

EasyMobilizer Service Agreement ("Agreement")

1. THIS AGREEMENT

1.1 This Agreement constitutes the whole of the agreement between the parties. It supersedes and extinguishes any previous agreement or understanding between the parties about the subject matter of this Agreement and any representation or warranty previously given.

1.2 Definitions

In this Agreement:

EasyMobilizer is the service name of LocalGold Pty Ltd.

Commencement Date means the date set out in the Customer Agreement.

Confidential Information means any information of a private, confidential or secret nature concerning EasyMobilizer or an End User, and which comes to the Customer's knowledge during the course of or in connection with subscribing to the Services.

Content means the content provided by the Customer to EasyMobilizer to be used in providing the Services.

Customer includes the employees, principals and agents of the Customer and any other persons duly authorised to act on the Customer's behalf.

Customer Agreement means accepting the terms and conditions of this Agreement and Fees.

End User means an end user of the Services.

Fees means the fees amounts agreed to by the parties.

Force Majeure means where EasyMobilizer is unable, wholly or in part, to carry out any obligation under this Agreement by reason of an act of God, strike, lockout or other interference with work, war declared or undeclared, blockade, disturbance, lightning, fire, earthquake, storm, flood, explosion, governmental, or quasi-governmental restraint, expropriation, prohibition, intervention, direct or embargo, unavailability or delay in availability of equipment or transport, systems or technological failure, consents, permits, licences, authorities or allocations and any other cause whether of the kind specifically mentioned above or otherwise which is not reasonably within the control of EasyMobilizer.

GST means GST within the meaning of the GST Act. GST Act means the A New Tax System (Goods and Services Tax) Act 1999 (as amended).

Intellectual Property means any and all copyright (including future copyright and rights in the nature of copyright), moral rights, inventions (including patents), trade marks, service marks, business names, domain names, designs, know-how, ideas, systems, methods, processes, solutions, trade secrets, computer software (including source and object code) and circuit layouts, whether or not now existing, and whether or not registered or registrable.

Intellectual Property Rights means any and all intellectual and industrial property rights throughout the world and includes any right to apply for the registration of such rights and all renewals and extensions thereof.

Moral Rights means rights of integrity, rights of attribution and rights of an analogous nature that now exist or which may exist in the future.

Services mean the service provided by EasyMobilizer for the provision of the mobile and internet services as detailed in Schedule 1 to this agreement.

EasyMobilizer includes the employees, principals and agents of EasyMobilizer and any other persons duly authorised to act on EasyMobilizer's behalf in connection with providing the Services.

Term means the period from the Commencement Date until such date that this Agreement is terminated in accordance with Clause 11 or expires by effluxion of time.

1.3 In this Agreement unless the context indicates a contrary intention: the singular includes the plural and vice versa and words of one gender include any other gender; words importing persons include corporations and all other entities recognised by law; reference to any party includes that party's legal personal representatives, successors, transferees and assigns; references to clauses and schedules are references to clauses in and schedules to this Agreement; reference to a right includes a benefit, remedy, discretion, authority or power, reference to an obligation includes a warranty or representation and a reference to a failure to perform an obligation includes a breach of warranty or representation; and clause headings in this Agreement are only for convenience and do not affect interpretation.

2. SERVICES

EasyMobilizer agrees to provide the Services to the Customer on the terms and conditions of this Agreement, detailed in Schedule 1 to this Agreement.

EasyMobilizer does not accept registrations for services from those under 18 years of age. By registering with EasyMobilizer, you represent that you are at least 18 years old.

3. EasyMobilizer's OBLIGATIONS

3.1 EasyMobilizer will use its best endeavours to:

- (a) provide the Services with due care and skill;
- (b) provide general advice and information regarding the Services;
- (c) where possible, maintain its servers and equipment at times which will affect the fewest customers;
- (d) archive Content during the Term, however, EasyMobilizer is not responsible for any corruption in its archives and the Customer is responsible for keeping an up-to-date copy of all Content during the Term;

3.2 EasyMobilizer will not:

- (a) monitor or censor Content, however, EasyMobilizer may immediately remove or disable access to Content without notice to the Customer upon being made aware of any claim, allegation, court order, judgment, determination or other finding of a court or competent body that the Content is illegal or otherwise in breach of the rights of any person; and
- (b) provide customer support to End Users using the Services;

4. CUSTOMER'S OBLIGATIONS

The Customer agrees and warrants that:

- (a) it will provide Content to EasyMobilizer in any form required to enable EasyMobilizer to provide the Services;
- (b) it will comply with all applicable laws, regulations and codes of practice relating to the Content and the Services;
- (c) the Content is not illegal, offensive, defamatory, misleading or deceptive, or breaches the Intellectual Property Rights of any person;
- (d) it is the owner or authorised licensee of the Content and will continue to own or be authorised to use the Content for the Term;
- (e) use of the Content by EasyMobilizer in connection with the Services will not infringe the Intellectual Property Rights or other rights of any person;
- (f) it will comply with any and all terms and conditions specified in the Customer Agreement that apply to particular Services;
- (g) it will strictly follow any operational procedures relating to the Services as notified by EasyMobilizer from time to time;
- (h) it will execute all documents and do all things necessary to enable EasyMobilizer to provide the Services;

- (i) it will not re-supply the Services or any part thereof to any person;
- (j) it will keep secure all passwords and access codes used in connection with the Services;

5. FEES AND EXPENSES

5.1 The Customer must pay the subscription Fees to EasyMobilizer.

5.2 All prices displayed and products and services offered to be supplied by EasyMobilizer are subject to change without notice.

5.3 EasyMobilizer will provide the Customer with a valid tax invoice.

5.4 The Customer must pay any fees, taxes, duties or expenses of whatever nature associated with the Services (including but not limited to Goods and Services Tax) that is not specifically included in the Fees.

5.5 If payment of any Fees by the Customer is overdue by seven (7) days or more, EasyMobilizer may, at its option and without prejudice to any of its other rights or remedies, do one or more of the following:

- (a) immediately suspend the Services without notice to the Customer;
- (b) terminate this Agreement in accordance with Clause 8;

5.5 Prices quoted, whether in a price list, by written quotation or verbally, for the supply of goods and services, exclude GST and any other taxes or duties imposed on or in relation to the goods and services. The Customer must pay any GST and any other taxes or duties imposed on the goods and services.

5.6 Where there is any change in the costs incurred by Us in relation to the goods or services, We may vary our price for the goods or services in order to take account of any such change, by notifying You.

6. DELIVERY OF GOODS AND SERVICES

6.1 We will take all reasonable steps to deliver Content to mobile phone users and internet users upon request. However, in some circumstances, Content may be undeliverable due to technological difficulties or because receiving mobile phone is not working properly, is switched off, is out of range, is not a compatible handset or if the storage space on the mobile phone is full. In such case we will be unable to deliver the content. Our liability is limited to the fullest extent permitted by law.

6.2 Any period or date for delivery of goods or provision of services is intended as an estimate only and is not a contractual commitment. We will use our reasonable endeavours to meet any estimated dates for delivery of the goods or completion of the services but will not be liable for any loss or damage suffered by You or any third party for failure to meet any estimated date.

7. RETURNS AND EXCHANGES

7.1 We will not be liable for any defects, shortages, damage or non-compliance with the specifications in the Agreement unless You notify Us in writing with full details within 7 business days of delivery of the goods or provision of the services.

7.2 If You do not give the notice as required in clause 6.1, You are deemed to have accepted the goods or services.

7.3 When any defects, shortages, claim for damage or non-compliance with the Agreement specifications is accepted We may, at our option, replace the defective or missing goods or re-provide services.

8 CANCELLATION

8.1 If, through circumstances beyond our control We are unable to effect delivery or provision of goods or services, then We may cancel your order (even if it has already been accepted).

8.2 No purported cancellation or suspension of an order or any part thereof by You is binding on Us after that order has been accepted.

9 CONFIDENTIAL INFORMATION

9.1 The Customer must keep confidential any and all Confidential Information, and such obligations are continuing obligations throughout the Term and at all times following the termination of this Agreement.

9.2 The Customer must not, without the prior written consent of EasyMobilizer, disclose any Confidential Information to any person, except as required by law or if the information enters the public domain (other than by a breach of confidence).

9.3 The Customer must comply with all the laws and regulations (including privacy laws) which relate to any obligations of EasyMobilizer to keep the personal information and affairs of End Users confidential.

9.4 The Customer agrees and expressly permits EasyMobilizer to use the Customer's name and Content for promotional purposes.

10. INTELLECTUAL PROPERTY

10.1 The Customer agrees that all Intellectual Property owned by or licensed to EasyMobilizer remains the sole property of EasyMobilizer (or its licensor) and must not be used by the Customer without EasyMobilizer's prior written consent.

10.2 The Customer grants a non-exclusive and continuing licence to EasyMobilizer for the Term to use, reproduce and disseminate Content in any form in connection with providing the Services.

10.3 The Customer agrees that all Intellectual Property Rights in any improvements made by EasyMobilizer to Content remains the sole property of EasyMobilizer, unless otherwise agreed in writing.

10.4 The Customer consents and will obtain all other necessary written consents at its expense, to any act or omission that would otherwise infringe any Moral Rights or other analogous legal rights in any Content in favour of EasyMobilizer, including but not limited to:

- (a) EasyMobilizer's right to adapt, edit, alter or modify any Content and to incorporate or merge Content or any part thereof with other material; and
- (b) EasyMobilizer's right not to provide attribution of the authorship of any Content.

11. TERMINATION

11.1 Either party may terminate this Agreement by giving the other party thirty (30) days prior notice via the customer email address where provided or in the case of EasyMobilizer by the website contact form.

11.2 EasyMobilizer may immediately terminate this Agreement by notice to the Customer if the Customer:

- (a) is in breach of any of its obligations under this Agreement and fails to rectify same within seven (7) days after EasyMobilizer gives the Customer written notice requiring the Customer to remedy the breach;
- (b) is guilty of serious misconduct or any other conduct which affects or is likely to adversely affect the interests of EasyMobilizer;
- (c) dies, becomes bankrupt, appoints an administrator or receiver, is wound up or makes any arrangement or composition with its creditors;
- (d) is disqualified from being a director of any company; or
- (e) commits a breach of Clause 4(b), 4(c), 4(d) or 4(e) of this Agreement.

11.3 Upon termination of this Agreement for any reason, the Customer must:

- (a) immediately pay any outstanding Fees due and payable to EasyMobilizer (including any interest and collection fees);
- (b) immediately surrender to EasyMobilizer and cease using any and all Intellectual Property belonging to EasyMobilizer of whatever nature; and
- (c) not represent that it is affiliated, associated or otherwise connected in any way with EasyMobilizer.

11.4 Termination by EasyMobilizer pursuant to this Clause 8 is without prejudice to any other rights EasyMobilizer may have at law or in equity.

12. RELATIONSHIP BETWEEN THE PARTIES

12.1 Nothing contained in this Agreement will be construed or have effect as constituting any relationship of employer and employee, agency, partnership or joint venture between EasyMobilizer and the Customer.

12.2 The Customer agrees that its subscription to the Services is non-exclusive and that EasyMobilizer may provide services that are identical with or similar to the Services to third parties during the Term.

13. LIMITATION OF LIABILITY

13.1 The Customer acknowledges and agrees that EasyMobilizer has made no representations or warranties, express or implied, with respect to the Services other than those expressly set out in this Agreement.

13.2 The Customer acknowledges and agrees that EasyMobilizer does not warrant that:

- (a) the Services will be uninterrupted or free from error;
- (b) the Services will meet the Customer's requirements or expectations other than as expressly set out in this Agreement; and
- (c) the Services will be free from viruses or unauthorised access.

13.3 To the extent permitted by law:

- (a) the Customer releases EasyMobilizer from all liability for any loss or damage (whether foreseeable or not) suffered by any person in connection with the Services, whether the loss or damage arises from negligence, default, lack of care, misrepresentation or any other cause;
- (b) EasyMobilizer excludes all conditions and warranties implied by law;
- (c) the liability of EasyMobilizer in respect of a breach of this Agreement to, at the sole discretion of EasyMobilizer, the re-supply of the Services or payment of the cost of re-supplying the Services; and
- (d) the liability of EasyMobilizer in respect of any other claim made in connection with this Agreement is limited to the Fees paid by the Customer pursuant to this Agreement.

13.4 EasyMobilizer will not be in breach of this Agreement as a result of:

- (a) a Force Majeure event;
- (b) any delay in or inability to provide the Services or perform any other obligation under this Agreement caused directly or indirectly by the Customer or any third party; and
- (c) any delay in or inability to provide the Services or perform any other obligation under this Agreement caused by technical difficulties or equipment failure beyond EasyMobilizer's reasonable control.

13.5 The aggregate liability of EasyMobilizer and the affiliated parties in connection with any claim arising out of or relating to the Services provided shall not exceed the cost of the service paid for and that amount shall be in lieu of all other remedies which you may have against us and any affiliated party.

14. INDEMNITY

14.1 The Customer hereby indemnifies EasyMobilizer on a continuing basis from and against all actions, claims, demands, liabilities, losses, damages, costs and expenses of any kind which EasyMobilizer suffers or incurs in connection with or arising in any way out of this Agreement, the relationship between the Customer and EasyMobilizer or the performance, and non-performance or breach by the Customer of any of its duties or obligations under this Agreement. This indemnity includes, without limitation, legal costs calculated on a solicitor and own client basis in defending any action or seeking advice concerning any breach or suspected breach of this Agreement or the enforcement or attempted enforcement of any provision of this Agreement.

14.2 Without limiting the generality of Clause 11.1, the Customer hereby indemnifies EasyMobilizer on a continuing basis from and against all actions, claims, demands, liabilities, losses, damages, costs and expenses of any kind which EasyMobilizer suffers or incurs in connection with or arising in any way out of any claim or proceeding brought by a third party in connection with:

- (a) any Content;
- (b) any End Users' Confidential Information; and
- (c) any misuse of the Services.

14.3 The indemnities in this Clause survive termination of this Agreement by either party for any reason.

15. ASSIGNMENT

15.1 The Customer must not assign, sub-license or sub-contract this Agreement or any right or obligation under this Agreement without EasyMobilizer's prior written consent.

15.2 EasyMobilizer may assign any and all of its rights under this Agreement at any time without giving any prior notice to the Customer.

16. GOODS AND SERVICES TAX

16.1 Except where express provision is made to the contrary and subject to this Clause, the consideration payable by any party under this Agreement represents the value of any taxable supply for which payment is to be made.

16.2 Subject to Clause 16.3, if either party makes a taxable supply in connection with this Agreement for a consideration which, under Clause 16.1 represents its value, then that party that made the taxable supply must also pay, at the same time and in the same manner as the value is otherwise payable, the amount of any GST payable in respect of the taxable supply.

16.3 A party's right to payment under this clause is subject to a valid tax invoice being delivered by that party to the other party.

17. NOTICES

17.1 A notice, demand or other communication given or made under this Agreement must be in writing signed by or on behalf of the party giving it and may be served on the other party by being delivered or sent by prepaid post to the party's address specified in this Agreement or sent by facsimile transmission to the party's facsimile number or sent by electronic mail ("email") to the party's email address.

17.2 A communication if:

- (a) delivered, will be taken as served upon delivery;
- (b) posted, will be taken as served two business days after posting;
- (c) sent by facsimile transmission, will be taken as served upon receipt of a transmission report generated from the facsimile machine which sent the transmission indicating that the facsimile was successfully sent in its entirety to the facsimile number of the recipient; or
- (d) sent by email, will be taken as served upon receipt of a delivery status notification generated by the computer which sent the transmission, indicating that the email was successfully sent in its entirety to the email address of the recipient.

17.3 Any of these methods of service is valid even if the intended recipient does not receive the communication or, where it is posted, it is returned to the sender unclaimed.

18. COPYRIGHT AND COPYRIGHT AGENTS

We respect the intellectual property of others, and we ask you to do the same. If you believe that your work has been copied in a way that constitutes copyright infringement, please provide us the following information:

- a. An electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest;
- b. A description of the copyrighted work that you claim has been infringed;
- c. A description of where the material that you claim is infringing is located on the Site;

- d. Your address, telephone number, and email address;
- e. A statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and
- f. A statement by you, made under penalty of perjury, that the above information in your Notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf.

19. SEVERANCE

If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, the provision must be read down so as to give it as much effect as possible. If it is not possible to give the provision any effect at all, it is severed from this Agreement. Any reading down or severance does not affect the validity and enforceability of the remaining provisions in that jurisdiction or the validity and enforceability of the offending provision in any other jurisdiction.

20. WAIVER

No failure by either party to exercise and no delay in exercising any right under this Agreement will be taken as a waiver of the right. No waiver of any right is effective unless made in writing. Waiver of any particular right does not in any way release the other party from strict compliance in the future with the same or any other obligation. The rights and remedies provided in this Agreement are cumulative and do not exclude any other rights provided by law.

21. TIME OF THE ESSENCE

Time is of the essence of this Agreement.

22. VARIATION OF AGREEMENT

This Agreement can be amended or varied only by a written document executed by the parties or by persons duly authorised to sign on behalf of the parties.

23. FURTHER ASSURANCES

Each party will execute any further document and do any thing necessary or desirable to give full effect to the provisions of this Agreement.

24. DURATION OF PROVISIONS

The provisions of this Agreement do not merge in or end on completion of the transaction contemplated by this Agreement but remain in full force and effect to the extent that they have not been fulfilled or satisfied or are capable of having effect.

25. COUNTERPARTS

This Agreement may be executed in a number of counterparts, all of which taken together constitute one and the same document.

26. GOVERNING LAW

This Agreement is governed by and shall be construed in accordance with the laws of New South Wales.

Schedule 1 - Services and Fees for Services:

Services: Access to a mobile optimized version of your current desktop website.

Commencement Date: As at confirmation of payment and registration for the EasyMobilizer service.

Term: 12 months from the Commencement Date.

Fees: As agreed to from time to time.