

# **Mobile Refresh Service Program**

## **Terms & Conditions**

### **1. TERMS, ACCEPTANCE AND INTERPRETATION**

- 1.1 These **Terms** set out the agreement between You and Us in relation to Your enrolment in the **Service Program** and purchase of **Mobile Refresh Services**.
- 1.2 You acknowledge that You have read and fully understood these **Terms**. Your enrolment in the **Service Program**, upon the **Start Date**, constitutes unconditional acceptance by You to be bound by these **Terms**.
- 1.3 Words and phrases which appear in bold, or which are otherwise capitalised, are defined in the context in which they appear or in the definition clause 14 below.
- 1.4 *Australian Consumer Law and Consumer Guarantees* - Our goods and services, including Your **Registered Device**, come with statutory **Consumer Guarantees** that cannot be excluded under the **Australian Consumer Law**. If Your **Registered Device** suffers a defect or failure which constitutes a **Major Failure** of a **Consumer Guarantee**, You are entitled to reject the goods and choose a replacement or refund and claim compensation for any reasonably foreseeable loss or damage suffered as a result of the failure. Where the failure does not amount to a **Major Failure**, You are entitled to require Us to repair or replace the goods or provide a refund (at Our choice). You are not required to pay for Your rights and remedies under the **Australian Consumer Law**. These **Terms** are in relation to Your rights under the **Service Program**, which are in addition to Your existing rights under the **Australian Consumer Law**. Nothing in these **Terms** restricts or modifies Your rights under the **Australian Consumer Law**. For more information about Your Rights under the **Australian Consumer Law**, visit [www.accc.gov.au](http://www.accc.gov.au). When You raise a **Mobile Refresh Service Request**, We will ask you to provide information about your **Registered Device** to determine if there is a defect or failure that is covered under a **Consumer Guarantee**. Any remedy under the **Australian Consumer Law** will not be considered a **Mobile Refresh Service** under this **Agreement** and You will not be required to pay a **Mobile Refresh Service Fee**.
- 1.5 The **Service Program** is not an insurance plan, nor are We insurers. The **Service Program** is a service plan supplied by Us in respect of Your **Registered Device**. The **Service Program** does not offer you any rights, remedies or services in respect of a latent defect in Your **Registered Device** existing at the time of sale of Your **Registered Device** to You.

### **2. SERVICE PROGRAM OVERVIEW**

Subject to these **Terms**, the **Service Program** permits You to access an unlimited number of **Mobile Refresh Services** for Your **Registered Device** in a 12-month or 24-month period, depending on the **Subscription** you have purchased.

### **3. ENROLMENT**

- 3.1 *Eligibility Criteria* – In order to apply for enrolment in the **Service Program** in respect of an **Eligible Device**, You must:
  - 3.1.1 be at least 18 years old;
  - 3.1.2 provide Us with the following details:
    - (a) Your full name (first & last name);
    - (b) Your mobile number;
    - (c) Your email address; and
    - (d) Your residential address; and
  - 3.1.3 pay the upfront Enrolment Fee.
- 3.2 *Time of application* – You must make Your application to enrol in the **Service Program** at the time You purchase Your **Eligible Device** from Us.
- 3.3 *Acceptance and rejection*

- 3.3.1 If Your application to enrol in the **Service Program** is unsuccessful, We will inform You of this (by email, telephone or SMS) within 7 days of Your application date. If Your application to enrol in the **Service Program** is successful, Your **Subscription** will commence on the **Start Date**.
- 3.3.2 Your application will be unsuccessful if:
  - (a) You have previously been rejected or terminated from the **Service Program** or a service similar to the **Service Program**; or
  - (b) We, acting reasonably, determine that Your application should be unsuccessful.
- 3.3.3 Your application for enrolment in the **Service Program** may be rejected or Your **Subscription** to the **Service Program** may be terminated within 30 days of Your application date if any one or more of the eligibility criteria in clause 3.1.1, 3.1.2 and 3.1.3 are not met.
- 3.3.4 Upon enrolment into the **Service Program**, Your **Eligible Device** will become Your **Registered Device**.

#### 3.4 *Enrolment conditions*

You may enrol multiple **Eligible Devices** (each with a separate IMEI) under separate **Subscriptions**. You will be charged an **Enrolment Fee** for each enrolled **Eligible Device** and each Subscription will have separate **Mobile Refresh Service** entitlements.

### 4. FEES

- 4.1 *Enrolment Fee* - You must pay the applicable **Enrolment Fee** to Us when You apply for enrolment in the **Service Program**.
- 4.2 *Mobile Refresh Service Fee* – For each **Mobile Refresh Service Request** You make for Your **Registered Device** during the **Subscription Term**, You must pay to Us the **Mobile Refresh Service Fee**. We direct and authorise You to pay each **Mobile Refresh Service Fee** to **Asurion** through the **Mobile Refresh Portal**, in accordance with and as required by clause 5.2.
- 4.3 *GST* - All fees set out in this clause 4 and throughout these **Terms** are inclusive of GST. In the event of a change to the rate of GST, We reserve the right to adjust the **Fees** and prices to include an additional amount on account of any additional GST.

### 5. MOBILE REFRESH SERVICE REQUESTS

- 5.1 You may file an unlimited number of **Mobile Refresh Service Requests** over Your selected **Subscription Term** for any reason. For the avoidance of doubt, Your right to file a **Mobile Refresh Service Request** during the **Subscription Term**, and Our obligation (subject to these Terms) to provide **Mobile Refresh Services** to You, is:
  - 5.1.1 not dependent on any event occurring beyond Your or Our control (such as accidental damage caused to Your screen from an event beyond Your control); and
  - 5.1.2 not in respect of, or connected with, a latent defect in Your **Registered Device** existing at the time of sale of Your **Registered Device** to You.
- 5.2 You must make a **Mobile Refresh Service Request** and pay the **Mobile Refresh Service Fee** through the **Mobile Refresh Portal**.
- 5.3 We will provide You with unique details to access the **Mobile Refresh Portal** when Your application for enrolment in the **Service Program** is successful.
- 5.4 When making a **Mobile Refresh Service Request**, You will be asked to confirm:
  - 5.4.1 that your **Registered Device** is in **Good Working Order**; and
  - 5.4.2 the address for delivery of Your **Mobile Refreshed Device**. We do not deliver outside of Australia or to public places including PO Boxes.
- 5.5 Your **Mobile Refresh Service Request** will only be accepted if:
  - 5.5.1 You pay the **Mobile Refresh Service Fee**;
  - 5.5.2 You confirm that Your **Registered Device** is in **Good Working Order**;
  - 5.5.3 You confirm to Us that You have backed up or transferred any and all data on the **Registered Device**; have erased all content on the **Registered Device**; completed a factory reset; and removed Your SIM Card and any SD memory card;
  - 5.5.4 the **IMEI** of the **Registered Device**, and Your name and mobile phone number correspond with the information You gave Us when You applied to participate in the **Service Program** or pursuant to any change in accordance with clause 9;

- 5.5.5 You provide any additional information reasonably requested by Us;
- 5.5.6 We have no reasonable belief that You have transferred, retailed, sold, or hired out Your **Registered Device** to another person residing at a different residential address;
- 5.5.7 the **Registered Device** has not been the subject of **Modification** and does not contain missing, customised or non-original parts; and
- 5.5.8 We reasonably believe that You are not using the **Service Program** in a manner which is, or is reasonably believed to be: (i) fraudulent, illegal or related to any criminal activity; or (ii) intended to make a commercial gain.

## 6. MOBILE REFRESH SERVICES

6.1 Once We have accepted Your **Mobile Refresh Service Request**, You must send Us Your **Registered Device** and We will provide the **Mobile Refresh Services** to You in respect of Your **Registered Device** (subject to the exception listed in clause 6.4.3 below) and will return Your **Registered Device** to You.

6.2 *Preparation* – Before mailing in Your **Registered Device**:

- 6.2.1 Back up or transfer any important data on Your **Registered Device**. We are not responsible for data You leave on the **Registered Device**. Your **Registered Device** will undergo a data wipe as part of the **Mobile Refresh Services**;
- 6.2.2 Unlock Your **Registered Device**, disable all passwords and turn off any personal lock security features (for example, if You have an Apple device You must turn off the Find My iPhone security feature);
- 6.2.3 Erase all content on Your **Registered Device** and complete a factory reset;
- 6.2.4 Remove Your SIM card, any SD memory card and if possible, Your battery. You do not need to return any accessories (covers, chargers, power cables, headphones). If You send us Your accessories, We may not be able to return them to You. We will not return SIM cards left in Your **Registered Device**.

6.3 *Mail in* –

- 6.3.1 Following acceptance of Your **Mobile Refresh Service Request**, We will send You a prepaid return label via email.
- 6.3.2 Please bring this return label with You to Your nearest Australia Post Office.
- 6.3.3 When You present Your return label at your local Australia Post Office, You will be provided with packaging (at no additional charge).
- 6.3.4 Put Your **Registered Device** into the shipment box at Your nearest Australia Post Office.
- 6.3.5 Request an Australia Post lodgement receipt and keep a copy as confirmation.
- 6.3.6 If You post to Us a **Device** as part of a **Mobile Refresh Service Request** and it:
  - (a) does not correspond to Your **Registered Device** (model & IMEI); or
  - (b) is locked and We are not able to remedy this; or
  - (c) has been **Modified** or has missing, customised or non-genuine parts,

Your **Mobile Refresh Service Request** will be cancelled, Your **Mobile Refresh Service Fee** will be refunded to You and Your **Device** will be returned to You at Your cost.

6.4 *Completion of Your Mobile Refresh Request* –

- 6.4.1 Once we receive your **Registered Device**, We will conduct a physical inspection of Your **Registered Device** to confirm that We are able to complete the **Mobile Refresh Services**.
- 6.4.2 We will aim to complete the **Mobile Refresh Services** within 2 business days.
- 6.4.3 We may not be able to complete the **Mobile Refresh Services** if Your **Registered Device** is not in **Good Working Order**. In these circumstances, we will cancel Your **Mobile Refresh Service Request**, return your **Registered Device** to You, and Your **Mobile Refresh Service Fee** will be refunded.

6.5 *Restore the content on Your Registered Device*

- 6.5.1 Once We have completed the **Mobile Refresh Services**, We will send Your **Mobile Refreshed Device** to the address You provided during Your **Mobile Refresh Service Request** at no additional cost to You.
- 6.5.2 Upon receipt of Your **Mobile Refreshed Device**, restore content from Your most recent back-up of Your **Registered Device** (for example, from Your cloud back-up service).

## 7. ACKNOWLEDGEMENT

- 7.1 You acknowledge that:
- 7.1.1 the **Service Program** is not intended to be used for commercial gain;
  - 7.1.2 all data will be deleted from Your **Registered Device** without further consultation with You when You mail in Your **Registered Device** for **Mobile Refresh Services**;
  - 7.1.3 where Your **Registered Device** is replaced under a warranty claim or pursuant to any statutory Consumer Guarantee, You must contact Us through the **Mobile Refresh Portal** to advise Us of the replacement **IMEI** number;
  - 7.1.4 if You transfer Your **Subscription** to a **Permitted Transferee**, You must obtain the consent of the **Permitted Transferee** to contact Us through the **Mobile Refresh Portal** to advise Us of the full name (first & last name), mobile number and email address of the **Permitted Transferee**.

## 8. TERM AND TERMINATION

- 8.1 You are entitled to receive the benefits of the **Service Program** from the **Start Date** until the End Date, unless Your **Subscription** is sooner terminated in accordance with this clause 8.
- 8.2 *Termination by You:* You can terminate Your **Subscription** to the **Service Program** in the following circumstances:
- 8.2.1 if You are entitled to reject the **Device** under the **Australia Consumer Law** (for example, because of a **Major Failure**) and You elect to return the **Device** for a refund; or
  - 8.2.2 Your **Device** is subject to a recall and is returned.
- If You elect to terminate Your **Subscription** in accordance with clause 8.2.1 or 8.2.2, We will discuss with You any available refund options in relation to Your **Subscription**.
- 8.3 *Termination by Us* – We may immediately terminate Your **Subscription** to the **Service Program** and the **Agreement** at any time if We reasonably believe that:
- 8.3.1 You are using the **Service Program** (whether intentionally or not) in a way that may adversely impact Our reputation or the reputation of any one or more of the Harvey Norman®, Domayne® and Joyce Mayne® brands;
  - 8.3.2 You are using the **Service Program** in a manner which is, or is reasonably believed to be fraudulent;
  - 8.3.3 You have breached, or are likely to breach, these **Terms**;
  - 8.3.4 You have provided Us with incorrect, false or incomplete information;
  - 8.3.5 You or are likely to create imminent harm or harass or are abusive to any of Our personnel, service providers or sub-contractors.
- 8.4 *Automatic* – Your **Subscription** to the **Service Program** and the **Agreement** will terminate immediately if We discover that You have transferred, sold, displayed for sale, or let on hire Your **Registered Device** other than in accordance with clause 9.2.

### 8.5 *Consequences of termination*

- 8.5.1 *No reactivation* – If Your subscription to the **Service Program** has been terminated in relation to a **Registered Device**, Your subscription to the **Service Program** cannot be reactivated for that **Registered Device**.
- 8.5.2 *Mobile Refresh Service Requests* – If You have made a **Mobile Refresh Service Request** during Your **Subscription Term**, have paid the **Mobile Refresh Service Fee** for that **Mobile Refresh Service Request** and We have accepted that **Mobile Refresh Service Request** in accordance with these **Terms**, We will provide the **Mobile Refresh Services** in respect of that **Mobile Refresh Service Request**, even if those **Mobile Refresh Services** will be fulfilled after the expiration or termination of Your **Subscription Term**.

## 9. CHANGE OF REGISTERED DEVICE OR TRANSFER OF SUBSCRIPTION

- 9.1 You may not change Your **Registered Device** under the **Service Program** unless Your **Registered Device** has been replaced under a warranty scheme or statutory **Consumer Guarantee**, in which case You may substitute Your **Registered Device** with the replaced **Device** under the **Service Program**.
- 9.2 Your **Subscription** can only be transferred to a **Permitted Transferee**.
- 9.3 Any other person who acquires Your **Registered Device** will not have any benefit under these **Terms**.

## 10. THE AUSTRALIAN CONSUMER LAW

Our replacement screens and replacement accessories provided under the **Service Program** come with guarantees that cannot be excluded under the **Australian Consumer Law**. You are entitled to a replacement or refund for a **Major Failure** and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have Your replacement screen or replacement accessories, or both (as applicable) repaired or replaced if they fail to be of acceptable quality and the failure does not amount to a **Major Failure**.

## 11. DATA PRIVACY

11.1 *Privacy Policy.* A copy of Our privacy policy is available at Our store. Our privacy policy, as amended from time to time, applies to the **Service Program**.

11.2 *Consent.* You also agree that by:

11.2.1 making an application to enrol in or continuing to use the **Service Program**, You are giving consent to Us and Our service providers, including **Asurion**, to collect, use and disclose Your **Personal Information** in accordance with the **Data Privacy Laws** and Our privacy policy for the purposes of:

- (a) assessing Your eligibility to enrol, and continuing to be enrolled in the **Service Program** or using the **Service Program**;
- (b) providing You with the services under the **Service Program**;
- (c) allowing direct and indirect contact with You in connection with the **Service Program**;
- (d) managing commercial risks, and preventing, detecting, and investigating suspected illegal activity, fraud or disputes;
- (e) complying with any relevant governmental or regulatory authorities (or both) where legally required;

11.2.2 using the **Service Program**, You consent to Our service providers, including **Asurion**, storing and hosting data with the affiliates, partners and subsidiaries of Asurion, or with unaffiliated third parties including third-party service providers, whether in Australia or overseas, for the purpose of providing the **Service Program**, and the services under the **Service Program**, to You or for any other purpose specified in the Our privacy policy.

## 12. MISCELLANEOUS

12.1 *Service providers, contractors and third parties* – We may subcontract, in whole or in part, to any third party or parties, including **Asurion**, any one or more of Our obligations under, or in connection with, the **Service Program** without notice to You. Actions taken by any party appointed by Us are taken to be actions of Us and Your sole recourse will be against Us and not **Asurion** or any other third party.

12.2 *Governing law* – The **Agreement** will be governed by and construed in accordance with the laws of New South Wales.

12.3 *Entire agreement* – This **Agreement** represents the parties' entire agreement in relation to the **Mobile Refresh Services** and the **Service Program**, and supersedes all prior representations, communications, agreements, statements and understandings, whether oral or in writing.

12.4 *Promotions* – We may from time to time offer promotions relating to all or any part of the **Service Program**. Any such promotions shall be governed by the terms and conditions of the applicable promotion, and by these **Terms** to the extent that the terms and conditions of the promotion are silent. In the event of any conflict between the terms and conditions of a promotion and these **Terms**, the terms and conditions of the promotion shall prevail to the extent of the conflict.

## 13. ENQUIRIES

If You have any queries, complaints, claims or feedback regarding the **Service Program**, please contact Us by using the **Mobile Refresh Portal**.

## 14. DEFINITIONS

14.1 **Agreement** means the agreement between You and Us which is governed by these Terms.

14.2 **Asurion** means Asurion Australia Pty Ltd (ABN 18 155 388 275).

14.3 **Australian Consumer Law** means the law contained in Schedule 2 to the *Competition and Consumer Act 2010* (Cth).

- 14.4 **Consumer Guarantee** means a consumer guarantee contained in the Australian Consumer Law and **Consumer Guarantees** mean any two or more of them.
- 14.5 **Data Privacy Laws** means Commonwealth, State and/or Territory legislation in relation to the collection, use, storage, transfer, security or disclosure of any **Personal Information**, including (without limitation) the *Privacy Act 1988* (Cth) that applies to Us.
- 14.6 **Device** means a mobile wireless device that:
- 14.6.1 has a display screen;
  - 14.6.2 supports one or more wireless network connectivity options; and
  - 14.6.3 is operated using voice, touch or a miniature keyboard.
- 14.7 **Eligible Device** means a **Device** supplied to You:
- 14.7.1 as new by Us and registered in the **Service Program** at the time of purchase, as described in the original purchase receipt or Tax Invoice; or
  - 14.7.2 by Us or the manufacturer under warranty or as a remedy provided pursuant to a Consumer Guarantee, the details of which (including the **IMEI**) You have reported to Us through the **Mobile Refresh Portal**.
- 14.8 **End Date** means either the date which is 12 months or 24 months from the Start Date, depending on the Subscription Term of Your Subscription.
- 14.9 **Enrolment Fee** means the applicable fee notified to you prior to your enrolment in the **Service Program**, which is dependent on the **Device** you have and the **Subscription Term** You select.
- 14.10 **Fees** means the **Enrolment Fee** and any **Mobile Refresh Service Fee**.
- 14.11 **Good Working Order** means Your **Registered Device** is in good working order (based on a series of questions We ask to assess the condition of Your **Registered Device**) including (but not limited to) that Your **Registered Device**:
- (a) is free from liquid damage;
  - (b) does not having physical damage other than a damaged screen and/or scratches to the side and/or back;
  - (c) functions normally (ie. can turn on, make calls and sound notifications work);
  - (d) is able to charge normally and the charging port is free from visible damage.
- 14.12 **IMEI** means the international mobile equipment identity number of a **Device**.
- 14.13 **Hardware Modification** means any modification made to the hardware of a **Device** not undertaken or authorised by the manufacturer.
- 14.14 **Major Failure** has the meaning given to that term in the Australian Consumer Law.
- 14.15 **Mobile Refreshed Device** means a **Registered Device** that has been the subject of **Mobile Refresh Services**.
- 14.16 **Mobile Refresh Portal** means an online web portal, which may be accessed via the **Website**, and which **Subscribers** will use to lodge **Mobile Refresh Service Requests** and carry out other administrative tasks in relation to the **Service Program**.
- 14.17 **Mobile Refresh Service Request** means a request for **Mobile Refresh Services** permitted under these **Terms**.
- 14.18 **Mobile Refresh Services** means, in respect of a Registered Device, the following services to be provided by Us to You in respect of that **Registered Device**, after You have paid the **Mobile Refresh Service Fee** in respect of a **Mobile Refresh Service Request** for that **Registered Device** and We have accepted that **Mobile Refresh Service Request**:
- 14.18.1 Screen replacement – replacement of the front screen and LCD module using genuine **OEM** parts;
  - 14.18.2 Provision of an accessories kit– standard **OEM** wired headset and charge cable (not including electrical plug);
  - 14.18.3 Full diagnostic testing of the hardware of Your **Registered Device**; and
  - 14.18.4 Detailed cleaning of Your **Registered Device's** exterior chassis and external ports.
- 14.19 **Mobile Refresh Service Fee** means the applicable fee notified to You in the **Mobile Refresh Portal** prior to lodging a **Mobile Refresh Service Request**.

- 14.20 **Modification** means **Software Modification** or **Hardware Modification** or both.
- 14.21 **OEM** means original equipment manufacturer.
- 14.22 **Permitted Transferee** means a family member residing at the same residential address as You.
- 14.23 **Personal Information** means information or an opinion about an identified individual or an individual who is reasonable identifiable:
- 14.23.1 whether the information or opinion is true or not; and
- 14.23.2 whether the information or opinion is recorded in a material form or not.
- 14.24 **Registered Device** means an **Eligible Device** that We have registered with reference to its **IMEI** for the **Service Program** in accordance with these **Terms**.
- 14.25 **Service Program** means the service plan for **Mobile Refresh Services**, as set out in these **Terms**.
- 14.26 **Software Modification** means modification made to the operating system of a **Device** not undertaken or authorised by the manufacturer and includes software modification known as 'jail-breaking' and 'rooting'.
- 14.27 **Start Date** means the later of the following dates:
- 14.27.1 the date upon which You receive written confirmation of Your **Subscription**; and
- 14.27.2 the date You receive Your **Eligible Device**, which has been registered under the **Service Program**.
- 14.28 **Subscriber** means a subscriber to the **Service Program**, who has complied with all eligibility criteria and has been accepted into the **Service Program**.
- 14.29 **Subscription** means Your subscription to the **Service Program**, pursuant to these **Terms** and your **Agreement** with Us.
- 14.30 **Subscription Term** means the term of Your **Subscription** commencing on the **Start Date** and expiring on the **End Date** or sooner termination of this **Agreement** in accordance with these **Terms**.
- 14.31 **Tax Invoice** means an invoice in the format required by *A New Tax System (Goods & Services Tax) Act 1999* (Cth) and the related imposition Acts of the Commonwealth.
- 14.32 **Terms** means these terms and conditions.
- 14.33 **You, Your, Yourself** means the person(s) or business named as the purchaser on the original purchase receipt or **Tax Invoice** in respect of Your **Registered Device**.
- 14.34 **We, Us, Our** each refer to the retailer whose name appears on the original purchase receipt or **Tax Invoice** as the supplier of Your **Registered Device** to You.
- 14.35 **Website** mean the website located at [www.mobilerrefresh.asurion.com.au](http://www.mobilerrefresh.asurion.com.au).