

Monthly Rebate

Monthly Toll Spend Monthly Rebate

Contract Term

Toll Spend refers to expenditure on fixed line national, mobile, international calls and inbound 0800 calls.
 Monthly Toll Spend is the minimum Toll Spend required to receive the Monthly Rebate.
 Monthly Rebate is the maximum amount automatically credited to your account at the end of each monthly billing cycle.
 If the Monthly Toll Spend is not reached the Rebate will equal 50% of your Toll Spend for that month.
 Monthly Toll Spend and Monthly Rebate have been formulated based on information provided by you and you agree not to hold teleSMART Ltd responsible for any shortfalls.
 Contract Term is the number of months the Rebate will be applied to your bill and must correspond with your Leasing finance contract term.
 The Rebate applies from the first day of billing on your Leasing finance contract.
 You may cancel your contract with teleSMART Ltd after 12 months without penalty.

Telephone Call Rates

I confirm that a copy of the Rate Card has been provided to me as mentioned herein and acknowledge that they are the call rates I will be charged.

Rate Card

Acknowledgement and Consent

By signing this Agreement, you;

1. Certify that you have the authority to change the current Service Provider.
2. Authorise teleSMART Ltd to provide the services.
3. Acknowledge receiving a copy of the Terms and Conditions.
4. Acknowledge that:
 - a. teleSMART Ltd will bill you for all services under this agreement.
 - b. you have received a copy of the Rate Chart and understand and accept those to be the rates to be charged (as varied from time to time by us) in excess of any available Rebate.
 - c. you will be provided with a tax invoice by the 5th of every month with a due date of the 15th.
 - d. you agree to pay via direct debit all charges due on the 15th of each month.
 - e. teleSMART Ltd may select a Service Provider(s) to provide the services;
6. Declare that the information supplied in this application is true and correct.

Signed for Date

Customer by

Name Position

TERMS & CONDITIONS FOR TELEPHONE SERVICE

TeleSMART Limited (CRN 1713800) will supply you with telecommunications services (“Services”) on the terms and conditions set out below.

1. OUR AGREEMENT WITH YOU

1.1 As a customer of TeleSMART Limited these terms and conditions form the basis of our agreement with you.

1.2 Our agreement with you also includes your Application for Telephone Account and our currently applicable price list. We may accept and rely on facsimile copy of the application or order form as if it was an original.

1.3 The price list may change from time to time, but we will notify you of any changes when they happen.

2. SERVICE DESCRIPTION

2.1 Services will be supplied to you through the carriers or networks (“Carriers”) that we nominate in writing from time to time. You agree that we:

- a) may change Carriers without reference to you and at any time; and
- b) have your express authorisation to notify any relevant Carrier in respect of and to effect any such change.

2.2 We do not warrant that we will be able to supply Services and we are not liable for any failure to provide all or part of any of the Services, but, to the extent and to the standard that Carriers provide Services to us, those Services will be provided by us to you. When your connection is disrupted, we will do our best to reinstate our Services to you as soon as we can.

2.3 Unless otherwise stated in the schedule to this agreement, we reserve the exclusive right to provide you with all long distance services from the date of this agreement.

2.4 When using the Services, you agree to:

- a) comply with all statutes, regulations, by-laws or licence conditions of any government body; and
- b) not breach any person’s rights or otherwise cause us or a Carrier loss, liability or expense.

2.5 Our obligations to provide the Services ceases when we transfer your account to another supplier and the other supplier take over full billing of those services.

3. CHARGES, REBATES AND PAYMENT

3.1 You agree during the term of this agreement:

- a) to be charged for the Services we provide to you, regardless of whether it is you who uses them, at our current prices from time to time.
- b) You must pay our charges for the services we provide to you, regardless of whether you or someone else uses those services. We may vary our charges from time to time. If we increase any charge we will give you as much notice as reasonably possible.
- c) to pay accounts for all of those charges (including taxes) by the date specified in the account via direct debit to your bank account.
- d) An overdue fee of \$35 may be charged on failed direct debits and further be applied each month that the overdue account remains unpaid.

3.2 If you dispute in good faith an amount in the account, you must notify us in writing within fourteen days setting out reasons for the dispute and the amount in dispute. Notwithstanding any dispute as to any amount of any charge, you must pay the whole amount of each account by the Due Date.

3.3 If you do not pay the account by the Due Date, then we may charge interest at the rate of 1.5% per month or part thereof on the outstanding amount of the invoice and suspend all or part of your Services pending payment of outstanding amounts on the account. We also reserve the right (at our discretion) to adjust the prices you pay for the Services.

3.4 Nothing in this clause affects our rights to terminate this agreement under clause 8.

3.5 If you direct us, or authorise another carrier to transfer any of the Services to another supplier, you will pay in full all of our accounts or other proper charges up until the time we stop providing the Services, before we will release the number in question

3.6 Where you have entered into an agreement, which includes a Monthly Rebate the total billable amount will be discounted by the value of the Monthly Rebate as calculated in accordance with the following conditions:

- a) the Rebate for the month will not exceed the Monthly Rebate as stated on the application form
- b) the Monthly Rebate that will be given to you has been approved based on your average monthly call spend and you will not hold us liable for any shortfall.
- c) If the agreed Monthly Toll Spend is not reached then the Rebate available to you will equal 50% of what has been billed to you for that calendar month of Toll Spend.
- d) The rebate applies from the first billing day of your Alleasing finance Contract, and will be applied pro rata for that billing cycle

3.7 We will review our call rates to you every 12 months and if our wholesale rate is lower from the date this agreement commenced then the call rate will be adjusted accordingly.

4. AMENDMENTS TO TERMS AND CONDITIONS

Without limiting clause 3.1, we may vary, alter, replace or revoke any of these terms and conditions effective upon the expiry of 14 days written notice from us. We may interpret your ongoing use of the Services after that date as constituting your acceptance of the variation, alteration, replacement or revocation.

5. CREDIT CHECK

5.1 Prior to our accepting your application, you have provided to us all information relevant to our assessment of your credit rating. You have consented to our obtaining from a credit reporting agency a credit report containing personal information about you.

6. TRANSFER OF SERVICES

6.1 When you transfer any services (“Transferred Services”) from a Carrier, a telecommunications service provider or equipment supplier who supplies telecommunications services or equipment to you at the time of signing this agreement (“Current Supplier”) to us, you authorise us to sign on your behalf and in your name any forms required by the Current Supplier to transfer the Transferred Services as we direct.

6.2 You agree to immediately pay to the Current Supplier any amounts owing for the Transferred Services up to the date of the transfer.

7. LIMITS ON LIABILITY

7.1 We do not exclude or limit:

- a) the application of any provision of any statute where to do so would contravene that statute or cause any part of this clause 7 to be void; or
- b) Direct losses and damages, which arise only as a result of our gross negligence (which means where we commit an act or allow an omission to occur in reckless disregard of the consequences of the act or omission).

7.2 Except where clause 7.1 applies, we exclude all statutory liability, tortious liability (including but not limited to liability in negligence), conditions and warranties implied by custom, the general law or statute, liability for all direct, economic, consequential or indirect losses, expenses, damages and costs incurred by you, arising out of or relating to the Services, any failure to supply or delay in supplying the Services or out of or relating to this agreement.

7.3 Including, but not limited to, liability for gross negligence and except to the extent of clause 7.1(a), we are not responsible or liable for any indirect consequential or economic damages, including, without limitation, loss of income or profit or loss of actual potential business opportunities.

7.4 Our liability to you for any breach of any implied provision of this agreement (other than an implied warranty of title) is limited, at our option, to refunding the price of the goods or Services in respect of which the breach occurred, or to providing, replacing or repairing those goods or providing those Services again.

7.5 We are not liable to you for any delay in the connection or failure in the operation of the Services.

7.6 You acknowledge that any liability of any Carrier to you in relation to the Services is governed by the terms and conditions on which that Carrier from time to time supplies that service to its own retail customers.

8. TERM OF THE AGREEMENT, SUSPENSION, CANCELLATION, OR PART CANCELLATION OF A PRODUCT, OR TERMINATION

8.1 In respect of each Service set out in the Application, this Agreement will commence on the date of its signing by You & will continue in relation to that Service until

- a) For the contract term as specified on the Application; or
- b) For a minimum of 12 Months in which case 3 months written notice is required.

8.2 We may terminate this Agreement if you breach any term or condition of this Agreement or if a receiver or receiver & manager is appointed over any of Your property or assets, or if a liquidator or provisional liquidator is appointed to You or if You enter into any arrangement with Your creditors or You assign or otherwise deal with Your rights under this Agreement without Our prior written consent or, in the case of an individual, You die.

8.3 We may suspend the Services or any of them at any time without notice if any of following occur:

- a) We are not satisfied with our credit assessment of you.
- b) If you breach any of the terms & conditions of this Agreement Your Services will be suspended. If you have failed to remedy the breach within 7 days of us providing written notice to you of the breach Your Service will be terminated.
- c) You fail to pay amounts owing to us by the due date.
- d) We are unable, for any reason including the default of a Carrier, to provide the whole part of the Service
- e) You become subject to any form of insolvency administration.

8.4 If we suspend the Services, You will still remain liable for all monies due to us under the Agreement, during the period of such suspension.

8.5 If Your Service has been suspended by Us due to non compliance with terms & conditions of the Agreement a fee of \$45 (GST inc) is payable to reactivate Your Services.

8.6 If this Agreement is cancelled by you, or terminated by us:

- a) Any right which We have in respect of Your obligations under the Agreement that are not fulfilled when the Agreement is ended, will continue to exist.
- b) You must pay us all reasonable costs & expenses incurred by us in relation to the Agreement ending.
- c) In addition to any liabilities arising under this clause & where we are providing fixed wire Services, if You terminate the Services before the expiry of the Term or such lesser time as is agreed in writing by You & Us, then You will pay Us a genuine estimate (based on the last 3 months of average billing) of what We will incur from the early termination of this Agreement. The amount of the loss will be calculated as being the difference between the charges billed to You up until the date of termination & the charges that would have been billed to You for the Services supplied to You until the date of termination under an applicable rate or pricing plan.

8.7 If during this agreement any of the nominated lines or Toll services are churned to another carrier or if new lines have been added without our approval with another carrier to affect your monthly call usage with us then We reserve the right to adjust your Monthly Rebate or cancel any remaining Rebate that You may have with us.

9. INFORMATION

9.1 Without limiting clause 5.1, you agree to provide us with any information we request in connection with our providing the Services to you under this agreement.

9.2 You authorise and consent to the following:

- a) our conducting a physical audit of the Services and any equipment supplied in respect of the Services should we consider it necessary.
- b) our exchanging with Carriers all information about you and the Services provided to you in our possession or control including, but not limited to, your name, billing address, street address, relevant telephone numbers, exchange line details, account information, call charge records and call event records any information obtained by us for the purpose of your application and this agreement

10. CONFIDENTIALITY

You will keep confidential all information supplied by the Carriers or us and we will keep confidential all information supplied by you, except as provided by clauses 5 and 9.

11. ASSIGNMENT

Your rights under this agreement are personal. You must not assign or attempt to assign any right or obligation under this agreement without our written consent. We may assign all or any of our rights and obligations under this agreement at any time by notifying you in writing.

12. WARRANTY OF AUTHORITY

Any persons signing this agreement on your behalf warrant that they have full power and authority to bind you in respect of this agreement.

13. MISCELLANEOUS

13.1 Any notice, demand, consent or other communication required to be given to either party must be delivered personally or sent by prepaid mail or by facsimile to the address of the other as last notified.

13.2 Clauses 2.5, 3.5, 5, 7, 10, and 12 shall survive the expiration or termination of this agreement.

13.3 This agreement shall be governed by and construed in accordance with the laws of New Zealand and the parties hereby submit to the non-exclusive jurisdiction of the courts.

13.4 This agreement contains yours and our entire understanding to the exclusion of any and all prior or collateral agreement or understanding relating to the Services, whether oral or written.

13.5 If any part of this agreement is found to be invalid or of no force or effect, this agreement shall be construed as though such part had not been inserted and the remainder of this agreement shall retain its full force and effect.

14. TRANSFER OF YOUR ACCOUNT FROM US TO OTHER SUPPLIER

14.1 If in the future you request us to transfer any of the Services to any Other Supplier, then you remain responsible to us for the amount payable for the Services up to the time when we transfer those accounts to the Other Supplier

14.2 Our obligations to provide the Services cease when we transfer those accounts to any Other Supplier.

15. VARIATIONS TO THE AGREEMENT

We may from time to time vary the Agreement without notice: (a) by changing the Other Supplier or the Other Supplier's product; or (b) by reducing your obligations under the Agreement (including all charges). Other variations will be made with one months notice in writing to you.

16. FORCE MAJURE

16.1 We are not liable for: (a) any delay in Service, (b) delay in correcting any fault in any Service, (c) failure or incorrect operation of any Service, and/or (d) any other default in performance under the agreement if it is caused by any event reasonably beyond our control, including but not limited to war, accident, act of God, industrial action, embargo and delay or failure or default by an Other Suppliers or any act of Terrorism.

17. INDEMNITY

17.1 You (a) acknowledge that you enter into the Agreement entirely result of your own enquires and that you do not rely on any state representation or promise by us or on our promise by us or on our behalf not expressly set in the Agreement; and (b) accordingly release us and each of ours officers, agents and advisers from all claims and demands of any kind (including negligence) arising from the relationship of the concerned in the Agreement before it was signed, and from negotiations leading to signing to the Agreement.

18. REMEDY

18.1 The failure by either party to exercise any right to remedy under Agreement in a timely manner does not constitute acceptance matter, which gave rise to the right remedy.