

## **TERMS AND CONDITIONS FOR PAYGO CONTRACT PLAN SERVICES**

The following terms and conditions are supplemental to the Sales and Services Agreement and the terms and conditions therein (the "Agreement") made between the Customer and SmarTone Mobile Communications Limited (the "Company") and shall form an integral part of the Agreement. Unless otherwise stated, defined terms used herein shall have the same meanings as set out in the Agreement.

### **1 Definitions**

Unless otherwise stated, the following words and expressions shall have the following meanings:

"Card" means the SIM card which enables the Customer to use any or all of the PayGo Contract Plan Services.

"Charges" means any fees or charges relating to the PayGo Contract Plan Services charged by the Company from time to time including but without limitation, connection, subscription, monthly service charge, voice and data usage, roaming, registration, administration, cancellation, reconnection, government licence fee, licence fee payable to third parties (including without limitation the various tunnel operators and MTR Corporation Limited) in connection with the Customer's use of the PayGo Contract Plan Services, mobile number porting charge, SIM Card fee and any other charge or fee (including amounts billed by the Company for and on behalf of another person) which may be specified, announced or published by the Company from time to time for the provision of the PayGo Contract Plan Services.

"Content Service" means data, information, photographs, diagram symbol or other material in whatever languages including without limitation all textual, audio, video, still and moving/images, graphic, musical or other content or information that can be accessed by or through using the PayGo Contract Plan Services.

"PayGo Contract Plan Services" means the mobile radio telephone service, VAS, Content Service and any other service which the Company supplies to the Customer from time to time.

"VAS" means value added service provided by the Company including without limitation, roaming service, international communication service, short message service, call forwarding, caller number display and voice mail.

"Voucher" means the voucher that is used for the recharge of the value of the Card.

- 2 The value stored in the Card shall be used for payment of the Charges.
- 3 The Customer expressly acknowledges that he has read the relevant service plans for the PayGo Contract Plan Services and the rate of the Charges for the PayGo Contract Plan Services and understands and agrees to the rates and charging mechanism before using any of the PayGo Contract Plan Services. In particular, the Customer agrees to the minimum monthly Charges which shall be deducted from the value of the Card at the end of each billing cycle (details of the billing cycle shall be specified by the Company according to the Customer's first use of the PayGo Contract Plan Services) irrespective whether or not the Customer has used the PayGo Contract Plan Services up to the level of the minimum monthly Charges.
- 4 The rate of Charges including the minimum monthly Charges are subject to change from time to time. The Customer should regularly check the updated rate of Charges through the channel(s) specified by the Company.
- 5 The value of the Card is recharged at any of the authorised recharging channels specified by the Company or by the purchase of Vouchers at the Company's retail outlets or from the Company's authorised agents.
- 6 If the Card is damaged, the Company may replace the damaged Card subject to the payment of handling Charges.
- 7 All questions and disputes regarding the Charges, remaining credit and expiry date of the Card and Voucher will be decided by the Company at its sole discretion. For questions and disputes on Charges, these must be submitted to the Company within three (3) months from the date of debit of the Charges in question.
- 8 The Company does not provide refund or make any transfer of:
  - a) any unused portion of the value of
    - i) the Card; or
    - ii) the Voucherwhether before or after its expiry date;
  - b) any value of the Card directed to an incorrect Card account during the recharge process;
  - c) any value of the Card being utilized by fraudulent and unauthorised use of the Card.
- 9 In the case of a lost Card or Voucher, the Company does not provide refund for any value of the lost Card or Voucher being utilized during the period of loss or thereafter. However, the Company may at its sole discretion but subject to payment of any Charges specified by the Company and a preservice verification by the Company, replace a lost Card for the Customer with any remaining unused value of the Card as recorded in the Company's system for the lost Card. The amount of the value for the lost Card as recorded in the Company's system shall be final and binding on the Customer.
- 10 In addition and without prejudice to the terms and conditions of the Company's Sales and Services Agreement, the Company shall have the right to forthwith temporarily suspend, terminate or disconnect the PayGo

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Contract Plan Services or any part thereof without notice if the value remaining in the Card at the end of a billing cycle is insufficient to cover the minimum monthly Charges or any charges due at the date of the billing cycle. The Customer can within a time specified by the Company request for reconnection of the PayGo Contract Plan Services provided the Customer settles all sums due or owing to the Company.

- 11 The Company reserves the right to terminate or temporarily suspend the PayGo Contract Plan Services or any part thereof if in the opinion of the Company there has been, or is likely to be fraudulent, illegal or improper use of the PayGo Contract Plan Services through the use of the Card.
- 12 If the Customer has signed a fixed term contract ("Fixed Term Contract") with the Company for the PayGo Contract Plan Services and the PayGo Contract Plan Services is terminated before the expiry of the Fixed Term Contract, any remaining unused value of the Card and any rebate will be absolutely forfeited. Further, the Company has the right to take action to recover any liquidated damages specified in the Fixed Term Contract.
- 13 The liability of the Company to a Customer, whether in contract, tort or otherwise, in relation to the Card or Voucher shall be limited to the remaining value of the Card or Voucher.
- 14 Any disputes in connection with or arising from the use of the Card or Voucher shall be determined in accordance with the laws of Hong Kong Special Administrative Region.
- 15 The Company shall not be liable to the Customer for loss or damage resulting from delay or failure of the PayGo Contract Plan Services 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, explosion, storms, floods, lightnings, earthquakes and other natural calamities.
- 16 The Company reserves the right at any time to vary, modify, delete any and all of the terms and conditions contained herein.
- 17 The terms and conditions herein are written in both English and Chinese.
- 18 In the event of any inconsistency or discrepancy between the terms and conditions of the Company's Sales and Services Agreement and the terms and conditions herein for PayGo Contract Plan Services, the latter shall prevail.