantined email for at least 7 days, after which time the email may be deleted. It is Your responsibility to check quarantined emails regularly to ensure that You retrieve any emails that You require. Any quarantined emails stored by Us as part of this Service may count towards any size limit or quota imposed on Your email Service by Us.
  - b. Email filtering involves software determining whether or not an email is undesirable. As this determination is made automatically and is not reviewed by Us, this Service may from time to time result in:
    - i) undesirable content being permitted; and
    - ii) content that is not undesirable being quarantined.
  - c. This Service applies to incoming emails only. There are many other ways that undesirable content could reach Your computer, including through web browsing, chat, instant messenger applications, Internet denial of service attacks, physical access to Your computer by other people, and sharing of risks or other media. We recommend that You take reasonable precautions to protect Your computer and data, including:

- i) operating a firewall to filter Internet traffic;
- ii) running and regularly updating anti-virus and anti-spyware software; and
- iii) taking reasonable precautions with passwords, credit card numbers, and allowing others physical access to Your hardware by other people.

4.2 **Dodo Anti-Virus Filtering Service:** You can elect to acquire a Dodo Anti-Virus Filtering Service. This Service scans incoming emails for computer code that could be harmful to Your computer or to other users, including viruses, trojans and worms, and diverts such emails to a quarantine folder stored on the Our server. Although We take reasonable steps to regularly update the anti-virus software used, We cannot promise that the anti-virus filtering tool will quarantine all harmful content. You should take precautions with the content of emails You receive, including running security software; and not opening attachments from sources unless You are certain of the identity and reliability of the sender.

4.3 **Dodo Anti-Spam Filtering Service:** You can elect to acquire a Dodo Anti-Spam Filtering Service. This Service scans incoming emails for messages that may be unsolicited advertising, based on the content of the message, including any information included in the email header, and diverts such emails to a quarantine folder stored on the Our server. Although We take reasonable steps to regularly update the anti-spam software, We cannot promise that the anti-spam filtering tool will quarantine all unwanted emails, or that emails that are not spam will never be quarantined. You should always take precautions to reduce the amount of spam You receive, including avoid publishing Your email address on newsgroups or websites and avoid responding to unsolicited emails.

4.4 **Liability:** Due to the fact that the Services listed in this clause 4 are basic Services and We charge a nominal amount for such Services, subject to Our liability under clause 6.2 of the General Terms and Conditions, We will not be liable for any losses, costs or expenses, including legal costs, resulting from:

- a. a claim that an email which contains undesirable content has not been quarantined;
- b. a claim that an email which does not contain undesirable content has been quarantined ; and/or
- c. any claim arising from the provision of any Dodo Email, Anti-virus or Anti Spam Filtering Service.

The Charges for the Services listed in this clause 4 are as notified by Us from time to time via Our website and are payable at the same time as Charges for Your Internet Service.

## 5. DODO DIAL UP SERVICE TERMS AND CONDITIONS

5.1 The Dodo Dial-Up Internet Service is suitable for people who have only limited internet download needs. To access the Internet, the Dodo Dial-Up Internet Service uses Your home phone line. We will supply all the information You need to get connected. You will also need a dial-up modem. Your computer may have a dial-up modem built in, or You can purchase a dial-up modem from most computer stores.

5.2 We may apply an automatic disconnection of a connection to this Service after a period of idle time (at least 30 minutes) or lengthy continuous use (at least 4 hours).

5.3 The cost of the Dodo Dial-Up Internet Service is separate from the call cost to access the Service. You can access the Internet from most fixed phones in Australia for the cost of a local call, or usual ISDN data call charges if You are an ISDN customer.

5.4 **Speed Accelerator:** You can elect to acquire a Speed Accelerator from Us.

a. The Speed Accelerator uses specific software on Our server to compress certain information as You browse the Internet and download emails. The compression allows the information to be transferred to Your computer faster where software installed on Your computer un-compresses the information and makes it available for viewing. The compression process may affect image quality as You browse the Internet. Depending on how You configure the Speed Accelerator software on Your computer, a better quality image is usually downloaded a short time later.

b. The software only works when You browse the web and download emails.

c. We cannot guarantee that the speed for downloading information will increase. The actual speed increase, if any, will change depending on the type of content that is being accessed.

d. Using the Speed Accelerator will not change any excess data transfer Charges. Your data usage will still be metered on the uncompressed content.

e. We will notify You of the Charges for this Service from time to time by way of Our website. Charges are payable at the same time as Charges for Your monthly Dial-Up Service.

## 6. DODO BROADBAND TERMS AND CONDITIONS

- 6.1 In order for Us to provide You with the Dodo Broadband Service, You need to do the following:
- ensure Your computer is configured for ADSL connections;
  - ensure that You keep Your account information, password, data and Equipment secure;
  - regularly check the default email address that We have allocated to You for messages about Your Dodo Broadband Service;
  - ensure that any other people to whom You provide access to the Dodo Broadband Service comply with Our Acceptable Usage Policy; and
  - ensure that any equipment provided by You does not damage the Dodo Broadband Service or any transmission facilities.
- 6.2 The ADSL Service works off a fixed telephone line and as such can sometimes affect the fixed telephone line. You warrant that:
- You are the legal lessee of the standard fixed telephone service to which the Dodo Broadband Service will be connected; and
  - If You are not the legal lessee of the relevant fixed telephone service, You have obtained the written legal lessee's permission to connect the Dodo Broadband Service.
- 6.3 If Your Dodo Broadband Service is provided concurrently with an active phone Service, You acknowledge that:
- If the relevant telephone Service is disconnected Your Dodo Broadband Service may be disconnected, and this agreement terminated, in which case You may be liable to pay Us a cancellation fee or early termination fee, if any such fee is applicable to Your Service;
  - The installation of Your Dodo Broadband Service may cause minor disruptions to the relevant telephone Service;
  - The installation of the Dodo Broadband Service may interfere with other services You receive, such as back-to base security monitoring services. It may be necessary to install additional Equipment such as a central line splitter, filter and Network termination device, to ensure that these services continue to operate when a Dodo Broadband Service has been installed. You must inform any provider of monitoring services that installation of the Dodo Broadband Service may cause

temporary interruption of monitoring Services and that installation of additional Equipment may be required;

- There may be minor disruptions to Your Dodo Broadband Service; and
  - You may not be able to access some other products and services that are incompatible with Your Dodo Broadband Service. For example, 'Faxstream Duet Service'.
- 6.4 If We fail to bring the possibility that these impacts may occur to Your attention when You sign up, We will permit You to terminate the Dodo Broadband Service without any early termination fees within 30 days of sign-up if You are adversely affected as a result of any of these events.
- 6.5 If Your Dodo Broadband Service is not provided concurrently with an active phone Service (this is known as a "Naked DSL" Service), You acknowledge that:
- Your telephone Service will no longer be available for use for telephone calls; and
  - if at any future time the Dodo Broadband Naked DSL Service is disconnected, a new telephone connection fee may apply to access a standard telephone Service from those premises
- 6.6 If You move premises then clause 10.20 of Our SFOA applies.

## 7. DODO MOBILE WIRELESS BROADBAND

### SERVICE TERMS AND CONDITIONS

- 7.1 The Dodo Mobile Wireless Broadband Service is a broadband Internet Service and provides access to the internet and other data related services. from Your personal computer or laptop computer via a wireless connection in areas covered by the Optus Mobile 3G/HSDPA and GSM Networks. The Service is only available to customers within the Optus 3G/HSDPA or GSM coverage areas and is subject to Network availability.
- 7.2 In areas that the Dodo Mobile Wireless Broadband Service is available, Dodo does not warrant that:
- the Dodo Mobile Wireless Broadband Service is available in each place within an area where there is coverage;
  - drop-outs' will not occur;
  - there will be no delays in transferring data when switching between bearer and Networks; and
  - there will be no congestion on the Network.

- 7.3 The speed of data transmitted using the Dodo Mobile Wireless Broadband Service will vary depending on the following factors:
- Whether You are located in an area covered by the 3G/HSDPA Network or GSM Network;
  - The number of users sharing the Network;
  - The computer hardware and software used by You;
  - General activity on the Internet; and
  - Speed and capacity of the server being accessed.
- 7.4 The Dodo Mobile Wireless Broadband Service is only available for use with a Dodo supplied SIM card and wireless data device. Dodo may supply the wireless data device or You may use Your own wireless data device if it is approved for use on the Optus 3G/HSDPA or GSM Networks.
- 7.5 If We supply the wireless data device We may charge You an upfront fee or monthly fee for the device. Please check the pricing plan to find out which Charges apply for the supply of the wireless data device. We will deliver the wireless data device and Your Service will be activated within 7 days after You have ordered and paid the initial payment for Your Dodo Mobile Wireless Broadband Service.
- 7.6 If You use Your own wireless data device to access the Service, the operation of the device, and any repairs to it, are Your responsibility.

## 8. SIM CARDS AND SOFTWARE

- 8.1 We will provide You with a SIM card so that You can access Your Dodo Mobile Wireless Broadband Service. All SIM cards remain Our property. You agree to the following conditions in relation to any SIM card which We provide to You:
- We may require You to comply with SIM card activation procedures in order to protect You against unauthorised use of a SIM card;
  - You must take all reasonable care to keep the SIM card in a safe and good condition;
  - You must immediately return the SIM card to Us on demand, or if We suspend or terminate Your Dodo Mobile Wireless Broadband Service in accordance with clause 10 of Our SFOA;
  - If You fail to return the SIM card to Us within 30 days of Our demand, or date of suspension or termination of Your Dodo Mobile Wireless Broadband Service, You must pay Our standard SIM Card replacement fee; and

- You must notify Us immediately if any SIM card is lost, stolen or destroyed, even if You have not yet activated the SIM card. You will be liable for all Charges attributed to any SIM card supplied to You until such time as You have notified Us of the theft, loss or destruction of such SIM card.

- 8.2 SIMs on which the Dodo Mobile Wireless Broadband Service is activated are only permitted to be used inside a Roamer Device.
- 8.3 If a SIM is used in another device to access voice or data services ('Non-Permitted Usage):
- We may charge You the current rates at which those Services are supplied to Our customers; and
  - Any data usage will count as part of any monthly or per hour usage allowance in respect of the Dodo Mobile Wireless Broadband Service.

## SOFTWARE

- 8.4 Where We provide Software for the Dodo Mobile Wireless Broadband Service, We do not make any warranty or representation (other than under clause 6.2 of the General Terms and Conditions of the SFOA) regarding the performance of the Software as it operates on Your computer. You agree not to make a claim against Us in respect of the Software or its performance, except where We are liable under clause 6.2 of the General Terms and conditions.
- 8.5 The Software may not be compatible with some operating systems, including versions of operating systems older than Microsoft Windows XP SP2 and Macintosh OS 10.4 operating systems. If We fail to bring the compatibility requirements of the Software to Your attention when You sign up, We will permit You to terminate the Dodo Mobile Wireless Broadband Service without any early termination fees within 30 days of sign-up if You are adversely affected as a result of Software being incompatible with Your operating system.
- 8.6 You must not disassemble, decompile or reverse engineer any Software provided by Us in relation to the Dodo Mobile Wireless Broadband Service.

## 9. RESPONSIBILITY FOR CHARGES

You are responsible for paying all Charges relating to Your Dodo Internet Service even if You did not personally authorise the services which incurred the Charges. Details of the Charges for Dodo's Internet Service can be found at [www.dodo.com.au](http://www.dodo.com.au). We will

also detail the relevant Charges applicable to Your Dodo Internet Service when You sign up for this Service.

## 10. EARLY TERMINATION FEES IF APPLICABLE

If You cancel the Dodo Broadband Service or Dodo Mobile Wireless Broadband Service before Your fixed contract term for Your Service has expired, We can charge an early termination fee as advised to You at the time of sign-up, but in any event no more than \$400. If You have received a discounted laptop or other device on Your Service plan, then You may be liable for further early termination fees as advised to You at the time of sign-up. The terms and conditions relating to Your specific Dodo Broadband Service or Dodo Mobile Wireless Broadband Service plan will set out whether any such early termination fees are applicable. See [www.dodo.com](http://www.dodo.com) for this information. Details of when early termination fees are applicable are set out in clause 10 of the General Terms and Conditions.

## MEANINGS OF WORDS

**3G/HSDPA** means wideband CDMA which operates at a higher frequency than the digital GSM cellular mobile Network and GPRS Networks to transmit voice and data services or, HSDPA which is available if You have an HSDPA compatible modem and are located in an HSDPA coverage area.

**3G/HSDPA Network** means the Optus 3G Network, used to transmit 3 G services, including HSDPA services.

**Charge** means a charge specified in the SFOA or for any Service provided by Us to You.

**Equipment** means a 'Facility' under the Telecommunications Act 1997 and includes any line, tower, mast, antenna, tunnel, hole, pit or pole used in connection with a Service.

**GSM Network** means the Optus mobile GSM (global system for mobile) Network which is the digital mobile Network used to transmit voice and data services.

**Roamer Device** means a wireless modem, such as a USB modem or 3G PC Data Card, which is used to access the Dodo Mobile Wireless Broadband Service. The Roamer modem is compatible with the 3G/HSDPA Network and the GSM Mobile Network.

**Service** means any service that We supply to You and includes any goods or Equipment provided in connection with a service.

**SIM** means Our subscriber identity module card which, when inserted into Your Equipment gives You access to the Dodo Mobile

Wireless Broadband Service.

**Software** means the software supplied by Us for use with the Dodo Mobile Wireless Broadband Service and includes the software that You need to install and use the Dodo Mobile Wireless Broadband Service, as updated from time to time.

**We/Us/Our/Dodo** means Dodo Australia Pty Ltd ACN 097 636 970

**You/Your** means the customer who contracts with Us for a Service, including for supply of that Service to another person, or who seeks to acquire a Service from Us.



**DODO AUSTRALIA PTY LTD**

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