

SAMSUNG CARE+ TERMS AND CONDITIONS (UPFRONT ENROLMENT)

1. TERMS, ACCEPTANCE AND INTERPRETATION

- 1.1 These terms and conditions (**Terms**) set out the agreement between you and **Samsung** (the **Agreement**) in relation to your purchase and use of Samsung Care+ (the **Program**).
- 1.2 You acknowledge that you have read and fully understood these **Terms**. Your use of the **Program**, upon the **Start Date**, constitutes unconditional acceptance to be bound by these **Terms** as may be amended from time to time.
- 1.3 Words and phrases which appear in bold are defined in the context which they appear or in the definition clause 13 below.
- 1.4 A reference to “you” and “your” means the customer who seeks to enrol or has enrolled for the **Program**.
- 1.5 *Australian Consumer Law and Consumer Guarantees* - Our goods and services, including Samsung Care+, come with statutory Consumer Guarantees that cannot be excluded under the Australian Consumer Law. If your **Registered Device** (which includes a **Like Mobile Device** received under a **Swap**) suffers a defect or failure which is covered by a Consumer Guarantee, you are entitled to a repair, replacement or refund (at **Samsung’s** discretion) for a minor failure or a refund or compensation for a major failure. When you request a **Swap** under **Samsung Care+**, 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 **Swap** under this Agreement and a **Swap Fee** will not be payable.

2. PROGRAM OVERVIEW

Subject to these **Terms**, Samsung Care+ permits you to swap your **Registered Device** for a **Like Mobile Device** twice in 24 months from the **Start Date**. You must return your **Registered Device** to complete the swap.

3. ENROLMENT

- 3.1 *Eligibility Criteria* – In order to apply for enrolment for the **Program** for an **Eligible Device** you must:
 - 3.1.1 provide your full name and email address; and
 - 3.1.2 pay the upfront **Enrolment Fee**.
- 3.2 *Time of application* – You must make your application either:
 - 3.2.1 at the time you purchase your **Eligible Device**; or
 - 3.2.2 up to 30 days after you purchase your **Eligible Device (Post Purchase Application)** subject to successfully completing the **Post Purchase Declaration** via the **Samsung Care+ Portal** including the following:
 - (a) uploading proof of purchase of your **Eligible Device**;
 - (b) confirmation that your **Eligible Device** is in your possession and in good working order by:
 - (i) uploading an image of back of your **Device** and an image of the front of your **Device** with the **IMEI** displayed on screen; and

- (ii) completing a declaration about the condition of your **Device**.

3.3 *Acceptance and rejection* -

3.3.1 If your application to enrol in the **Program** is unsuccessful, **Samsung** will inform you of this (by email, telephone or SMS) within:

- (a) 7 days of your application date where you made your application at the same time you purchased your **Eligible Device**; or
- (b) 30 days of your application date where you made a **Post Purchase Application**.

Otherwise, the **Start Date** of your **Subscription** to the **Program** is the date upon which you receive your **Eligible Device**, which has been registered under the **Program**.

3.3.2 Your application may be unsuccessful:

- (a) if you have previously been rejected or terminated from the **Program** or service similar to the **Program**; or
- (b) if you make a **Post Purchase Application** and:
 - (i) fail to comply with the requirements in clauses 3.2.2(a) and 3.2.2(b); or
 - (ii) the images you upload of your **Device** indicate that your **Device** is not in good working order, as reasonably determined by us.

(c) for any other reasons in **Samsung's** reasonable discretion.

3.3.3 Your application for enrolment in the **Program** may be rejected or your **Subscription** to the **Program** may be terminated within 30 days of your application date if any of the eligibility criteria in clause 3.1 are not met.

3.3.4 Upon enrolment into the **Program**, your **Eligible Device** will become your **Registered Device**.

3.4 *Enrolment conditions* – You may enrol multiple **Eligible Devices** (each with a separate **IMEI** and **MDN**) under separate **Subscriptions**. You will be charged an **Enrolment Fee** for each enrolled **Eligible Device** and each **Subscription** will have separate **Swap** entitlements.

4. **FEES**

4.1 *Enrolment Fee* – You will pay the applicable fee provided to you immediately prior to your application for enrolment (**Enrolment Fee**):

4.2 *Swap Fee* – For each **Swap Request** for a **Swap** under these **Terms** you will pay the applicable fee provided to you immediately prior to your **Swap** (**Swap Fee**). The **Swap Fee** must be paid at the time of your **Swap Request** using the **Samsung Care+ Portal** or any other payment method that **Samsung** may choose to make available.

4.3 *Device Non-Return Fee (Registered Device)* – You must return your **Registered Device** (using the reply-paid envelope) to **Samsung** within 14 days of receipt of the **Like Mobile Device** or you will be charged a **Device Non-Return Fee**. You will be advised of the amount of the **Device Non-Return Fee** when you make a **Swap Request**. You authorise **Samsung** to charge your **Credit Card** for the **Device Non-Return Fee**.

- 4.4 *Device Non-Return Fee (Like Mobile Device)* – If you are supplied a defective **Like Mobile Device** pursuant to a **Swap** and you are sent a second **Like Mobile Device** as a substitute, you must return the first **Like Mobile Device** to **Samsung** within 14 days of its receipt, using the reply-paid envelope. If you do not, you will be charged a **Device Non-Return Fee**. You will be advised of the amount of the **Device Non-Return Fee** when we agree to issue a second **Like Mobile Device**. You authorise **Samsung** to charge your **Credit Card** for the **Device Non-Return Fee**.
- 4.5 *Incorrect Device* – If the **Device** you return pursuant to a **Swap** does not correspond to the **Registered Device** (model & IMEI), then you must return the correct **Registered Device** (at your own cost) within 7 days of receipt of a notice from **Samsung** to do so. If you fail to do so, **Samsung** will charge you a **Device Non-Return Fee**. The notice from **Samsung** will specify the amount of the applicable **Device Non-Return Fee**. You authorise **Samsung** to charge your **Credit Card** for the **Device Non-Return Fee**. You may request **Samsung** to return the incorrect **Device** to you at your cost.
- 4.6 *Inoperable Device* – If you return a **Registered Device** as part of a **Swap** and it is:
- 4.6.1 disabled or locked (including **IMEI** blocked) and **Samsung** is not able to remedy this; and/or
 - 4.6.2 has missing, customised or non-original parts,
(either, an **Inoperable Device**), your **Swap Request** will be cancelled. If a **Like Mobile Device** has already been dispatched to you, **Samsung** will take reasonable steps to contact you and request that you, within 14 days:
 - 4.6.3 unlock or enable the **Inoperable Device** or take other steps to make the **Inoperable Device** operable; or
 - 4.6.4 return the **Like Mobile Device**.
- 4.7 If you do not comply with either clause 4.6.3 or 4.6.4 (as the case may be), **Samsung** will charge you an **Inoperable Device Fee**. You authorise **Samsung** to charge your **Credit Card** for the **Inoperable Device Fee**. **Samsung** will return the **Inoperable Device** to you and charge you for the delivery fees. You authorise **Samsung** to charge your **Credit Card** for the delivery fees.
- 4.8 *Modified Devices* – If the **Device** you return pursuant to a **Swap** has been subject to **Modification**, then **Samsung** will:
- 4.8.1 reject the **Swap Request** at the time the **Registered Device** is received and your **Swap Request** will be considered cancelled. **Samsung** will refund the **Swap Fee** by the original method of payment;
 - 4.8.2 upon your request, return the **Registered Device** to you at your cost. You authorise **Samsung** to charge your **Credit Card** for the delivery fees.
- 4.9 *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, **Samsung** reserves its right to adjust the **Fees** and prices accordingly.
5. **SWAP REQUEST**
- 5.1 You may file up to two **Swap Requests** in the 24-month period from the **Start Date (Limit)**.
- 5.2 You may make a **Swap Request** by using the **Samsung Care+ Portal**.

- 5.3 Your **Swap Request** will only be accepted if:
- 5.3.1 you are successfully enrolled in the **Program**;
 - 5.3.2 the **IMEI** of the **Registered Device**, subscriber's name and mobile phone number correspond with the information given to **Samsung** by you at enrolment or pursuant to any change in accordance with clause 9;
 - 5.3.3 you provide any additional information reasonably requested by **Samsung**, including in the form of a signed confirmation or acknowledgment;
 - 5.3.4 you are within the **Limit** as set out in clause 5.1 above;
 - 5.3.5 **Samsung** has no reasonable belief that you have transferred, retained, sold, or hired your **Registered Device** to another person;
 - 5.3.6 the **Swap Request** is not for a **Device Accessory**;
 - 5.3.7 the **Registered Device** has not been the subject of **Modification**; and
 - 5.3.8 **Samsung** reasonably believes that you are not using the **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.
- 5.4 *Information* – When you make a **Swap Request**, you are not required to establish that your **Registered Device** is broken or damaged.

6. **SWAP**

- 6.1 *Preparation* – You must turn off any personal lock security feature before returning your **Registered Device** via the pre-paid envelope provided.
- 6.2 *Title and rights* – Title in and any rights to the **Registered Device** shall be transferred to **Samsung** on the **Acceptance Date** of your **Swap Request** relating to that **Registered Device**. You hereby assign to **Samsung** all associated rights and benefits of any **Samsung** warranty. You shall not transfer, sell, hire or otherwise deal with the **Registered Device** in a manner that is not consistent with the ownership rights of **Samsung**.
- 6.3 *Samsung actions* – **Samsung**, as the owner of the previous **Registered Device**, may take any other action consistent with ownership of the previous **Registered Device** that it deems necessary including informing the police and any other relevant law enforcement authorities to assist in recovery of the previous **Registered Device**.
- 6.4 *Data left on Device and transfer* – You shall be solely responsible for all data stored in your **Registered Device** and you shall delete all data from the **Registered Device** before providing it to **Samsung**. **Samsung** is not responsible for data you leave on the **Registered Device** and will not transfer any such data or information between the **Registered Device** and the **Like Mobile Device**.
- 6.5 *No representation or warranty* – **Samsung** makes no representation or warranty that any **Like Mobile Device** will be identical, of the same colour or offer the same functionalities as your **Registered Device**.

7. **DELIVERY**

- 7.1 *Address* – Except in relation to international delivery pursuant to clause 7.5, the delivery must be to your registered or billing address. **Samsung** will not deliver a **Like Mobile Device** to any public place.
- 7.2 *Timings* – A **Like Mobile Device** will be dispatched to you on the same **Business Day** that you submit a **Swap Request**, provided that we receive and approve your **Swap Request** by 3pm AEST/AEDT on a **Business Day**, and a **Like Mobile Device** is available in stock.
- 7.3 *Backorders* – If a **Like Mobile Device** is not available in stock at the time you make a **Swap Request**, we will place a priority backorder request for a **Like Mobile Device**.
- 7.4 *Costs* – Deliveries to an address in Australia will be made at no charge to you.
- 7.5 *International delivery* -
- 7.5.1 If you make a **Swap Request** for delivery to a location outside of Australia, a **Like Mobile Device** will be delivered to you by **Courier** at your cost. You must pay the delivery costs by **Credit Card** at the time of your **Swap Request**.
- 7.5.2 You must return (at your cost) your **Registered Device** to **Samsung** within 21 days of receipt of your **Like Mobile Device** or a **Device Non-Return Fee** will be charged. You will be advised of the amount of the **Device Non-Return Fee** when you make a **Swap Request**. You authorise **Samsung** to charge your **Credit Card** for the **Device Non-Return Fee**.
- 7.6 The **Like Mobile Device** will not be delivered in original packaging.
- 7.7 *Acknowledgement* – You acknowledge that:
- 7.7.1 the **Program** is not intended to be used for commercial gain;
- 7.7.2 **Samsung** will delete all data on the previous **Registered Device** without reference to you;
- 7.7.3 upon acceptance of the **Swap Request**, title in the **Registered Device** is transferred to **Samsung** in accordance with clause 6.2; and
- 7.7.4 where your **Registered Device** is replaced under a warranty claim or pursuant to any statutory Consumer Guarantee, you must contact **Samsung** through the **Samsung Care+ Portal** to advise us of the replacement **IMEI** number.

8. TERM AND TERMINATION

- 8.1 **Samsung** will supply the **Program** to you from the **Start Date** until it is terminated in accordance with this clause.
- 8.2 *Termination by you* – You can terminate your **Subscription** to the **Program** in the following circumstances:
- 8.2.1 if you are entitled to reject the **Device** under the Australian 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, **Samsung** will discuss with you any available refund options in relation to your **Subscription**.

- 8.3 *Termination by Samsung* – **Samsung** may immediately terminate your **Subscription** to the **Program** and the **Agreement** at any time if **Samsung** reasonably believes that:
- 8.3.1 you are using the **Program** (whether intentionally or not) in a way that may adversely impact the reputation of **Samsung**;
 - 8.3.2 you are using the **Program** in a manner which is, or is reasonably believed to be:
 - (a) fraudulent, illegal or related to any criminal activity; or
 - (b) intended to make a commercial gain;
 - 8.3.3 you have breached, or are likely to breach, these **Terms**;
 - 8.3.4 you are or may become bankrupt or unable to pay your debts as they fall due;
 - 8.3.5 you have provided **Samsung** with incorrect, false or incomplete information;
 - 8.3.6 you have not paid any amounts due to **Samsung** under these **Terms** for a period exceeding 30 days from its due date; or
 - 8.3.7 you are likely to create imminent harm or harass or are abusive to any personnel of **Samsung** and its service providers, sub-contractors and agents.
- 8.4 *Automatic* – Your **Subscription** to the **Program** and the **Agreement** will terminate immediately if **Samsung** discovers that you have transferred, sold, displayed for sale, or let on hire your **Registered Device**. Your **Subscription** cannot be transferred to another person, and any person who acquires your **Registered Device** will not have any benefit under these **Terms**.
- 8.5 *Consequences of termination* -
- 8.5.1 *No reactivation* – If your subscription to the **Program** has been terminated in relation to a **Registered Device**, your subscription to the **Program** cannot be reactivated for that **Registered Device**.
 - 8.5.2 *Swap Requests* – If you have made a **Swap Request** which is not fulfilled as at the time of the termination, the **Swap Request** may be cancelled.

9. CHANGE OF REGISTERED DEVICE

Your **Registered Device** may not change except for:

- 9.1 the change made pursuant to a **Swap**; or
- 9.2 the exchange of your **Registered Device** under a warranty scheme or statutory Consumer Guarantee; or
- 9.3 If there is at least 10 full months remaining of your **Subscription**, you may transfer your **Subscription** to a new upgraded **Eligible Device**. The new **Eligible Device** must be in the same **Device Category** as your **Registered Device**. If

applicable, you will be advised of the associated transfer fee immediately prior to the **Subscription** transfer.

- 9.4 You must inform **Samsung** through the **Samsung Care+ Portal** of any change under clause 9.2 or 9.3 and provide proof of the exchange where necessary in order for **Samsung** to update its records with the **IMEI** of the new **Device**, from which time the new **Device** will become the **Registered Device**.

10. DATA PRIVACY

- 10.1 *Device Program* – The **Samsung** Personal Data Protection Policy which may be found at <https://www.samsung.com/au/info/privacy/> or such other link as may be notified by **Samsung** from time to time (**PDP Policy**), which applies to the **Program**.

- 10.2 *Consent* – You also agree that by:

10.2.1 making an application to enrol for or continuing to use the **Program**, you are giving consent to **Samsung** and its service provider, **Asurion**, to collect, use and/or disclose your **Personal Information** in accordance with the **Data Privacy Laws** and the **PDP Policy** for the purposes of:

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

10.2.2 using the **Program**, you consent to **Samsung**'s service provider, **Asurion**, storing or hosting data with **Asurion**'s affiliates, partners and subsidiaries, or with **Asurion**'s unaffiliated third parties including third-party service providers, whether in Australia or other countries, for the purpose of providing you with the Program or for any other purpose specified in the **PDP Policy**.

11. MISCELLANEOUS

- 11.1 *Changes* – The features and services of the **Program**, these **Terms** and the **Fees** are subject to change. **Samsung** will notify you of any changes that are likely to be of material detriment to you through the **Website**. The latest version of these Terms will be made available on the **Website**.
- 11.2 *Service providers, contractors and third parties* – **Samsung** has appointed **Asurion** to provide services in respect of the operation of the **Program**, including dealing with all customers, the provision of **Like Devices** and processing payments on **Samsung**'s behalf. **Samsung** may also use other third parties in respect of the **Program**. Actions taken by any party appointed by **Samsung** are taken to be

actions of **Samsung** and your sole recourse will be against **Samsung** and not **Asurion** or any other third party.

- 11.3 *Governing law* – The **Agreement** will be governed by and construed in accordance with the laws of New South Wales.
- 11.4 *Entire agreement* – This **Agreement** represents the parties' entire agreement in relation to Samsung Care+ and supersedes all prior representations, communications, agreements, statements and understandings, whether oral or in writing.
- 11.5 *Promotions* – **Samsung** may from time to time offer promotions relating to all or any of the **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 promotion's terms and conditions are silent. In the event of any conflicts between a promotion's terms and conditions and these **Terms**, the promotion's terms and conditions shall prevail.

12. ENQUIRIES

If you have any queries, complaints, claims or feedback regarding the **Program**, please contact **Samsung** by using the **Samsung Care+ Portal**.

13. DEFINITIONS

- 13.1 **Acceptance Date** means the date when **Samsung** accepts your **Swap Request**.
- 13.2 **Asurion** means Asurion Australia Pty Ltd (ABN 18 155 388 275).
- 13.3 **Business Day** means any day except Saturday and Sunday and any public holiday recognised in the State of New South Wales.
- 13.4 **Courier** means a third-party logistics agent appointed by **Samsung** to make deliveries in relation to the **Program**.
- 13.5 **Credit Card** includes: VISA and MasterCard credit cards or any other credit card advised to you at the time of payment.
- 13.6 **Customised Mobile Device** means a **Device** that has been customised or made to order for a particular end user (e.g. an exclusive colour variant of a **Device** that is only offered for sale on **Samsung's Website** and requires special production).
- 13.7 **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).
- 13.8 **Device** means an Australian variant of a **Samsung** mobile wireless device that:
- (a) has a display screen;
 - (b) supports one or more wireless network connectivity options; and
 - (c) is operated using voice, touch or a miniature keyboard.
- It does not include any **Device Accessories**.
- 13.9 **Device Accessory** means anything that is either:

- (a) provided by **Samsung**, as the original manufacturer, in the box with a **Device**; or;
- (b) sold separately to be used in conjunction with a **Device**. It includes:
 - (i) SIM cards;
 - (ii) memory cards;
 - (iii) chargers;
 - (iv) ear buds;
 - (v) boxes;
 - (vi) cases;
 - (vii) cables;
 - (viii) mounts; and
 - (ix) docking stations.

13.10 **Device Category** means the tier outlined for your **Registered Device** as advised in your **Agreement** and the supported **Device** list on the **Website** at the time of your enrolment.

13.11 **Device Non-Return Fee** is the fair market value cost to replace your original **Registered Device** or, if the model of your original **Registered Device** is no longer available, a similar device in the same **Device Category**, and includes any administration fee applied in connection with the failure to return.

13.12 **Eligible Device** means a **Device** supplied to you:

- (a) as new by **Samsung** or any of its approved **Retail Partners** and is eligible to be registered in the **Program** at the time of purchase or transfer; or
- (b) as a **Like Mobile Device**, pursuant to the **Program**;
- (c) by **Samsung** under warranty or Consumer Guarantee, the details of which (including the **IMEI**) you have reported to **Samsung** through the **Samsung Care+ Portal**.

13.13 **Enrolment Fee** has the meaning given to that term in clause 4.1.

13.14 **Fees** means the fees set out in clause 4 and clause 7.

13.15 **IMEI** means the international mobile equipment identity number of a **Device**.

13.16 **Inoperable Device Fee** is a reimbursement fee equal to the fair market value of the **Like Mobile Device** sent to you pursuant to a **Swap**.

13.17 **Hardware Modification** means any modification made to a **Device's** hardware not undertaken or authorised by **Samsung**.

13.18 **Like Mobile Device** means a **Device**, compared to the **Registered Device**, that:

- (a) may be new or refurbished;
- (b) is of similar kind, quality and functionality;
- (c) may be a different model or colour;

- (d) has a different **IMEI**;
 - (e) does not include any **Device Accessories**; and
 - (f) is not a **Customised Mobile Device**.
- 13.19 **Limit** has the meaning given to that term in clause 5.1.
- 13.20 **Modification** means **Software Modification** or **Hardware Modification** or both.
- 13.21 **Personal Information** means information or an opinion about an identified individual or an individual who is reasonable identifiable:
- (a) whether the information or opinion is true or not; and
 - (b) whether the information or opinion is recorded in a material form or not.
- 13.22 **Post Purchase Declaration** means a web form completed by you regarding the condition of your **Eligible Device**.
- 13.23 **Registered Device** means an **Eligible Device** that **Samsung** has registered with reference to its **IMEI** for the **Program** in accordance with these **Terms**.
- 13.24 **Retail Partner** means an agent, appointed by **Samsung** to sell **Subscriptions** to the **Program**.
- 13.25 **Retail Store** means any **Samsung** store or any retail store in Australia approved by **Samsung** to sell the **Program**.
- 13.26 **Samsung** means Samsung Electronics Australia Pty Ltd (ABN 63 002 915 648)
- 13.27 **Samsung Care+ Portal** means an on-line web portal, which may be accessed via the **Website**, and which **Subscribers** will use to lodge **Swap Requests** and carry out other administrative tasks in relation to the **Program**.
- 13.28 **Samsung Store** means a retail store branded as “Samsung” in Australia operated by or on behalf of **Samsung**.
- 13.29 **Software Modification** means modification made to a **Device’s** operating system not undertaken or authorised by **Samsung** and includes software modification known as ‘jail-breaking’ and ‘rooting’.
- 13.30 **Start Date** has the meaning given to that term in clause 3.3.
- 13.31 **Subscriber means** a subscriber to the **Program**, who has complied with all eligibility criteria and has been accepted into the **Program**.
- 13.32 **Subscription** means your subscription to the **Program**, pursuant to these **Terms** and your **Agreement** with **Samsung**.
- 13.33 **Swap** means the exchange of a **Subscriber’s Registered Device** for a **Like Mobile Device** permitted under these **Terms**.
- 13.34 **Swap Fee** means the fee set out in clause 4.2.
- 13.35 **Swap Request** means a request for a **Swap** permitted under these **Terms**.
- 13.36 **Website** means the **Samsung** website.