

# Terms and conditions of sale

## 1. Application of these terms and conditions

- 1.1 These terms and conditions apply to all orders for, and purchases of, Products (as defined in clause 3) by you from Intercel Pty Ltd (ABN 13 007 077 161) ( we , us or our ) through our website, <https://www.intercel.com.au/store/>, or by any other means through which we choose to transact with you, as well as to the delivery and supply of those Products to you. Please read these terms and conditions carefully before you place any order for Products with us. **By ordering and buying Products from us, you will be taken to have accepted these terms and conditions and be legally bound by them. If you do not agree with any of these terms and conditions, please do not buy Products from us.**
- 1.2 These terms and conditions contain important information about the ordering, processing and delivery and the supply of Products by us to you, including limitations of our liability. We reserve the right in our absolute discretion at any time and without notice to amend, remove or vary any Products we offer for sale, these terms and conditions and/or any page of our website. Each time you use our website or propose ordering or buying Products from us, you should review and be aware of our current terms and conditions.
- 1.3 These terms and conditions do not apply to orders and purchases of Products by you from us if you are a business with a trade account with us. In that case, different terms and conditions apply to you. To view the terms and conditions applicable to purchases of Products from us on a trade account, please log in to the trade account section of our website if you have a trade account with us, or apply to open a trade account through our website.

## 2. Your legal rights

Your purchase of Products will be subject to certain laws including, without limitation, the Australian Consumer Law. The Australian Consumer Law provides you with certain rights that cannot be excluded, including (without limitation) that the Products must be of acceptable quality, reasonably fit for the purpose that we represent they will be fit for, that the Products will correspond with any relevant description and that any related services will be rendered with due care and skill. Nothing in these terms and conditions is to be interpreted or applied so as to exclude, restrict or modify or have the effect of excluding, restricting or modifying any condition, warranty, guarantee, right or remedy implied by law (including the Australian Consumer Law) which cannot by law be excluded, restricted or modified.

## 3. Definitions

In these terms and conditions:

**Account** means a personal account created by you on the Website;

**Australian Consumer Law** means the Australian Consumer Law as set out in schedule 2 of the *Competition and Consumer Act 2010* (Cth);

**Delivery Charge** has the meaning given to it in clause 5.3;

**Delivery Options** means the delivery options available for an Order which are specified on the Website, as updated from time to time, or as otherwise notified by us to you. The delivery options available for an Order will vary depending on factors such as the nature of the Products you are purchasing and your delivery address. Delivery options may include standard delivery and express delivery. Delivery Charges and estimated delivery times may vary for each Delivery Option;

**International Delivery Charges** has the meaning given to it in clause 5.5;

**Order** means an order for Products, placed on the Website or (where we accept such modes of order) by telephone or email;

**Password** means the password needed to access your Account;

**Product** means, as the context requires, any product sold or offered for sale by us from time to time and any related services provided by us;

**Selected Delivery Option** has the meaning given to it in clause 10.9; and

**Website** means <https://www.intercel.com.au/store/>

#### 4. Availability and suitability of Products

4.1 We may withdraw or suspend from sale any Products displayed on the Website, either temporarily or permanently, at any time and without notice.

4.2 We do not provide advice, or make any warranty or representation, as to the suitability of any of our Products for your particular needs or circumstances. It is your responsibility to check that any Products you buy from us suit your particular needs and circumstances (for example, that you have an appropriate active SIM card, antennas, power source etc. to enable the relevant Products to function in accordance with any specifications we publish in relation to those Products).

#### 5. Prices

5.1 Prices for Products are as shown on the Website, or as otherwise notified by us to you in writing (including by email).

5.2 We reserve the right to change the prices of Products at any time without notice to you. The price displayed at the time that you place your Order will continue to apply to you even if the price changes before your Order is accepted by us.

5.3 In addition to the price for Products you order, you will also need to pay the listed delivery charge (if any) (**Delivery Charge**) for your Selected Delivery Option. Any Delivery Charge will appear in your shopping cart.

5.4 In paying or attempting to pay for Products, you agree that you have not engaged in any fraudulent conduct or contravened any law.

5.5 If we agree to deliver Products outside Australia, international delivery charges will apply (**International Delivery Charges**). The International Delivery Charges applicable to your relevant country will appear in your shopping cart or will be notified by us to you by email.

5.6 By placing an Order, you agree to pay the price for the Products, any Delivery Charge and any International Delivery Charge.

5.7 All prices and Delivery Charges and International Delivery Charges quoted are in Australian dollars and are inclusive of GST.

#### 6. Your account

6.1 If you do not already have an Account you will need to create one before placing an Order, unless:

(a) Website; or

(b) at our discretion, we allow you to submit your Order by telephone or email.

6.2 You may not set up an Account for someone else.

6.3 You must enter all information carefully when creating an Account. You warrant to us that all information provided by you in relation to your Account is complete, true and accurate.

6.4 You must notify us immediately if you become aware of any actual or potential unauthorised use of your Password or Account.

6.5 If we suffer any loss, damage, cost or expense as a result of any unauthorised use of your Password or Account which takes place before you notify us, then you must pay us the amount of that loss, damage, cost or expense if we ask you to.

#### 7. Orders

7.1 You can place an Order by following the instructions on the Website, or any instructions we may give you for placing an Order by alternative means acceptable to us (for example, by telephone or email).

7.2 By placing an Order, you are making an offer to enter into an agreement for you to purchase from us the relevant Products the subject of the Order, for the applicable price plus the Delivery Charge as shown at the time of placement of your Order and any applicable International Delivery Charge. We may accept or reject your offer in our absolute discretion. In particular, but without limitation, we may reject Orders for commercial quantities of Products.

- 73 Each Order that you place will, if accepted by us, be a separate and binding agreement between you and us with respect to the supply of the relevant Products, in accordance with these terms and conditions.
- 74 If you place an Order for someone else to receive Products, you must obtain their consent before providing us with their personal information and, by placing an Order, you confirm to us that you have done that.
- 75 Please ensure that you enter all information carefully when placing an Order. You warrant to us that all information provided by you in relation to each Order is complete, true and accurate.
- 76 Please check your Order and Selected Delivery Option carefully (including the quantities ordered) before submitting it as Orders may not be able to be changed or cancelled, once the Order has been accepted by us. We may, on request by you, in our absolute discretion, change or cancel the Order if it has not already been shipped.
- 77 Where you place separate Orders, the Products will be delivered separately and a separate Delivery Charge (and International Delivery Charge, if applicable) will apply to each Order. We cannot consolidate separate Orders into one delivery.
- 78 Where you order more than one item in one Order, all Products for which your Order is accepted at the same time will be dispatched together, where practicable. However, in some cases, Products may be dispatched separately (for example, where the Products have different availability statuses). A Delivery Charge is calculated based on the Selected Delivery Option.
- 79 You acknowledge that all Products the subject of any Order you place are intended for personal, domestic and non-commercial use only.
- 7.10 You acknowledge and agree that:
- (a) the internet can be an unstable and insecure; and
  - (b) at times, the ability to place Orders may not be available, your Order might not be received, your Order may be lost or misdirected, or your Order might be delayed.
- 7.11 You must take your own precautions to ensure that the process which you employ for accessing the Website does not expose you to risk of viruses, malicious computer code or other forms of interference which may damage your computer system, and contains appropriate protection to prevent damage to your computer system caused by viruses, malicious computer code or other forms of interference.
- 8. Acceptance of Orders and payment**
- 81 When you place an Order you will receive an Order reference number via e-mail.
- 82 We will process payment for your Order when, or shortly after, you place your Order. Your Order is deemed to be accepted by us when such processing occurs, except that, in certain circumstances, we may cancel your Order after acceptance as set out in these terms and conditions. If we cancel your Order after your payment has been processed, we will refund you the payment in accordance with clause 10.
- 83 When we accept an Order, we agree to supply the Products the subject of the Order to you in accordance with your Order, subject to receiving payment from you and subject to these terms and conditions.
- 84 You must pay for Products which are the subject of your Order by credit card (Visa or Mastercard) or PayPal account. If the name on the credit card or account does not match the name on the Order, we may refuse to accept your Order or ask you to provide additional information (for example, proof of identity documents) in accordance with our fraud detection processes. By providing your credit card, you authorise us to charge and debit the price and any applicable Delivery Charge and International Delivery Charge to such card.
- 85 We reserve the right to change the payment methods that can be used for Orders at any time in our absolute discretion.
- 86 We may not be able to, or may decline to, accept payment from you by your nominated payment method at any time for any reason including, without limitation:
- (a) where our fraud detection systems detect possible irregularities;

- (b) because your financial institution has declined payment; or
- (c) because your payment card has expired.

Where any of the above occurs, we reserve the right to cancel your Order and/or place your Order on hold and request you to provide additional information (for example, proof of identity documents) or arrange payment by another method.

- 8.7 Products that you have ordered will not be dispatched or supplied to you until your payment for the Products has cleared. If your payment cannot be processed, your Order will be rejected and we will notify you by email.

## 9. Cancellation of Orders

- 9.1 We reserve the right to cancel, at any time before delivery of Products, and for any reason, an Order that we have previously accepted. We may do this for example, but without limitation, where:

- (a) our suppliers or contractors are unable to supply Products that they have previously promised to supply;
- (b) an event beyond our control, such as storm, fire, flood, earthquake, terrorism, power failure, war, strike or failure of computer systems, means that we are unable to supply the Products within a reasonable time;
- (c) Products ordered were subject to an error on the Website, for example, in relation to a description, price or image, which was not discovered prior to the Order being accepted;
- (d) you ask us to cancel your Order in accordance with clause 7.6; or
- (e) in the circumstances set out in clause 8.6.

- 9.2 You may cancel your Order where:

- (a) we have breached a material term of these terms and conditions; or
- (b) we are not able to deliver your Order within a reasonable time of the estimated delivery time listed on the Website for the applicable Selected Delivery Option or any other estimated delivery time of which we have given you notice in writing (including by email) before you placed your Order, other than a result of any delay:
  - ⓐ for which you are wholly or partly responsible, such as a failure to provide the correct delivery address or to pay for the Products; or
  - ⓑ which was outside our control, including any circumstance set out in clause 9.1(a) or 9.1(b).

- 9.3 Where we cancel your Order after acceptance, we will send you an email notifying you of the cancellation.

- 9.4 If we or you cancel your Order (where permitted under these terms and conditions) after payment has been processed, we will refund any money paid in respect of that Order, subject to clause 10.

## 10. Delivery

- 10.1 Risk and title in Products pass to you on the date and time of delivery of the Products to the delivery address provided in your Order.

- 10.2 All online orders received via the website will be aimed to dispatch on the same business day if received before 12:00 pm AEDT. If for any reason your order cannot be dispatched on the same business day an authorised representative will contact you via call or email to advise an alternate dispatch date.

- 10.3 Products will generally only be delivered to addresses within Australia via TNT or AUSPOST overnight service. In areas where overnight service is not available, a standard service that can take 2-3 business days will be utilised from our trusted and reputable courier service providers. Some oversized items may require a delivery by road, which can take 2-4 business days. We may be unable to deliver to certain parts of Australia and where that is the case, you will not be able to process your Order through the Website. We may, in our absolute discretion, agree to accept Orders for Products for delivery outside Australia but we are under no obligation to do so.

- 10.4 If you request us to do so, we will arrange delivery of Products to PO Boxes or Postal Lockers in Australia where possible via AUSPOST, based on the size of the Products and/or their packaging. Where it is not possible to deliver the Products to a PO Box or Postal Locker and you have specified a PO Box or Postal Locker as the delivery address when placing your Order, we will contact you to arrange an alternative delivery address. Delivery to PO Boxes may incur extra charges in that case, we will contact to confirm any additional fee.
- 10.5 If you require any special delivery arrangements, you can reach us at [orders@intercel.com.au](mailto:orders@intercel.com.au)
- 10.6 Following dispatch of your Products, we will email you with confirmation of dispatch and an invoice for your Order.
- 10.7 On delivery you may be required to sign a proof of delivery document. If you are not available to take delivery, we will, at our discretion:
- (a)
  - (b) take your Products to our nominated alternative delivery point that is close to your delivery address (for example, a post office); or
  - (c) re-deliver your Products to your delivery address at a later date.

You will receive a text message and/or a calling card at your delivery address containing details of the local depot, alternative delivery point or contact details for you to arrange for re-delivery of your Products. Please note that if you do not pick up your Products from the nominated alternative delivery point within the period specified in the text message and/or calling card, your Products will be taken to

- 10.8 If you require Products that you have ordered to be re-directed to an address which is not the original Order address, and such Products have already been dispatched, we will use reasonable endeavours to re-direct the Products to your requested address and may charge you a reasonable fee for doing this.
- 10.9 When you place an Order for Products to be delivered, you will be required to select one of the available Delivery Options for your Order. An estimated delivery time will be listed for the Delivery Option that you select (**Selected Delivery Option**) for your Order, or we will otherwise notify you of an estimated delivery time (for example, by email). We will use reasonable endeavours to deliver the Products in your Order by the estimated delivery time. If certain Products in your Order are out of stock, estimated delivery times for those out of stock Products may be longer than usual. Please note that any estimated delivery time given by us is an approximate delivery time only and is not a guaranteed delivery time for your Order.
- 10.10 You acknowledge and agree that:
- (a) we do not guarantee the dispatch or delivery or availability of Products within estimated delivery times specified for the Delivery Options or the Selected Delivery Option for your Order, or any other timeframes otherwise specified by us; and
  - (b) stock availability and events outside our control may cause delays, or in some circumstances, prevent your Products from being delivered.

## 11. Refunds

Where we are obliged to refund your payment under these terms and conditions, we will initiate your refund as soon as practicable. The additional time that it takes for you to actually receive your refund will depend upon how quickly your financial institution processes the refund. Please note that if we are obliged to provide a partial refund of your payment for specific Products in your Order, we will only refund the component of the Delivery Charge relating to the Products which are the subject of the refund.

## 12. Returns and faulty or damaged Products

- 12.1 You should check your Products as soon as they are delivered to you in order to ensure that:
- (a) they are what you ordered; and
  - (b) they are not damaged or faulty.

If this is not the case, you should contact us as soon as possible as follows:

**Telephone:** +61 3 9239 2000

**Email:** online@intercel.com.au

- 122 Our Products may come with an express warranty against defects. For the terms of any applicable Product warranty and how to make a claim, please refer to the Website or the Product warranty sheet included with the Product.
- 123 When returning Products, please provide us with your proof of purchase. We recommend that, where possible, you use the original packaging a Product came in when returning it so as to minimise the risk of damage in transit.
- 124 You may not be entitled to a refund or exchange just because the packaging of a Product is damaged in transit. The packaging is designed to protect the Product, and is not part of the Product.

### **13. Limitation of our liability to you**

13.1 Except only for any express warranty we provide in respect of our Products, for those rights and remedies that you have in respect of our Products under the Australian Consumer Law (as to which, refer to clause 2) and similar state and territory laws and which cannot be lawfully excluded, restricted or modified, and except as otherwise provided in clause 13.2 or in any other provision of these terms and conditions:

- (a) all conditions, guarantees and warranties, whether statutory or otherwise, are excluded in relation to the Products;
- (b) we are not liable to you or any other person for any loss of profit, loss of revenue, loss of business, loss of bargain, loss of savings, loss of data, loss or goodwill, loss of reputation, the cost of obtaining replacement or alternative products or services, or the cost of other remedial measures, or for any indirect, special, economic or consequential loss, arising in connection with any Order or Account; and
- (c) we are not liable to you or to any other person, whether in contract, negligence or any other tort, equity, restitution, strict liability, under statute or otherwise at all, for any loss, damage, cost or expense suffered as a direct or indirect result of:
  - (i) your Account information being incomplete or inaccurate; or
  - (ii) any unauthorised use of your Password or Account which takes place before you notify us;
  - (iii) your Order information being incomplete or inaccurate, or as a result of your being unable to change or cancel your Order once it has been accepted by us;
  - (iv) the cancellation of your Order in accordance with these terms and conditions;
  - (v) the unavailability of any Products at any time;
  - (vi) any delay in the delivery or provision of Products; or
  - (vii) any delay in your receiving any refund due to you.

13.2 Our liability under any condition, guarantee or warranty implied or stipulated by the Australian Consumer Law (as to which, refer to clause 2) or similar state or territory law which may not be excluded, but may be limited in one of the following ways, is limited at our option to:

- (a) in the case of Products (other than services):
  - (i) the replacement of relevant Products or the supply of equivalent Products; or
  - (ii) the refund of the price or other amount paid by you for the relevant Products; and
- (b) in the case of any services forming part of any Product:
  - (iii) the supply of those services again; or
  - (iv) the refund of the price paid by you for those services.

**14. Privacy**

Our policy on the collection, use and disclosure of customers personal information is set out in our privacy policy and collection statement which can be viewed on our Website and form part of these terms and conditions.

**15. Additional terms and conditions**

15.1 Your use of the Website is governed by the Website terms of use, which can be viewed on the Website.

15.2 Additional terms and conditions may apply to certain Products, which can be viewed on the Website. Any such additional terms and conditions form part of these terms and conditions.

**16. General**

16.1 A reference in these terms and conditions to a statute or regulation or a provision of a statute or regulation is a reference to that statute, regulation or provision as amended or a statute, regulation or provision replacing it, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws made or issued under that statute.

16.2 We may amend these terms and conditions (including replacing them) at any time. Any amendment will take effect from the time that it appears on the Website. The terms and conditions which apply at the time that you place your Order are the terms and conditions that will apply to your Order.

16.3 If any provision of these terms and conditions is void, voidable, unenforceable, illegal, prohibited or otherwise invalid in a jurisdiction, in that jurisdiction the provision must be read down to the extent it can be to save it, but if it cannot be saved by reading it down, words must be severed from the provision to the extent they can be to save it, but if that also fails to save it, the whole provision must be severed. That will not invalidate the remaining provisions of these terms and conditions nor affect the validity or enforceability of that provision in any other jurisdiction where it is not invalid.

16.4 These terms and conditions are governed by the laws of Victoria, Australia. We and you submit to the non-exclusive jurisdiction of the courts exercising jurisdiction in Victoria, Australia.