



Satellite Phone Subsidy Scheme Dealer Agreement 2008–09

This agreement is made between:

COMMONWEALTH OF AUSTRALIA, represented by
the Department of Broadband, Communications and
the Digital Economy (DBCDE)

ABN 51 491 646 726

('Us', 'We' or 'Our' as the case requires)

AND

[Full name of Dealer, street address/registered office and
ABN (as applicable)] ('You' or 'Your' as the case requires).

For registration (Central Contract Register) number:

[To be completed by the Department only if the
Application is approved]

1. Definitions

1.1 For the purposes of this Agreement, the
following definitions apply

Administrator means Our officer responsible
for administering the Scheme

Application means Your application for
registration as a Dealer under the Scheme

Approved Purchaser Form means the form
We provide to the Purchaser, in accordance
with the '*Guidelines for Purchasers*' and the
'*Instructions on How to Apply*' applicable to
the Scheme

Claim Form means the form We provide to
You, in accordance with the Guidelines

Dealer means a person or business entity
that sells Phones, is registered under the
Scheme and is specified in the *Approved
Purchaser Form*

Guidelines means the '*Guidelines for Dealers*'
applicable to the Scheme

Phone means a satellite phone that is either
handheld or non-handheld and used in a
mobile environment

Plan means the agreement between the
Purchaser and the Service Provider in relation
to applicable charges for use of the Phone;

Privacy Act means the *Privacy Act 1988*
(Commonwealth)

Purchaser means a person approved for a
Subsidy under the Scheme, and whose name
appears on an *Approved Purchaser Form*

Scheme means the Satellite Phone Subsidy
Scheme administered by Us

Retail Price means the net amount a
customer would pay for the Phone in the
absence of the Subsidy, which will generally
be the recommended retail price of the Phone
less any promotional discount or rebate

Service Provider means the provider of the
satellite phone service

Subsidy means the amount to be paid by
Us to You to subsidise the purchase price of
the Phone by the Purchaser, calculated in
accordance with the Guidelines

2. Term of this agreement

2.1 The term of this Agreement commences on
the date on which this Agreement was signed
by Us and, unless terminated earlier, it
expires on 30 June 2009.

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- 2.2 You acknowledge and accept that no legally binding contract is entered into between the Parties unless and until We approve the Application and We execute this Agreement.
- 2.3 If We decide to deregister You and We notify You in accordance with clause 4, this Agreement is terminated.
- 2.4 You acknowledge and agree that We will only make Subsidy payments to You under this Agreement until 30 June 2009.
- 3. Subsidy conditions**
- 3.1 You acknowledge that You have read, understood and agree to comply with the requirements set out in the Guidelines.
- 3.2 You agree to create and maintain records about all Phone purchase transactions in which a Subsidy is claimed by You for reimbursement by Us.
- 3.3 In relation to the purchase of a Phone, You agree to charge the Purchaser no more than the difference between the Retail Price of the Phone and the Subsidy.
- 3.4 You must not impose any terms or conditions upon the sale of the Phone that are unfavourable to the Purchaser. Without limiting the generality of this clause, You must not require the Purchaser to provide You with a deposit, representing either the full amount of the Subsidy or a part thereof, pending payment of the Subsidy by Us. You must also not require that the Phone remain at Your premises until the Subsidy is reimbursed by Us.
- 3.5 You acknowledge that the Subsidy will not be paid to reimburse You in relation to the purchase of a product or service other than a Phone. The Subsidy cannot be used to offset any charges or ongoing costs associated with the use of the Phone, whether under a Plan or otherwise.
- 3.6 You must only provide a Subsidy to a Purchaser in accordance with an *Approved Purchaser Form*.
- 3.7 The Subsidy will only be paid if You provide the required documentation to Us in accordance with the Guidelines, including providing a valid tax invoice, completed *Claim Form* and copies of necessary documentation obtained from the Purchaser.
- 3.8 You acknowledge that You will not be entitled to reimbursement of a Subsidy provided to a Purchaser in relation to a Phone that was purchased, supplied or connected before issue of an *Approved Purchaser Form* or after the expiry date specified on the *Approved Purchaser Form*.
- 3.9 You agree to provide any information requested by Us within 10 business days.
- 4. Subsidy reimbursement and deregistration**
- 4.1 If You fail to comply with any of the terms of this agreement or the Guidelines, We may decide to:
- (a) withhold one or more Subsidy payments, either temporarily or permanently; and/or
 - (b) de-register You (i.e. exclude You from the Scheme).
- 4.2 If at any time We conclude that a statement made in the Application was incorrect, incomplete, false or misleading in a way that would have affected the original decision to approve the Application, We may decide to de-register You (i.e. exclude You from the Scheme).
- 4.3 If:
- (a) You are unable to pay all Your debts as and when they become due and payable or You fail to comply with a statutory demand within the meaning of sections 459E and 459F of the *Corporations Act 2001* (Commonwealth);
 - (b) proceedings are initiated with a view to obtaining an order for Your winding up or any shareholder, member or director convenes a meeting for the purpose of considering or passing of any resolution for Your winding up;
 - (c) You come under one of the forms of external administration referred to in Chapter 5 of the *Corporations Act 2001* (Commonwealth) or equivalent provisions in Incorporated Associations legislation of the states and territories or Parts IV and V of the *Aboriginal Councils and Associations Act 1976* (Commonwealth), or an order has been made for the purpose of placing You under external administration;
 - (d) being an individual, You become bankrupt or enter into a scheme of arrangement with creditors;
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- (e) in relation to this agreement, You breach any law of the Commonwealth, or of a state or territory;
- (f) You cease to carry on business; or
- (g) notice is served on You or proceedings are taken to cancel Your incorporation or registration or to dissolve You as a legal entity;
- then, in the case of any one or more of these events, You must notify Us as soon as possible and We may decide to de-register You (i.e. exclude You from the Scheme).
- 4.4 If You are de-registered from the Scheme, You will not be entitled to seek reimbursement of a Subsidy from Us, irrespective of whether the relevant Phone was purchased before or after Your de-registration.
- 4.5 If We decide to exercise any of our rights under this clause, We must give You notice in writing of that decision within 30 calendar days.
- 4.6 The operation of this clause 4 survives the expiration or earlier termination of the term of the agreement.
- 5. Disclosure of information**
- 5.1 You acknowledge that We may be required to disclose information in relation to the Scheme, as required by the operation of any law, judicial or parliamentary body or governmental agency.
- 5.2 You recognise and accept that We can give no undertaking to treat information contained in the Application or this agreement as confidential.
- 5.3 We may prepare an evaluation report in relation to the Scheme. This report may include information You (and other third parties, as applicable) have provided to Us in relation to the Scheme, and You agree that We may publish a copy of this report.
- 6. Privacy**
- 6.1 You acknowledge that We are required to comply with the Information Privacy Principles (IPPs) in the Privacy Act.
- 6.2 You acknowledge that the information provided in the Application is collected for the purpose of allowing Us to assess Your eligibility for registration under the Scheme.
- 6.3 You also agree to be treated as a 'contracted service provider' (within the meaning of the Privacy Act) and to comply with National Privacy Principles 7 to 10 as if You were an 'organisation' (within the meaning of the Privacy Act).
- 7. Charges, taxes and duties**
- 7.1 All taxes, duties and government charges, if any, imposed or levied in Australia or overseas in connection with this Agreement must be borne by You.
- 7.2 You acknowledge that the Purchaser is liable for any ongoing bills or charges in relation to the use of the Phone.
- 7.3 You agree to make Purchasers aware that the Subsidy is available for the purchase of the Phone only, and that We accept no responsibility for any ongoing bills or charges associated with the use of the Phone.
- 8. Advertising and publicity**
- 8.1 We reserve the right to publicise, at our expense, details about Subsidies delivered as a result of this Agreement in media releases, general announcements and in annual and other reports.
- 8.2 You may, at Your own expense, publicise the Scheme, including, but not limited to, phone prices that reflect the Subsidy, provided You clearly acknowledge that the Subsidy is provided by the Australian Government to Purchasers.
- 8.3 Unless otherwise agreed by Us in writing, the following acknowledgment must be used in any publicity and advertising material: 'The Satellite Phone Subsidy Scheme is an Australian Government initiative available through a range of Dealers and Service Providers.'
- 8.4 The acknowledgment should, where possible, appear at the bottom of any copy separate from the other text. While the typeface and colour will depend on the form of the acknowledgment, font size should be reasonably prominent.
- 8.5 Any references to Us in paid advertising copy, including advertisements under clause 8.2, are subject to Our prior approval.

9. Entire agreement and variation

- 9.1 You acknowledge that this Agreement contains the entire agreement between You and Us in relation to the Scheme, and that it takes precedence over the Application and any other prior correspondence between the Parties in relation the Scheme.
- 9.2 This agreement may only be varied by the written Agreement of the Parties.

10. Assignment, novation and subcontracting

- 10.1 You must not assign Your rights under this Agreement without prior written approval from Us.

10.2 You agree not to enter into negotiations with any other person for the purposes of entering into an arrangement that will require novation of this Agreement without first consulting Us.

10.3 You must not subcontract the performance of any obligations under this Agreement.

11. Applicable law

- 11.1 The laws of the Australian Capital Territory apply to this Agreement.

Dealer Agreement

EXECUTION

Executed by the parties as a Deed

AND

SIGNED, SEALED AND DELIVERED by

[Your full name]

[Your position (i.e. Director, Trustee, Partner)]

[Full name of additional signatory (if applicable)]

[Position of additional signatory (i.e. Director, Trustee, Partner)]

who, by signing warrants that they have the authority to bind:

[Name of business or organisation]

[ABN (if applicable)]

on [Date]

[Your signature or common seal (if applicable)]

[Signature of additional signatory]

In the presence of:

[Full name of Your witness]

[Occupation of Your witness]

[Signature of Your witness]

NOTE: If further space is required for the signature of other partners or trustees, attach an additional sheet of paper

SIGNED, SEALED AND DELIVERED for and on behalf of the **COMMONWEALTH OF AUSTRALIA** represented by and acting through the Department of Broadband, Communications and the Digital Economy, ABN 51 491 646 726 by:

[Full name of the Department officer]

on [Date]

[Signature of the Department officer]

In the presence of:

[Full name of the Department Witness]

[Signature of the Department witness]



Satellite Phone Subsidy Scheme Dealer Registration Form 2008-09

This document is an application for registration of a Dealer to participate in the Satellite Phone Subsidy Scheme (or 'Scheme'). It is to be completed and read in conjunction with the *Guidelines for Dealers* applicable to the Scheme.

By completing and submitting this form, a Dealer applies to be registered to receive a subsidy, enabling a reduction in the initial price of a phone sold to an eligible purchaser, as approved by the Department of Broadband, Communications and the Digital Economy (DBCDE).

When submitting this *Dealer Registration Form*, a Dealer must also execute a *Dealer Agreement*, thereby agreeing to abide by the specified terms and conditions. Importantly, no legally binding contract exists unless and until the Department approves the application for registration and executes the *Dealer Agreement*.

The Administrator will only consider an application for registration if it is accompanied by a *Dealer Agreement* duly executed by the applicant Dealer.

If the Dealer registration is accepted by the Administrator, the registration is valid for the 2008-09 financial year. The Scheme ends on 30 June 2009.

Satellite mobile phone service/Dealer

[Business name of Dealer]

[Branch/town]

[Satellite mobile phone service providers or carriers available from Dealer]

[Principal contact name]

[Position held]

[Postal address]

[Street address]

[Business phone]

[Fax]

[Email]

(This should be an ongoing business email for remittance advice and Scheme notifications. Please do not provide the email of an individual who may move on.)

NOTE: You must also complete the *GST Information Form* at Attachment A and the *Bank Account Details Form* at Attachment B. You also need to complete the declaration overleaf.

Declaration

I declare that:

- (a) The above business deals in satellite mobile phones, and wishes to be registered to participate in the Scheme;
- (b) I am duly authorised to represent the above business;
- (c) I have read, understood and agree to comply with, the *Guidelines for Dealers* applicable to the Scheme;
- (d) I have completed the *GST Information Form* at Attachment A and the *Bank Account Details Form* at Attachment B;
- (e) I will include details relevant to the subsidy in my Business Activity Statements (BAS) lodged with the Australian Taxation Office (where applicable);
- (f) I have duly executed the *Dealer Agreement*;
- (g) I acknowledge and understand that no legally binding contract will exist with the Commonwealth unless and until the Administrator approves my registration and the Commonwealth executes the *Dealer Agreement*;
- (h) To the best of my knowledge, the information I have provided in this *Dealer Registration Form*, the *GST Information Form* (Attachment A) and the *Bank Account Details Form* (Attachment B) is complete and correct in all respects.

NAME

SIGNATURE

POSITION

DATE

WARNING: It is an offence for a person to obtain a financial advantage from the Commonwealth where the person is not entitled to the financial advantage or the person dishonestly obtains the financial advantage (clauses 134.2 and 135.2 of the Schedule to the *Criminal Code Act 1995* (the Act)). Giving false or misleading information is also a serious offence (clauses 136.1 and 137.1 of the Schedule to the Act). Serious penalties apply in relation to these offences, including imprisonment.

Privacy

Any personal information provided in this *Dealer Registration Form* is primarily collected by the Department for the purposes of allowing the Department to assess the prospective Dealer's eligibility for registration under the Scheme. Personal information provided to the Department may be used by the Department and/or disclosed to third parties for the purposes of program administration, evaluation or policy development, or otherwise as required by law.

Post your completed *Dealer Registration Form*, including Attachments A and B and the duly executed *Dealer Agreement*, to:

The Administrator
Satellite Phone Subsidy Scheme
Department of Broadband,
Communications and the Digital Economy
GPO Box 2154, CANBERRA ACT 2601.



Satellite Phone Subsidy Scheme

ATTACHMENT A | GST Information Form

A Dealer registered for GST purposes must provide the Administrator with a tax invoice for the GST-inclusive value of the subsidy in accordance with the *A New Tax System (Goods and Services) Tax Act 1999*. Reimbursement will not be made until the Administrator receives the tax invoice.

For a Dealer not registered for GST, the Administrator will not include an amount for GST in the reimbursement of the Subsidy. Dealers who are not registered for GST must provide the Administrator with an invoice for the amount of the Subsidy without GST added.

GST details of dealer

Is the Dealer required to be registered for GST? Yes No

Is the Dealer registered for GST? Yes No

Dealer's ABN:

If the Dealer does not have an ABN, please give reasons (e.g. if 'Subsidies are exempt income in the hands of [name of the dealer]', please attach relevant documentation).

Note: *If a Dealer does not have an ABN and is required to be registered for GST purposes, the Administrator is required by law to withhold 48.5 per cent of the subsidy and send it directly to the Australian Taxation Office.*

Important: An invoice can only be paid if the ABN and the business name cited on the invoice (or, if there is more than one business name cited, at least one of those names) are the same as the details listed on the Australian Business Register (www.abr.gov.au).



Satellite Phone Subsidy Scheme

ATTACHMENT B | Bank Account Details Form

Bank account details for dealers are required so that the Subsidy can be paid by electronic transfer.

Bank account details

NAME OF FINANCIAL INSTITUTION

ADDRESS OF FINANCIAL INSTITUTION

NAME OF ACCOUNT

BSB NUMBER

ACCOUNT NUMBER

TYPE OF ACCOUNT