

1638 IDD SERVICE (T&C - I002)

It is hereby agreed between the Customer and SmarTone Mobile Communications Limited ("the Company") as follows:

1 THE SERVICES

- 1.1 Subject to the terms and conditions set out herein, the Company shall provide and the Customer shall subscribe to the 1638 IDD Service ("the Services").
- 1.2 The Services provided to the Customer is subject to the Company's prevailing Service Plan and/or rate of charges for the Services from time to time. The Company reserves the right to vary the Service Plan and/or rate of charges for the Services at any time as it thinks fit.
- 1.3 The Company reserves the right at any time to do all such things that is necessary to ensure the quality of the Services.
- 1.4 The Company shall impose a credit limit in respect of the Customer's use of the Services and may vary the limit from time to time without notice to the Customer.
- 1.5 The Services shall only be used by the Customer for private non-commercial use and is not for resale. Services that are offered free or under unlimited use is subject to the Company's fair usage policy. If in the reasonable opinion of the Company, the Customer's use is excessive, the Company may ask the Customer to moderate the usage. If the Customer fails to do so, the Company reserves the right to charge the Customer for the excessive element of the usage at the Company's prevailing rate of charges for such Services or to suspend or terminate the Services.
- 1.6 Unless otherwise notified by the Customer, the Customer agrees to receive information sent from the Company for any or all of the following purposes:
 - a) marketing of goods and/or services by the Company, its agents, affiliates or subsidiaries in relation to the Services;
 - b) improvement such as updates and upgrades of goods and/or services in relation to provisioning of the Services;
 - c) any benefits arising out of or in connection with the Services;
 - d) facilitate complete or confirm the provision of the Services by the Company to the Customer under this Agreement.

2 1638 IDD SERVICE NUMBER (previous name is "CALLING CARD")

- 2.1 The Company will issue to the Customer a 1638 IDD Service Number for his use of the Services ("1638 IDD Service Number").
- 2.2 The Customer shall indemnify the Company against all or any losses, damages, costs, expenses and other liabilities whatsoever suffered, sustained or incurred by the Company arising from (directly or indirectly) any loss of or damage to or blocking of the 1638 IDD Service Number or any misuse of the 1638 IDD Service Number by the Customer or any authorized users under the Account of the Customer or any other person. In addition and without prejudice to the above, the Customer shall pay to the Company all charges in such amounts as the Company may determine.

3 DEPOSIT/ADVANCE PAYMENT

- 3.1 The Company shall have the right at any time to require the Customer to pay a deposit and/or advance payment as security for the due performance and discharge by the Customer of its obligations and liabilities relating to the provision of the Services or otherwise under this Agreement. The amount of the deposit and/or advance payment shall be determined by the Company at its sole discretion. The Company reserves the right to increase the amount of the deposit and/or advance payment from time to time. The deposit and/or advance payment shall be retained by the Company free of any interest to the Customer.
- 3.2 Without prejudice to any other rights or remedies which the Company may have against the Customer, the Company shall be entitled to apply and set off the deposit and/or advance payment against any sum due or owing by the Customer under this Agreement or under any of the Customer's other account for the Services or for any loss or damage suffered or sustained by the Company as a result of any non-performance or non-observance by the Customer of any terms and conditions under this Agreement or under any of the Customer's other account for the Services.
- 3.3 Subject to the above, the deposit shall be refunded to the Customer without interest after the termination of this Agreement or the settlement of the last outstanding claim by the Company against the Customer under this Agreement; whichever shall occur later.

4 PAYMENT FOR THE SERVICES

- 4.1 A monthly bill setting out the charges for the relevant month payable by the Customer shall be forwarded to the Customer. The Company reserves the right to vary the billing frequency at any time without prior notice or issue an interim bill for accrued charges, which will become immediately due and payable. The amounts shown on each bill shall be final and binding on the Customer. The Customer shall pay and settle in full each bill on or before the due date for payment as specified therein or otherwise forthwith upon demand by the Company. All monies paid by the Customer are non-refundable under whatever circumstances.
- 4.2 The Customer shall raise any dispute regarding any amount shown on any monthly bill within ten (10) days from the date of such monthly bill; failing which the Customer shall be deemed to have waived all his right against the Company.
- 4.3 All sums payable to the Company hereunder shall be in full without any deductions or set-offs. All sums shall be paid in Hong Kong Dollars and in such manner as the Company may from time to time specify.
- 4.4 Payments made by post shall be at the Customer's risk and a payment shall not be deemed to have been paid until the payment is received by the Company.
- 4.5 Time of payment is of essence. The Company shall be entitled to charge interest at the rate of two percent (2%) per month on any overdue amount from the due date until the date on which payment in full is received by the Company. Such interest shall accrue from day to day.
- 4.6 The Customer shall be solely responsible for all charges incurred through the use of the Service regardless whether the usage is authorized or without the Customer's authority, knowledge or consent.
- 4.7 Where the Customer has registered the Services in more than one Account in its name, the Company shall have the right to transfer any credit balance of charges paid under any one of the Account to settle the outstanding charges in another Account.
- 4.8 Where the Customer has registered more than one Account in his name with the Company, the Company shall have the right to consolidate the outstanding balance of all accounts into one for payment settlement arrangement.
- 4.9 Deposits will be waived if the Customer pays the monthly charges for the provision of the Services by autopay by credit card. If for whatever reason, the Customer changes to other payment methods which is not autopay by credit card, the Company shall automatically terminate the Services to the Customer without prior notice.

5 TERMINATION

- 5.1 Either the Company or the Customer may at any time terminate this Agreement by giving to the other party three (3) working days prior written notice to that effect.
- 5.2 In addition and without prejudice to other provisions contained in this Agreement, the Company shall be entitled to forthwith terminate this Agreement or disconnect the Services or any part thereof without occurrence of any one or more of the following events:
- a) if any charges or other sums whatsoever payable by the Customer hereunder remain unpaid after becoming due; or
 - b) if the Customer commits a breach of any of the terms and conditions contained herein; or
 - c) if the Customer or any authorized users under the Account of the Customer misuses the Services; or
 - d) if the Customer is subject to the law of insolvency or makes any arrangement or composition with its creditor or has a Receiver appointed or enters into liquidation; or
 - e) if the 1638 IDD Service Number is or becomes lost or stolen property; or
 - f) if the Customer copies, extracts, alters, tampers with or otherwise misappropriate any information written into, incorporated, stored or otherwise included in the 1638 IDD Service Number or allows, permits or authorize any other persons to do so; or
 - g) if the Customer or any authorized users under the Account of the Customer uses the Services for any fraudulent or unlawful purposes or a hoax call to emergency services or is of a defamatory, offensive or abusive or immoral nature or menacing character or allows, permits or authorizes any other person to do so; or
 - h) if the Customer fails to pay the deposit and/or advance payment specified in Clause 3; or
 - i) if the call charges for the use of the Services exceed the credit limit specified by the Company from time to time; or
 - j) if the Customer furnishes information to the Company which it knows to be false or misleading; or
 - k) if the Customer has not used the Service for 6 consecutive months
 - l) If it is necessary for the Company to comply with an order, nstruction, determination or direction of a judicial body, government or regulatory authority.
 - m) if the Customer or any authorised user under the Account of the Customer uses abusive, threatening, harassing, vulgar or obscene language to other Customers or employees of the Company through the Services, or allows, permits or authorizes any other person to do so
- 5.3 Termination hereunder shall be without prejudice to any rights and/or claims that the Company may have against the Customer prior to the date of termination and shall not relieve the Customer from fulfilling its obligations including payment of all outstanding charges prior to the date of termination. Any amount accrued and unpaid shall be due and payable forthwith upon termination.
- 5.4 In the case of termination pursuant to Clause 5.1 by the Customer, the Customer shall continue to be liable for all charges payable hereunder until notice of termination is actually received by the Company and becomes effective.
- 5.5 The Company shall have the right to assign the Customer's service number for the Services to another customer after the Services provided to the Customer is terminated or disconnected.

6 RECONNECTION

- 6.1 If the Services is disconnected for reasons set out in Clause 5 or upon the Customer' request, the Company may upon the Customer's request reconnect the Services subject to payment by the Customer of all sums due or owing to the Company a deposit requested by the Company and a reconnection charge. The amount of the deposit and the reconnection charge shall be determined by the Company in its sole and absolute discretion.

7 LOST OR STOLEN 1638 IDD Service Number

- 7.1 If the 1638 IDD Service Number is lost or stolen or if the 1638 IDD Service Number is converted, tampered with or otherwise misappropriated, the Customer must immediately report such incident to the Company and notify the Company of disconnection of the Services. The Customer shall confirm such incident and disconnection in writing within three (3) working days.
- 7.2 Notwithstanding such report, the Customer shall continue to be liable for all call charge payable under this Agreement attributable to the period during which the 1638 IDD Service Number is lost or stolen or the 1638 IDD Service Number is converted, tampered with or otherwise misappropriated until such time when the Company shall have actually received the written notice specified in Clause 7.1 and the Services is disconnected.
- 7.3 If the Customer recovers the lost or stolen 1638 IDD Service Number, the Company may upon the request of the Customer reconnect the Services subject to payment by the Customer of all sums due or owing to the Company and a reconnection charge. The amount of the reconnection charge shall be determined by the Company in its sole and absolute discretion.

8 VERIFICATION

- 8.1 The Customer shall on the request of the Company provide all necessary documents which would verify the truth or correctness of the information furnished by the Customer to the Company. The Company reserves the right not to provide the Services until the Company has established the truth or correctness of the information from the documents furnished by the Customer.
- 8.2 Individual Customer must be over the age of eighteen (18) to enter this Agreement.

9 PRIVACY POLICY

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

10 LIMITATION OF LIABILITY

- 10.1 Save and except for any liability of the Company which cannot be excluded by law, the Company shall not be liable for any cost, claim, expenses, damage or loss of whatsoever nature suffered, sustained or incurred by the Customer or any person arising from or out of or relating to the provision of the Services, including without limitation (i) any interruption or failure of the Services, or (ii) any failure, delay or mistake in establishing communication between the Customer or authorized users under the Account of the Customer and any other person, or (iii) any failure or delay while the or authorized users under the Agreement of the Customer is communicating any message in the use of the Services; or (iv) any failure or delay in activating or deactivating the Services, or (v) any unauthorized use of the Customer's 1638 IDD Service Number.
- 10.2 The Company shall under no circumstances be liable for any loss (whether direct or indirect) of revenue, loss of profits or any consequential loss whatsoever suffered, sustained or incurred by the Customer or by other person arising (directly or indirectly) from or out of or relating to the provision of the Services or this Agreement.

11 VARIATION

- 11.1 The Company shall be entitled, at any time, or from time to time, by giving notice to the Customer, to vary all or any of these terms and conditions and to impose new terms.

12 ASSIGNMENT

- 12.1 The Customer shall not assign, transfer, convey, license or otherwise dispose of any of its rights and obligations under this Agreement to any other party without the prior consent of the Company.
- 12.2 Consent will only be given by the Company on condition that the Customer and the transferee signing a transfer agreement in the form specified by the Company and the Customer settling all outstanding charges under this Agreement.

13 APPLICABLE LAW

- 13.1 This Agreement shall be construed in accordance with the laws of Hong Kong Special Administrative Region and the parties shall submit to the exclusive jurisdiction of the courts of Hong Kong Special Administrative Region in the event of dispute.

14 FORCE MAJEURE

- 14.1 The Company shall not be liable for any loss or damage resulting from delay or failure to perform this Agreement either in whole or in part where such delay or failure shall be due to causes beyond its reasonable control, or which is not occasioned by its fault or negligence, including but not limited to, war, the threat of imminent war, riots or other acts of civil disobedience, insurrection, acts of God, restraints imposed by governments or any other supranational legal authority or any other industrial or trade disputes, fires, explosions, storms, floods, lightening, earthquakes and other natural calamities.

15 NOTICES

- 15.1 Any notice or consent to be given by the Company to the Customer may be given by the Company either personally to the Customer or by post, facsimile to the address specified by the Customer or by electronic means addressed to the Customer. Such notice or consent shall be deemed to have been received by the Customer immediately if transmitted by facsimile or electronic means or when personally delivered and twenty-four (24) hours after despatch if sent by post.

16 NON-WAIVER

- 16.1 No failure or delay on the part of the parties hereto exercise any right, power or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise by either of the party of any right, power or remedy. The rights, powers and remedies provided herein are cumulative and are not exclusive of any rights, powers or remedies by law.

17 SEVERABILITY

- 17.1 If any provisions of this Agreement shall be construed to be illegal or invalid, they shall not affect the legality, validity and enforceability of the other provisions of this Agreement. The illegal or invalid provision shall be deleted from this Agreement and no longer incorporated herein but all other provisions of this Agreement shall continue.

18 ENTIRE AGREEMENT

- 18.1 This Agreement embodies the entire understanding between the parties and there are no promises, terms or conditions, oral or written expressed or implied other than those contained herein.
- 18.2 Save for Clause 11, this Agreement may only be amended in writing and signed by or on behalf of the Company and the Customer.

19 INTERPRETATION

- 19.1 Reference to the plural shall include the singular and vice versa; words importing a gender shall include every gender; references herein to any person shall include references to individual, firm, body corporate or unincorporate.
- 19.2 The terms and conditions of this Agreement are written in both English and Chinese. A copy of the Chinese version is available upon request at any of the Company's stores or by calling the Company's hotline or retrieved from the Company's web site.