

Terms & Conditions T&C-V047
Terms & Conditions for 'SOLITON' Service

1) Your Acceptance

This is an agreement between SmarTone Mobile Communications Limited ("SmarTone" or "the Company") and you ("you"), a user of SOLITON ("the Service"). BY USING THE SERVICE, YOU ACKNOWLEDGE AND AGREE TO THESE TERMS AND CONDITIONS. If you do not agree to any of these terms and conditions, you may not use the Service.

2) SOLITON Service

SOLITON is a digital music streaming service provided and operated by Soliton (HK) Limited ("Soliton HK") for customers to enjoy music download and streaming via supported devices and personal computers ("PC").

You shall use the following Service Plan as specified in the Sales and Services Agreement.

2.3

| Service Plan | Term |
|---|-------------|
| SOLITON - \$49 / month - No fixed term contract | -- |
| SOLITON (12-month contract plan) - \$38 / month - 12-month contract - No monthly fee for the 12 th month | 12 months |
| SOLITON (12-month contract plan) - \$38 / month - 12-month contract - No monthly fee for the 11 th and 12 th month | 12 months |

2.4. The Customer shall pay the Company liquidated damages (which is equivalent to the sum of the full fee of the subscribed SOLITON (12-month contract plan) multiply by the remaining months of the Term) upon the occurrence of any of the following events before the expiry of the Term:

2.4.1. If the Customer terminates SOLITON (12-month contract plan) service plan;

2.4.2. If the Customer changes the mobile telephone number / the registered name for the mobile telephone number; or

2.4.3. If the mobile telephone service for the mobile telephone number is terminated/ disconnected for whatever reason.

2.5. Unless otherwise specified by the Customer, the Service will continue to be provided to the Customer after the expiry of the Term and such service will be switched to a then prevailing comparable plan on non-contract basis that is specified from time to time.

2.6. The Service allows Customers to stream, listen and download music during the subscription period. If customer terminates the Service, all downloaded music from the Service will no longer be accessible.

2.7. In addition to service fees, download and use of the Service will incur data charge. Local data will be charged at or deducted from the Customer's subscribed price plan, whichever is applicable. Standard roaming data charges will apply while using the Service abroad. If the Customer has applied for a Roaming Data Pack, data will be deducted from the plan. Please visit smartone.com/roamingdatapacken for details.

2.8. You agree:

- a) To use the Service for personal and non-commercial use only;
- b) Not to violate, reverse-engineer, duplicate, reproduce, transfer, share, capture, copy, forward, distribute or otherwise tamper with any content obtained from using the Service and any part of the Service for any reason or assist another person to do so.

2.9. The Service can only be used on smartphones specified by the Company. Any actions on jailbroken or rooted devices are taken at your own risk.

2.10. The Company makes no warranty that:

- 2.10.1. The Service will meet the customers' requirements;
- 2.10.2. The Service will be uninterrupted, timely, secure or error-free;
- 2.10.3. The results that may be obtained from the use of the Service will be accurate or reliable; or
- 2.10.4. The quality of any services, information or other material obtained by the customer through the Services will meet his/her expectation.

2.11. The Company assumes no responsibility for the timeliness, deletion, mis-delivery or failure to store any user communications or personalization settings or for any damage to customer's device & PC or loss of data that results using the Service, including without limitation, the download of any materials, data or information. Customer expressly relieve SmarTone from any and all liabilities arising from the access or use of any part of the Service.

2.12. All contents under the Service are provided by Soliton HK, and SmarTone is not responsible or liable for their quality, nature, accuracy and usefulness of the contents.

2.13. The content and categories of content available in the Service and the charges of the Service are subject to change at any time without prior notice.

2.14. The Company may (i) deactivate or suspend the Service or any part thereof, with or without notice to you, to carry out system, maintenance, upgrading, testing and/or repairs; (ii) limit or suspend your access to any of the Service with or without notice to you if the Company is of the opinion that such action is appropriate as a result of your use of the Service; (iii) take any steps or omit to take any steps, with or without notice to you, for any reason the Company deems relevant to the management or the operation of any of the Service and the Company's business, that may expand, reduce, modify, suspend, limit, make inaccessible or adversely affect the Service or any part thereof.

2.15. The Company may, upon discovery of suspected or inchoate, fraudulent, deceptive, unlawful or improper use of the Service by users, suspend users' access to any or all of the Service temporarily or permanently.

2.16. Users agree to be bound by the End Users Licence Agreement of using the Service, which agreement can be found at <http://www.soliton-music.com/eula.html>.

2.17. Usage rules established by the Company relating to the Service may be controlled and modified by the Company for compliance purpose and the Company reserves the right to enforce such usage rules without notice to you.

2.18. SmarTone is the authorized agent of Soliton HK for billing and collection of the charges of the Service from Customers during the subscription period.

3) Intellectual Property rights

3.1. The design of the Service along with any service features ("Applications") and the trademarks, service marks and logos contained therein ("Marks") are owned by Soliton HK and is protected by applicable intellectual property laws including but not limited to copyright. Except to the extent permitted by law, you shall not use such Applications and/or Marks in any way whatsoever

except for use of the Service. You shall not modify, rent, lease, loan, sell, distribute or create derivative works based on the Applications in any manner.

4) Privacy Policy

- 4.1. Your privacy is important to the Company. The Company has developed a Privacy Policy that covers how it collects, uses, discloses, transfers and stores your information. Please visit smartone.com/privacypolicyen for full details of the Company's Privacy Policy.
- 4.2. The Company will do its best to keep your privacy safe, but still need your help. Please protect your own personal information carefully.

5) Applicable Laws

- 5.1. You shall comply with the laws of Hong Kong Special Administrative Region that apply to your use of the Service.
- 5.2. You expressly agree to the exclusive jurisdiction for any claim or dispute with the Company or relating in any way to the use of the Service resides in the courts of Hong Kong Special Administrative Region.

6) Limitation of Liability

- 6.1. The Company shall under no circumstances be liable whether in contract, tort, statute or otherwise (including without limitation for negligence, breach of contract, defamation) for any special, direct, indirect or consequential loss or damage (including without limitation, loss of revenue, loss of data or goodwill) which is suffered, sustained or incurred by you, or any person arising (directly or indirectly) from or out of or relating to the Service.

7) Advertising

- 7.1. You acknowledge and agree that the Service includes advertisement.
- 7.2. The Company is not a party to and is not otherwise involved in any manner in any correspondence or business dealings with, or participation in promotion of, advertisers found on or through the Service, including payment and delivery of goods or services and any other terms, conditions, warranties or representations associated with such dealings which are solely between the Customer and such advertiser. The Customer agrees that the Company shall not be responsible or liable for any loss or damage whatsoever incurred as a result of any such dealings or as the result of the presence of such advertisers on the Service.
- 7.3. The Company does not represent or endorse the accuracy or reliability of any information, advertisements or contents contained on, distributed through, or linked, downloaded or accessed from the Service. The Company cannot and does not guarantee the quality or reliability of any products or information purchased or obtained by you as a result of an advertisement or any other information displayed in the Service. By using the Service, you expressly acknowledge and agree that the Company shall not be responsible for any damages, claims or other liability arising from or related to such advertisements or information displayed in the Service.
- 7.4. The Company may provide advertisers with reports on how their advertisements performed on the Service, but the Company only provides the data to them after the Company has removed your name or any other personally identifying information from it, or has combined it with other people's data in a way that it is no longer associated with you.

- 8) The Company reserves the right to revise the terms and conditions of the Service from time to time.