

## MOBILE FAIR GO™ POLICY

### Appendix W

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## 1 ABOUT THIS POLICY

- (a) This is the Optus Mobile Fair Go™ Policy. It only applies to the Optus Digital Mobile Service, the Optus Pre-Paid Mobile Service and the Optus Thuraya Mobile Satellite Service. So in this Policy, 'service' or 'services' means the Optus Digital Mobile Service, the Optus Pre-Paid Mobile Service and the Optus Thuraya Mobile Satellite Service as applicable to *you*, the individual user.
- (b) The meaning of the words printed *like this* is set out at the end of the *service description* for the relevant *service* or in the [consumer terms](#) or [SMB terms](#) (as applicable to *you*).

## 2 GENERAL

- (a) This policy aims to ensure *we* are able to provide quality mobile services to all of *our* customers, and no customers are disadvantageded by the behaviour of others.
- (b) This policy applies where:
  - (i) there is a:
    - (A) level of free time on calls, or
    - (B) flat charge for part or all of a call, whether in connection with a specific promotion or pricing plan, or a generally available pricing plan.

This includes, without limitation, MyTime (Optus Digital Mobile Service), 'yes' for 5 (Optus Digital Mobile Service) 'yes' 100 SMS, 'yes' Time, 30for10, 'yes' Talk, 'yes' Text, 'yes' Text & Talk, 'yes' Business Fleet Special Promotion (Optus Digital Mobile Service), Twenty-Ten offer (Optus Digital Mobile Service), 'yes' Business Fleet - Day Promotion, Free Call, Free Calls & Text, My Time Untimed Calls, Flat Call and Text&Talk Specials (Optus Pre-Paid Mobile Service) (see clauses 3 and 4 below),

- (ii) *you* may send or receive text or multimedia messages, for example, without limitation, SMS, Optus MMS, My Updates (SMS), SMS Broadcast and EmailSMS (see clause 5 below),
- (iii) *you* may connect to and use information services on Optus Zoo (via WAP CSD, WAP GPRS or 3G) (see clause 5 below),
- (iv) *you* may connect to the Internet using Wireless Internet (see clause 5 below),
- (v) *you* use voice calling on the Optus Push to Talk *value added service feature* (see clause 6 below),

- (vi) *you* use Optus Web SMS, Optus Web MMS, Optus SMS Broadcast, Optus Zoo (via WAP CSD, WAP GPRS or 3G), Wireless Internet or BlackBerry from Optus (see clause 7 below);
- (vii) *you* use the Optus Mobile IM *value added service feature* (see clause 8 below);
- (viii) *you* use the Video Calling *value added service feature* (see clause 10 below);
- (ix) *you* use the MobileMail *value added service feature* (see clauses 7 and 11 below); or
- (x) *you* use the Optus Voicemail *value added service feature* and *you* are a *consumer* or *small or medium business customer* connected to a plan with an 'Unlimited Voicemail' offer (see clause 12 below).
- (xi) *you* use the MySpace Mobile *value added service feature* (see clause 12 below); or
- (xii) *you* use the YouTube Mobile *value added service feature* (see clause 13 below)

### **3 FREE TIME OR FLAT CHARGE ON CALLS - EXCESSIVE USE**

- (a) If *you* are an excessive user of free time or flat charge call offers *we* may ask *you* to reduce *your* use of these calls (outgoing or incoming). If usage continues at an excessive level following this request and *you* are an:
  - (i) Optus Digital Mobile Service customer, *we* may refuse *you* access to these offers. *You* will then be charged *our* standard rates for calls, and
  - (ii) Optus Pre-Paid Mobile Service customer, the *service may be cancelled*, or *we* may suspend *your* access to a free time offer or move *you* to a different call rate plan, at *our* discretion.
- (b) *We* consider 'excessive' use to be usage of more than 2,000 minutes free per month per *service*, except in the following circumstances:
  - (i) for the 'Free Calls and Text Anytime' special promotion, 'excessive' use is more than 1,000 minutes per *service*,
  - (ii) for the 'New Free Calls Anytime' special promotion, 'excessive' use is more than 2,000 minutes free per month per *service*,
  - (iii) for the 'Free 10 Minute Calls and Free Text' special promotion, 'excessive' use is more than 1,000 minutes free per month per *service*,
  - (iv) for the 'yes' Business Fleet Special Promotion, 'yes' Business Fleet - Day Promotion and the M8 Daylight Saver

- Voicemail Promotion, 'excessive' use is more than 1,000 minutes free per month per *service*,
- (v) for 'yes' international calls, 'excessive' use is more than 300 minutes per month per *service*.
  - (vi) for international calls made from 'yes' Business Smart and 'yes' Business Smart 6+ services, 'excessive' use is more than 300 minutes per month per *service*,
  - (vii) for 'SmartFleet' calls, 'excessive' use is more than 1,000 minutes per month per *service*,
  - (viii) for 'Back2Business', 'excessive' use is more than 1,000 minutes per month per *service*,
  - (ix) for BusinessTime, 'excessive' user is more than 1,000 minutes per month per *service*,
  - (x) for the 'MyTime' special promotion for Optus Mobile Digital Service customers, 'excessive' use is more than 1,000 minutes per month per *service*,
  - (xi) for the 'yes' for 5 special promotion for Optus Mobile Digital Service customers, 'excessive' use is more than 1,000 minutes per month per *service*, and
  - (xii) for the 'Free 10 minute Fleet Calls' special promotion, 'excessive' use is more than 1,000 minutes per month per *service*.
  - (xiii) for the Twenty-ten special promotion, 'excessive' use if more than 1,000 minutes per month per *service*.
- (c) The excessive use provisions of this clause 3 do **not** apply to
- (i) *consumer* 'yes' Timeless Plan and Timeless Max plan customers who make calls that qualify as an ordinary standard local call or a standard national call or a call to an Australian GSM mobile under that offer;
  - (ii) *consumer* OB Employee Bus Access \$79 plan customers who make calls that qualify as a standard local call or a standard national call or a call to an Australian GSM mobile under that offer;
  - (iii) *consumer* selected 'yes' Cap Plan customers who make calls that qualify as an ordinary standard local call or a standard national call under that offer; or
  - (iv) *small or medium business* 'yes' Timeless Plan and Biz Timeless Max Plan customers who make calls that qualify as a standard local call or a standard national call or a call to an Australian GSM mobile under that offer; or
  - (v) *business* Business Access Unlimited plan customers who make calls that qualify as a standard local call or a standard

national call or a call to an Australian GSM mobile under that offer.

- (vi) *Dollar Days* customers who make calls that qualify as a standard local call or a standard national call or a call to an Australian GSM mobile under that offer.

#### 4 FREE TIME OR FLAT CHARGE ON CALLS - UNREASONABLE USE

- (a) In addition, and without limiting *our* rights under the [consumer terms](#), the [SMB terms](#), the [general terms](#), or the relevant *service description*, where *we* consider *your* use of a free time or flat charge offer is unreasonable (excluding any Unlimited Offers), then *we* may:

- (i) suspend *your* access to that or any other free time or flat charge offer, or
- (ii) suspend or *cancel the service* or *your* access to a *value added service feature*,

in each case immediately and without notice to *you*.

Please note that *our* right to suspend or *cancel the service* **without notice to you** under this clause overrides any requirement *we* may have to give *you* notice in other parts of the *agreement*, for example under clauses 11.3(b) and 12.1(b) of the *consumer terms* or *SMB terms* (as applicable to *you*).

- (b) Without limiting the meaning of 'unreasonable', *we* supply the *service* and each of the value added services for the purpose of *you*:
  - (i) making calls from and receiving calls to *your mobile phone*, and
  - (ii) sending *content* from and receiving *content* to *your mobile phone*

on *our network* or the *network* of any *supplier* for *your* own personal or business use.

- (c) *We* consider *your* use of the *service* or a *value added service feature*, to be unreasonable if *you*:
  - (i) make or receive calls or send or receive *content* on *our network* other than for *your* own personal or business use, as described in paragraph (b) above,
  - (ii) wholesale any service (including transit, refile or aggregate domestic or international traffic) on *our network*, or
  - (iii) use the *service* (including any *Optus SIM card*) in connection with a device that switches or reroutes calls to or from *our network* or the *network* of any *supplier*,

without obtaining *our* written consent first. *We* may give or withhold *our* consent, or make *our* consent subject to conditions, in *our* discretion.

- (d) *We* also consider *your* use of the *service* or a *value added service feature* to be unreasonable if *you* set up 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 for other customers to access *our network*.

## 5 SMS, OPTUS MMS, OPTUS ZOO AND WIRELESS INTERNET - EXCESSIVE AND UNREASONABLE USE

- (a) As set out above, this policy applies to:
- (i) the sending and receiving of SMS text messages by Optus Digital Mobile Service customers, Optus Pre-Paid Mobile Service customers and Optus Thuraya Mobile Satellite Service customers,
  - (ii) the sending and receiving of MMS multimedia messages by Optus Digital Mobile Service customers and Optus Thuraya Mobile Satellite Service customers, and
  - (iii) the use of Optus Zoo and Wireless Internet
- (excluding any Unlimited Offers, see Clause 14 below for Unlimited Offers).
- (b) To ensure the availability of these *value added service features* to all eligible customers, if *you* are an excessive user of these *value added service features* *we* may request *you* reduce *your* use (outgoing or incoming messages, or uploading or downloading of data, as the case may be) of these *value added service features*. If usage continues at an excessive level, *we* may suspend *your* access to these *value added service features*.
- (c) Further, for any *specials* relating to these *value added service features*, if *you* are an excessive user of these *value added service features* under the *special* *we* may request *you* to reduce *your* use (outgoing or incoming messages, or uploading or downloading of data, as the case may be) of these *value added service features*. For the period of the *special*, if usage continues at an excessive level, *we* may bill *you* the standard rates for all messages or usage above the number or amount *we* consider as excessive usage.
- (d) *We* consider 'excessive' use of:
- (i) SMS to be usage of more than 500 SMS text message sent per month per *service*, except in the following circumstances:
    - (A) for the 'Free Calls and Text Anytime' special promotion, 'excessive' use is more than 1000 SMS text messages sent per month per *service*;

- (B) for the 'Optus Supercharge' special promotion, 'excessive' use is more than 1000 SMS text messages sent per month per *service*;
  - (C) for the 'Free 10 Minute Calls and Free Text' special promotion, 'excessive' use is more than 300 SMS text messages sent per month per *service*;
  - (D) for 'SmartFleet' SMS / MMS, 'excessive' use is more than 1,000 SMS / MMS per month per *service*; and
  - (E) For 'Optus Cent A Text', 'excessive' use is more than 350 SMS per day per *service*.
- (ii) Optus MMS to be usage of more than 500 Optus MMS messages sent per month per *service*,
  - (iii) Optus MMS Video to be usage of more than 300 Optus MMS Video messages requested per month per *service*,
  - (iv) Optus Zoo via WAP CSD to be usage of more than 20 hours per month per *service*,
  - (v) Optus Zoo via WAP GPRS to be usage of more than 5 megabytes downloaded per month per *service*,
  - (vi) OptusZoo via WAP GPRS balance of more than 2 gigabytes per recharge per *Pre-Paid Mobile Service*
  - (vii) Optus Zoo via 3G to be usage of more than 5 megabytes downloaded per month, and
  - (viii) Optus Zoo, for the Optus Live TV Service, to be usage of more than 10 megabytes downloaded per month per *service*.
  - (ix) Optus Zoo, for the PhoneBook Backup service, to be more than 5 backups per day per *service*
- (e) The excessive use provisions of this clause 5 do **not** apply to:
- (i) *consumer or small or medium business* 'yes' Timeless Plan, Timeless Max Plan, or 'yes' Cap Plan customers who send SMS that qualify as a standard SMS to any Australian GSM mobile under that offer;
  - (ii) *consumer or small or medium business* 'yes' Timeless Plan, Timeless Max Plan, or Biz Timeless Max Plan, or (from 3 May 2009) selected 'yes' Cap Plans customers who send MMS that qualify as a standard MMS to any Australian GSM mobile under that offer;
  - (iii) *consumer* Turbo Text Prepaid Plan customers who send SMS that qualify as a standard SMS to up to 5 nominated friends personal Australian GSM mobile per recharge under that offer;

- (iv) *consumer* OB Employee Bus Access \$79 plan customers who send SMS that qualify as a standard SMS to any Australian GSM mobile under that offer; or
  - (v) *business* Business Access Unlimited plan customers who send SMS that qualify as a standard SMS to any Australian GSM mobile under that offer.
- (f) Additionally, *we* may suspend *your* access to these *value added service features* without notice where *we* deem *your* use to be unreasonable. Without limiting the meaning of 'unreasonable', *we* supply the *service* and each of the value added services for the purpose of *you*:
- (i) making calls from and receiving calls to *your mobile phone*, and
  - (ii) sending *content* from and receiving *content* to *your mobile phone*

on *our network* or the *network* of any *supplier* for *your* own personal or business use.

Please note that *our* right to suspend *your* access to these *value added service features* **without notice** under this clause overrides any requirement *we* may have to give *you* notice in other parts of the *agreement*, for example under clause 12.1(b) of the *consumer terms* or *SMB terms* (as applicable to *you*).

- (g) *We* consider *your* use of the *service* or a *value added service feature*, to be unreasonable if *you*:
- (i) make or receive calls or send or receive *content* on *our network* or the *network* of any *supplier* other than for *your* own personal or business use, as described in paragraph (b) above,
  - (ii) wholesale any service (including transit, refile or aggregate domestic or international traffic) on *our network* or the *network* of any *supplier*, or
  - (iii) use the *service* (including any *Optus SIM card*) in connection with a device that switches or reroutes calls to or from *our network* or the *network* of any *supplier*,
- without obtaining *our* written consent first. *We* may give or withhold *our* consent, or make *our* consent subject to conditions, in *our* discretion.
- (h) *We* also consider *your* use of the *service* or a *value added service feature* to be unreasonable if *you* set up 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 for other customers to access *our network* or the *network* of any *supplier*.



- (i) Where *we* deem *your* use unreasonable, *we* may bill *you* at the standard rates for all messages above the number defined as excessive usage.

**6 OPTUS PUSH TO TALK - EXCESSIVE USE (THIS SERVICE IS NO LONGER AVAILABLE FROM 4 NOVEMBER 2010)**

- (a) As set out above, this policy applies to all Optus Push to Talk usage. To ensure the availability of *our* services to all eligible customers, if *you* are an excessive user of Optus Push to Talk *we* may request that *you* reduce *your* use of these calls (outgoing or incoming). If excessive use of Optus Push to Talk continues following this request, *we* may charge any excess usage at *your* peak digital mobile voice calling rate.
- (b) *We* consider 'excessive' use of Optus Push to Talk to be more than 150 minutes of use per month per *service* on the daily fee.
- (c) *We* consider 'excessive' use of Optus Push to Talk to be more than 200 minutes of use per month per *service* on the monthly rate for Optus Push to Talk Service.
- (d) The excessive use provisions of this clause 6 do **not** apply to
  - (i) *consumer* or *small or medium business* 'yes' Timeless Plan or Timeless Max Plan customers who use Optus Push to Talk that qualify under that offer; or
  - (ii) *small or medium business* 'yes' Timeless Plan, or Biz Timeless Max Plan customers who use Optus Push to Talk that qualify under that offer.

**7 OPTUS WEB SMS, OPTUS WEB MMS, OPTUS SMS BROADCAST, OPTUS ZOO (VIA WAP CSD, WAP GPRS OR 3G), WIRELESS INTERNET, BLACKBERRY FROM OPTUS OR MOBILEMAIL - ACCEPTABLE USE**

- (a) If *you* use Optus Web SMS, Optus Web MMS, Optus SMS Broadcast, Optus Zoo (via WAP CSD, WAP GPRS or 3G), Wireless Internet, BlackBerry from Optus or any of MobileMail, MobileMail Corporate or MobileMail Business *value added services*, *you* must comply with this policy, which is designed to ensure *your* use of the *service* does not break any laws or interfere with the right of *our* other customers to use the *service*. If *you* fail to comply, *we* may suspend or cancel *your* use of the *service* or *value added service feature*.
- (b) To the extent that *your* use of the *service* provides *you* with access to the Internet, *you* must be over the age of 18 years of age, or if *you* are not over 18 years of age, *you* must obtain the consent of a parent, teacher or other responsible adult prior to accessing the *service*.
- (c) *You* must not use the *service* in a manner which interferes with the rights of other users. For example, *you* must not:

- (i) provide false user information to *us* or other users,
  - (ii) send large amounts of unsolicited or unwanted emails or message to individuals or individual business accounts, or
  - (iii) gain access to a person's private information (or attempt to do so).
- (d) In using the *service*, *you* must not break any laws or infringe the rights of other persons. For example, *you* must not:
- (i) distribute or make available indecent, obscene, offensive, pornographic, illegal or confidential material,
  - (ii) defame, harass or abuse anyone or violate their privacy,
  - (iii) contravene any applicable laws,
  - (iv) distribute or make available material that is misleading or deceptive as to *your* identity,
  - (v) infringe any person's *intellectual property rights*,
  - (vi) monitor data or traffic on any *network* or system if *you* do not have the authorisation of the owner of the *network* or system to do so, or
  - (vii) interfere or disrupt the *service*, any computer system access through it or any other person's use of it.
- (e) *You* must comply with any rules imposed by any third party whose *content* or service *you* access using the *service*.
- (f) *You* may only use any *content* accessible through the *service* for personal and non-commercial purposes. *You* may not otherwise copy, publish, re-publish, re-distribute, re-communicate or otherwise commercially exploit such *content* in any form or by any method whatsoever. For the avoidance of doubt, this prohibition includes framing, linking, posting in news groups and any other form of copying by persons other than as approved by the content provider.
- (g) To detect and deal with breaches of this policy and to ensure compliance with any relevant industry code of practice, notification or direction by any relevant regulatory authority, *we*:
- (i) will co-operate with other *carriage service providers* to control unacceptable user behaviour,
  - (ii) may give *your* details to the police and to other law enforcement agencies if *you* are suspected of breaking any laws in connection with the use of the *service*,
  - (iii) may implement technical mechanisms to prevent behaviour which breaches this policy (for example, which block multiple postings before they are forwarded to their intended recipients),

- (iv) may exercise any rights *we* have under the [consumer terms](#), the [SMB terms](#), the [general terms](#), or relevant *service description*, including suspending or *cancelling use of the service*,
- (v) may remove any *content* from *our* servers,
- (vi) may filter the *content* made available to *you* via the *service* or restrict *your* access to a particular site,
- (vii) may take any other action *we* deem appropriate, including taking action against offenders to recover costs and expenses of identifying them.

## 8 OPTUS MOBILE IM - EXCESSIVE USE

- (a) As set out above, this policy applies to all Optus Mobile IM usage. To ensure the availability of *our* services to all eligible customers, if *you* are an excessive user of Optus Mobile IM *we* may request that *you* reduce *your* use of these messages (outgoing or incoming). If excessive use of Optus Mobile IM continues following this request, *we* may charge any excess usage at *your* peak digital mobile rate (GSM or 3G).
- (b) *We* consider 'excessive' use of Optus Mobile IM to be more than 1Mb of data usage per day when *you* pay us a daily rate.
- (c) *We* consider 'excessive' use of Optus Mobile IM to be more than 10Mb of data usage per month when *you* pay us a monthly rate for Mobile IM Services.

## 9 VIDEO CALLING – EXCESSIVE USE

- (a) As set out above, this policy applies to all Video Calling usage. To ensure the availability of *our* services to all eligible customers, if *you* are an excessive user of the Video Calling *we* may request that *you* reduce *your* use of this *value added service feature*. If excessive use of Video Calling continues following this request, *we* may suspend your access to this *value added service feature*.
- (b) *We* consider 'excessive' use of Video Calling to be more than 500 video calls per month.
- (c) The excessive use provisions of this clause 10 do **not** apply to
  - (i) *consumer* 'yes' Timeless Plan or Timeless Max Plan customers who make video calls that qualify as a standard national video call under that offer; or
  - (ii) *consumer* OB Employee Bus Access \$79 plan customers who make video calls that qualify as a standard national video call under that offer; or
  - (iii) *small or medium business* 'yes' Timeless Plan or Biz Timeless Max Plan customers who make video calls that qualify as a standard national video call under that offer; or

- (iv) *business* Business Access Unlimited plan customers who make video calls that qualify as a standard national video call under that offer.

## 10 MOBILEMAIL – EXCESSIVE USE

- (a) This policy applies to use of the MobileMail *value added service*. To ensure the availability of *our* services to all eligible customers, if *you* are an excessive user of MobileMail, *we* may request that *you* reduce *your* use of the service. If excessive use of MobileMail continues following this request, *we* may suspend *your* access to the *value added service feature*.
- (b) *We* consider 'excessive' use of MobileMail to be more than 5MB downloaded per month when *you* pay us a monthly rate for MobileMail.

## 11 MOBMUSIC - EXCESSIVE USE

- (a) As set out above, this policy applies to all Optus MobMusic Mobile usage. To ensure the availability of *our* services to all eligible customers, if *you* are an excessive user of MobMusic *we* may request that *you* reduce *your* use of the MobMusic service. If excessive use of MobMusic continues following this request, *we* may suspend *your* service.
- (b) *We* consider 'excessive' use of MobMusic to be the download of more than 1000 music tracks per month.

## 12 MYSPACE MOBILE – EXCESSIVE USE

- (a) If *you* use MySpace Mobile, *you* must comply with this policy, which is designed to ensure *your* use of the *service* does not break any laws or interfere with the right of *our* other customers to use the *service*. If *you* fail to comply, *we* may suspend or cancel *your* use of the *service* or *value added service feature*.
- (b) *You* must not use the *service* in a manner which interferes with the rights of other users. For example, *you* must not:
  - (i) provide false user information to *us* or other users,
  - (ii) send large amounts of unsolicited or unwanted messages to individuals or individual business accounts, or
- (c) In using the *service*, *you* must not break any laws or infringe the rights of other persons. For example, *you* must not:
  - (i) distribute or make available indecent, obscene, offensive, pornographic, illegal or confidential material,
  - (ii) defame, harass or abuse anyone or violate their privacy,
  - (iii) contravene any applicable laws,
  - (iv) distribute or make available material that is misleading or deceptive as to *your* identity,

- (v) infringe any person's *intellectual property rights*,
  - (vi) monitor data or traffic on any *network* or system if *you* do not have the authorisation of the owner of the *network* or system to do so, or
  - (vii) interfere or disrupt the *service*, any computer system access through it or any other person's use of it.
- (d) *You* must comply with any rules imposed by any third party whose content or service *you* access using the service.
- (e) *You* may only use any *content* accessible through the *service* for personal and non-commercial purposes. *You* may not otherwise copy, publish, re-publish, re-distribute, re-communicate or otherwise commercially exploit such *content* in any form or by any method whatsoever. For the avoidance of doubt, this prohibition includes framing, linking, posting in news groups and any other form of copying by persons other than as approved by the content provider.
- (f) To detect and deal with breaches of this policy and to ensure compliance with any relevant industry code of practice, notification or direction by any relevant regulatory authority, *we*:
- (i) will co-operate with other *carriage service providers* to control unacceptable user behaviour,
  - (ii) may give *your* details to the police and to other law enforcement agencies if *you* are suspected of breaking any laws in connection with the use of the *service*,
  - (iii) may implement technical mechanisms to prevent behaviour which breaches this policy (for example, which block multiple postings before they are forwarded to their intended recipients),
  - (iv) may exercise any rights *we* have under the [consumer terms](#), the [SMB terms](#), the [general terms](#), or relevant *service description*, including suspending or *cancelling use of the service*,
  - (v) may remove any *content* from *our* servers,
  - (vi) may filter the *content* made available to *you* via the *service* or restrict *your* access to a particular site,
  - (vii) may take any other action *we* deem appropriate, including taking action against offenders to recover costs and expenses of identifying them.

### **EXCESSIVE USE**

To ensure the availability of *our services* to all eligible customers, if *you* are an excessive user of the MySpace Mobile service, data accessed within and from the MySpace Mobile service, *we* may ask *you* to reduce *your* usage of the service. If usage continues at an excessive level, *we* may refuse *you* access to this service and/or change correspondingly as a result thereof.

## UNREASONABLE USE

In addition, and without limiting *our* rights under the *agreement*, where we consider *your* use of the MySpace Mobile service, data accessed within and from the MySpace Mobile service (excluding any Unlimited Offers), is unreasonable, then *we* may suspend *your* access to the MySpace Mobile service immediately and without notice to *you*. We will then charge you correspondingly as a result thereof.

Please note that *our* right to suspend or *cancel the service* **without notice to you** under this clause overrides any requirement *we* may have to give *you* notice in other parts of the *agreement*, for example under clauses 11.3(b) and 12.1(b) of the *consumer terms* or the *SMB terms* (as applicable to *you*).

Without limiting the meaning of 'unreasonable', in respect of:

- (i) Unlimited MySpace Mobile Pack and Unlimited MySpace data and other offers for Optus customers, *we* supply the service for the purpose of *you* to access the service, on our network for *your* own personal use and not for any commercial purpose.

*We* consider *your* use of the *service* to be unreasonable if *you* are not using this *service* in accordance with the Optus Fair Go policy.

*We* consider *your* use of the *service* to be unreasonable if *you* access the MySpace Mobile service for the purpose of re-sale, re-supply or commercial exploitation, without obtaining *our* written consent first. *We* may give or withhold *our* consent, or make *our* consent subject to conditions, in *our* discretion.

## 13 OPTUS YOUTUBE MOBILE

### EXCESSIVE USE

- As set out above, this policy applies to all Optus YouTube Mobile usage. To ensure the availability of *our* services to all eligible customers, if *you* are an excessive user of YouTube Mobile *we* may request that *you* reduce *your* use of YouTube Mobile. If excessive use of YouTube Mobile continues following this request, *we* may charge any excess usage at *your* peak digital mobile rate (GSM or 3G).

### UNREASONABLE USE

- In addition, and without limiting *our* rights under the *agreement*, where *we* consider *your* use of the YouTube Mobile *service*, data accessed within and from the YouTube Mobile *service* (excluding any Unlimited Offers), is unreasonable, then *we* may suspend *your* access to the YouTube Mobile service immediately and without notice to *you*. We will then charge you correspondingly as a result thereof.

Please note that *our* right to suspend or *cancel the service* **without notice to you** under this clause overrides any requirement *we* may have to give *you* notice in other parts of the *agreement*, for example under clauses 11.3(b) and 12.1(b) of the *Consumer terms* or the *SMB terms* (as applicable to *you*).

Without limiting the meaning of ‘unreasonable’, in respect of:

- (i) Unlimited YouTube Mobile service offers for Optus customers:
- We supply the *service* for the purpose of *you* to access the *service*, on *our* network for *your* own personal use and not for any commercial purpose.
  - We consider *your* use of the *service* to be unreasonable if *you* are not using this *service* in accordance with this Optus Mobile Fair Go™ Policy.
  - We consider *your* use of the *service* to be unreasonable if *you* access the YouTube Mobile *service* for the purpose of re-sale, re-supply or commercial exploitation, without obtaining *our* written consent first. We may give or withhold *our* consent, or make *our* consent subject to conditions, in *our* discretion.

## 14 ‘UNLIMITED’ OFFERS: COMMERCIAL OR NON-ORDINARY PURPOSE

- 14.1 This section 14 applies to any component of *your* postpaid or prepaid mobile plan or offer that is described as ‘unlimited’ including, but not limited to, unlimited calls, SMS, MMS, voicemail, data, BlackBerry POP 3 Email, and/or BlackBerry POP 3 Email and BlackBerry Browsing offers where we supply the *service* for the purpose of *you* making ordinary calls and or sending ordinary SMS or MMS from *your mobile phone* on *our network* but not for any *commercial or non ordinary purpose* (collectively referred to as “Unlimited Offers”).
- 14.2 Without limiting *our* rights under the *agreement*, where *we* consider *your* use of the Unlimited Offers is for a *commercial or non-ordinary purpose* or *your* use of the Unlimited Offers does not comply with the terms of the offer then *we* may immediately and without notice to *you* suspend *your* access to the Unlimited Offers.
- 14.3 We may then charge *you our* standard rates for those activities that we have determined were made for a *commercial or non-ordinary purpose* (as set out in the standard pricing table for the relevant service as at the date of the activity).
- 14.4 Please note that *our* right to suspend or *cancel the service* without notice to *you* under this clause overrides any requirement that *we* have to give *you* notice in other parts of the *agreement*, for example under clauses 11.3(b) and 12.1(b) of the *Consumer terms* or the *SMB terms* (as applicable to *you*).
- 14.5 *Commercial or non ordinary purpose* includes, but is not limited to, the following activities:
- a) running a telemarketing business, call centre or any other similar business;

- b) SIM boxing or using the *service* (including any *Optus SIM card*) in connection with a device that switches or re-routes calls to or from *our network* or the *network* of any *supplier*;
- c) re-supplying or reselling the *service*;
- d) wholesale any *service* (including transit, refile or aggregate domestic or international traffic) on *our network*; or
- e) for Optus Dollars Days (\$1 Days, \$2 Days, \$3 Days) or Optus Day to Day offers non-ordinary use includes use of the offer or part of the offer in a way that does not comply with the terms & conditions of the offer, specifically mobile handset tethering and use of non mobile voice devices.

## 15 OPTUS ‘YES’ FUSION PLUS OFFER – UNREASONABLE USE

- 15.1 For the purposes of the Optus ‘yes’ Fusion Plus offer for *consumer* customers:
- (a) A standard local call means a *local call* where the person making the call is not making the call for any *commercial or non ordinary purpose* nor causing interference with the operation of the Optus network.
  - (b) A standard national call means a *national call* where the person making the call is not making the call for any *commercial or non ordinary purpose* nor causing interference with the operation of the Optus network.
  - (c) Standard local and national calls exclude calls:
    - (i) to operator assistance
    - (ii) to directory assistance
    - (iii) to a telephone number that begins with a 19 prefix
    - (iv) that are initiated by dialling an override code, for example 1456.
- 15.2 In addition, and without limiting *our* rights under the *agreement*, where *we* consider *your* use of the Optus ‘yes’ Fusion Plus Offer (excluding any Unlimited Offers) is unreasonable or *your* use does not comply with the terms of the Offer, then *we* may suspend *your* access to the Offer immediately without notice to you.
- 15.3 We may then charge you our standard rates for those calls (as set out in the standard pricing table for the relevant service).

Please note that *our* right to suspend or *cancel the service* **without notice to you** under this clause overrides any requirement *we* may have to give *you* notice in other parts of the *agreement*, for example under clauses 11.3(b) and 12.1(b) of the *consumer terms*.

- 15.4 **This policy applies to the ‘yes’ Fusion Plus Offer for *consumer* customers, where *we* supply the *service* for the purpose of *you* making**



**ordinary calls and or sending ordinary SMS or MMS from your mobile phone on our network but not for any commercial or non ordinary purpose.**

*Commercial or non ordinary purpose* includes the following activities:

- running a telemarketing business or call centre;
- SIM boxing or using the *service* (including any *Optus SIM card*) in connection with a device that switches or re-routes calls to or from *our network* or the *network* of any *supplier*;
- re-supplying or reselling the *service*;
- wholesale any service (including transit, refile or aggregate domestic or international traffic) on *our network*; or
- other activity which would not be reasonably regarded as ordinary personal use.

## 16 OPTUS SKY NEWS HEADLINES VIDEOS DOWNLOAD

### UNREASONABLE USE

- In addition, and without limiting *our* rights under the *agreement*, where *we* consider *your* use of the Sky News Headlines Mobile service, data accessed within and from the Sky News Headlines service, is unreasonable, then *we* may suspend *your* access to the Sky News Headlines Mobile service immediately and without notice to *you*. We will then charge you correspondingly as a result thereof.

Please note that *our* right to suspend or *cancel the service* **without notice to you** under this clause overrides any requirement *we* may have to give *you* notice in other parts of the *agreement*, for example under clauses 11.3(b) and 12.1(b) of the *Consumer terms* or the *SMB terms* (as applicable to *you*).

Without limiting the meaning of ‘unreasonable’, in respect of:

- (i) Sky News Headlines Mobile offers for Optus customers:
  - *We* supply the *service* for the purpose of *you* to access the *service*, on *our network* for *your* own personal use and not for any commercial purpose.
  - *We* consider *your* use of the *service* to be unreasonable if *you* are not using this *service* in accordance with this Optus Mobile Fair Go™ Policy.
  - *We* consider *your* use of the *service* to be unreasonable if *you* access the Sky News Headlines Mobile *service* for the purpose of re-sale, re-supply or commercial exploitation, without obtaining *our* written consent first. *We* may give or withhold *our* consent, or make *our* consent subject to conditions, in *our* discretion.

- (ii) Offers to all *consumer* and *small or medium business* customers, *we* also consider *your* use of the *service* to be unreasonable if:
- *you* usage of the *service* affects other customers' access to the network; or
  - *you* set up switch devices which overcome the subscription and/or pricing charges, potentially keeping a session open for hours and limiting the ability for other customers to access the *service*.

## 17 OPTUS VOICE TO TEXT – UNREASONABLE USE

- (a) As set out above, this policy applies to use of Optus Voice to Text voicemail delivery method (excluding any Unlimited Offer) for Optus Mobile customers.
- (b) To ensure the availability of *our services* to all eligible customers, if *we* consider *your* use of the Optus Voice to Text offer is unreasonable, then *we* may suspend *your* access to that or any other promotion or offer immediately and without notice to *you*.
- (c) Please note that *our* right to suspend or *cancel* the *value added service* **without notice to you** under this clause overrides any requirement *we* may have to give *you* notice in other parts of the *agreement*, for example under clauses 11.3(b) and 12.1(b) of the *SMB terms* (as applicable to *you*).
- (d) Without limiting the meaning of 'unreasonable', *we*:
- (i) supply the Optus Voice to Text *value added service* to *you* for the purpose of *you* receiving converted voicemail text messages for personal and business purposes, but not for the purposes of re-sale, re-supply or commercial exploitation. *We* consider *your* use of the *value added service* to be unreasonable if *you* receive converted voicemail text messages on *our network* for the purpose of re-sale, re-supply or commercial exploitation, without obtaining *our* written consent first. *We* may give or withhold *our* consent, or make *our* consent subject to conditions, in *our* discretion.

## 18 OPTUS NOKIA MESSAGING

### EXCESSIVE USE

- 18.1 This policy applies to all Optus Nokia Messaging usage (excluding any Unlimited Offers). To ensure the availability of *our* services to all eligible customers, if *you* are an excessive user of Nokia Messaging, *we* may request that *you* reduce *your* use of Nokia Messaging. If excessive use of Nokia Messaging continues following this request, *we* may charge any excess usage at *your* peak mobile digital rate (GSM or 3G).
- 18.2 Without limiting the meaning of ‘excessive use’, *we* supply the Optus Nokia Messaging service for the purpose of allowing *you* to access the service on *our* network for *your* own personal and business use and not for any commercial purpose.

### UNREASONABLE USE

- 18.3 In addition, and without limiting *our* rights under the agreement, where *we* consider *your* use of the Nokia Messaging service, data accessed within and from the Nokia Messaging service, is unreasonable, then *we* may suspend *your* access to the Nokia Messaging service immediately and without notice to *you*.

Please note that *our* right to suspend or *cancel* the *service* **without notice to you** under this clause overrides any requirement *we* may have to give *you* notice in other parts of the agreement, for example under clauses 11.3(b) and 12.1(b) of the *Consumer terms* or the *SMB terms* (as applicable to *you*).

- 18.4 Without limiting the meaning of ‘unreasonable’, in respect of:
- (a) Unlimited Nokia Messaging offers for Optus customers:
- (i) *We* supply the service for the purpose of *you* accessing the service, on *our* network for *your* own personal and business use and not for any commercial purpose.
  - (ii) *We* consider *your* use of the *service* to be unreasonable if *you* are not using this *service* in accordance with this Optus Mobile Fair Go™ Policy.
  - (iii) *We* consider *your* use of the *service* to be unreasonable if *you* access the Nokia Messaging *service* for the purpose of re-sale, re-supply or commercial exploitation, without obtaining *our* written consent first. *We* may give or withhold *our* consent, or make *our* consent subject to conditions, at *our* discretion.

## 19 FACEBOOK SMS ALERTS

### EXCESSIVE USE

- 19.1 This policy applies to all Optus Facebook SMS alerts service usage. To ensure the availability of *our* services to all eligible customers, if *you* are an excessive user of Facebook SMS alerts, *we* may ask *you* to reduce *your* use

of Facebook SMS alerts. If usage continues at an excessive level following this request *we* may cancel or suspend *your* access to this and other social messaging services. *We* may also charge any excess usage at *your* standard rates for SMS.

- 19.2 *We* consider excessive usage to be more than 2,000 Facebook SMS alerts per month per service.
- 19.3 Without limiting the meaning of ‘excessive use’, *we* supply the Optus Facebook SMS Alerts service for the purpose of allowing *you* to access the service on *our* network for *your* own personal or business use and not for any commercial purpose.

## **20 TRAFFIC VIEW SMS ALERTS EXCESSIVE USE**

- 20.1 This policy applies to all Optus Traffic View SMS Alerts service usage. To ensure the availability of *our* services to all eligible customers, if *you* are an excessive user of Traffic View SMS alerts, *we* may ask *you* to reduce *your* use of Traffic View SMS alerts. If usage continues at an excessive level following this request *we* may cancel or suspend *your* access to this and other social messaging services. *We* may also charge any excess usage at *your* standard rates for SMS.
- 20.2 *We* consider excessive usage to be more than 1,000 Traffic View SMS alerts per month per service.
- 20.3 Without limiting the meaning of ‘excessive use’, *we* supply the Optus Traffic View SMS Alerts service for the purpose of allowing *you* to access the service on *our* network for *your* own personal or business use and not for any commercial purpose.

## **21 UNLIMITED FACEBOOK®, TWITTER, MYSPACE, LINKEDIN, EBAY, FOUR SQUARE, YOUTUBE, AND/OR MOTOBLUR HAPPENINGS – UNACCEPTABLE AND UNREASONABLE USE UNACCEPTABLE USE**

- 21.1 If *you* use Facebook®, Twitter, MySpace, LinkedIn, eBay, Four Square, YouTube mobile sites and/or Motoblur Happenings services, *you* must comply with this policy, which is designed to ensure *your* use of the service does not break any laws or interfere with the right of our other customers to use the service. If *you* fail to comply, *we* may suspend or cancel *your* use of the service.
- 21.2 *You* must not use the *service* in a manner which interferes with the rights of other users. For example, *you* must not:
- (a) provide false user information to *us* or other users,
  - (b) send large amounts of unsolicited or unwanted messages to individuals or individual business accounts, or

- 21.3 In using the *service*, *you* must not break any laws or infringe the rights of other persons. For example, *you* must not:
- (a) distribute or make available indecent, obscene, offensive, pornographic, illegal or confidential material,
  - (b) defame, harass or abuse anyone or violate their privacy,
  - (c) contravene any applicable laws,
  - (d) distribute or make available material that is misleading or deceptive as to *your* identity,
  - (e) infringe any person's *intellectual property rights*,
  - (f) monitor data or traffic on any *network* or system if *you* do not have the authorisation of the owner of the *network* or system to do so, or
  - (g) interfere or disrupt the *service*, any computer system access through it or any other person's use of it.
- 21.4 *You* must comply with any rules imposed by any third party whose content or service *you* access using the service.
- 21.5 *You* may not otherwise copy, publish, re-publish, re-distribute, re-communicate or otherwise commercially exploit such *content* in any form or by any method whatsoever. For the avoidance of doubt, this prohibition includes framing, linking, posting in news groups and any other form of copying by persons other than as approved by the content provider.
- 21.6 To detect and deal with breaches of this policy and to ensure compliance with any relevant industry code of practice, notification or direction by any relevant regulatory authority, *we*:
- (a) will co-operate with other *carriage service providers* to control unacceptable user behaviour,
  - (b) may give *your* details to the police and to other law enforcement agencies if *you* are suspected of breaking any laws in connection with the use of the *service*,
  - (c) may implement technical mechanisms to prevent behaviour which breaches this policy (for example, which block multiple postings before they are forwarded to their intended recipients),
  - (d) may exercise any rights we have under the [consumer terms](#), the [SMB terms](#), the [general terms](#), or relevant service description, including suspending or cancelling use of the service,
  - (e) may remove any content from our servers,
  - (f) may filter the *content* made available to *you* via the *service* or restrict *your* access to a particular site,
  - (g) may take any other action *we* deem appropriate, including taking action against offenders to recover costs and expenses of identifying them.

## UNREASONABLE USE

- 21.7 In addition, and without limiting *our* rights under the agreement, where *we* consider *your* use of the Unlimited Facebook®, Twitter, MySpace, LinkedIn, eBay, Four Square, YouTube mobile sites and/or Motoblur Happenings services (excluding any Unlimited Offers), is unreasonable, then *we* may suspend *your* access to these service immediately and without notice to *you*.
- 21.8 Please note that *our* right to suspend or *cancel* the *service* **without notice to you** under this clause overrides any requirement *we* may have to give *you* notice in other parts of the agreement, for example under clauses 11.3(b) and 12.1(b) of the *Consumer terms* or the *SMB terms* (as applicable to *you*). Without limiting the meaning of ‘unreasonable’, in respect of:
- (a) Unlimited Facebook®, Twitter, MySpace, LinkedIn, eBay, Four Square, YouTube mobile sites /or and Motoblur Happenings offers (‘Unlimited Offers’) for Optus customers:
- (i) *We* supply the service for the purpose of *you* accessing the Unlimited Offers in an ordinary manner and for an ordinary purpose, on *our* network and not for any commercial or non ordinary purpose.
- Commercial or non ordinary purpose* includes (without limitation) the following activities:
- running a telemarketing business or call centre;
  - re-supplying or reselling the *service*;
  - *your* use of the Unlimited Offers does not comply with the terms of the offer;
  - *your* use of the Dollar Days (\$1 Days, \$2 Days, \$3 Days) or Optus Day to Day is not in accordance with the terms and conditions of the offer, for example mobile handset tethering and/or use of non mobile voice devices; or
  - other activity which would not be reasonably regarded as ordinary use.

## 22 MY TIME UNTIMED CALLS (AUGUST 2012) – UNREASONABLE USE

- (a) In addition, and without limiting *our* rights under the [consumer terms](#), the [general terms](#), or the relevant *service description*, where *we* consider *your* use of the My Time Untimed Call offer is unreasonable (excluding any Unlimited Offers), then *we* may:
- (i) suspend *your* access to the Untimed Call offer, or
- (ii) suspend or *cancel* the *service* or *your* access to a *value added service feature*,

in each case immediately and without notice to *you*.

Please note that *our* right to suspend or *cancel the service* **without notice to you** under this clause overrides any requirement *we* may have to give *you* notice in other parts of the *agreement*, for example under clauses 11.3(b) and 12.1(b) of the *consumer terms* (as applicable to *you*).

- (b) Without limiting the meaning of 'unreasonable', *we* supply the *service* and each of the value added services for the purpose of *you*:
- (i) making calls from and receiving calls to *your mobile phone*, and
  - (ii) sending *content* from and receiving *content* to *your mobile phone*
- on *our network* or the *network* of any *supplier* for *your* own personal use.
- (c) *We* consider *your* use of the *service* or a *value added service feature*, to be unreasonable if *you*:
- (i) make or receive calls or send or receive *content* on *our network* other than for *your* own personal, as described in paragraph (b) above,
  - (ii) wholesale and business use of any service (including transit, refile or aggregate domestic or international traffic) on *our network*, or
  - (iii) use the *service* (including any *Optus SIM card*) in connection with a device that switches or reroutes calls to or from *our network* or the *network* of any *supplier*,
- without obtaining *our* written consent first. *We* may give or withhold *our* consent, or make *our* consent subject to conditions, in *our* discretion.
- (d) *We* also consider *your* use of the *service* or a *value added service feature* to be unreasonable if *you* set up switch devices, thus keeping a line open potentially for hours and limiting the ability for other customers to access *our network*.