

Terms & Conditions T&C-T233
Contract Term For FUP Unlimited Data Plan

SmarTone

1) Term:

1.1 Definition:

- a) Previous Contract Term = on the date of this Sales and Services Agreement, the Customer already signed a fixed term contract for FUP Unlimited Data Plan.
- b) Smartphone Plan Contract Term = fixed contract term of iPhone /Smartphone Plan.
- c) FUP Unlimited Data Plan Term = fixed contract term of FUP Unlimited Data Plan.
- d) Term = Outstanding months under unexpired Previous Contract Term + Smartphone Plan Contract Term (if applicable).

1.2 The Customer shall use the FUP Unlimited Data Plan service for the period specified in the Sales and Services Agreement ("FUP Unlimited Data Plan Term"). The FUP Unlimited Data Plan Term shall start from the service effective date.

1.3 If the Customer does not have an existing contract of a service number at the time of subscription of the FUP Unlimited Data Plan, the FUP Unlimited Data Plan Term for subscription of the FUP Unlimited Data Plan shall be 12 months from the service effective date.

1.4 If the Customer has an existing contract of a service number that has not yet expired, the FUP Unlimited Data Plan Term shall start from the service effective date and expire on the same date as the expiry date of the existing contract. Customer can refer to the Sales and Services Agreement (or Supplemental Agreement to Sales and Services Agreement) for details of the relevant contract expiry date.

1.5 If the Customer who has an existing unexpired contract of FUP Unlimited Data Plan stacks a new contract of iPhone/Smartphone Plan, the Customer can opt to sign a new contract for FUP Unlimited Data Plan with the new contract of iPhone/Smartphone Plan. The Term takes effect immediately.

1.6 Before contract expires, the Company's retention team will contact the Customer for the latest re-contract offer. Should the Customer decline offer, and upon expiry of existing contract, the Customer will automatically be switched to a then prevailing comparable plan on non-contract basis that is specified from time to time.

2) Service Plan:

2.1 FUP Unlimited Data Plan is only available to Customer who has subscribed to a designated "5GB or above data usage" monthly service plan ("Specified Service Plan"). It cannot be used in conjunction with Multi-SIM Monthly Plan and Tag-On SIM Plan

2.2 The Customer shall use the following applicable Service Plan and services during the Term:

- a) the FUP Unlimited Data Plan specified in the Sales and Services Agreement (or Supplemental Agreement to Sales and Services Agreement); and
- b) any of the services ("Selected Services") specified in the Company's web site "Terms and Conditions" relating to this offer and the aggregate monthly fee (after deduction of any rebate) of such Selected Services is equal to or above the amount specified in the Sales and Services Agreement (or Supplemental Agreement to Sales and Services Agreement).

2.3 If the Customer has an existing unexpired contract of FUP Unlimited Data Plan stacks a new contract of iPhone/Smartphone Plan, the Customer can opt to sign a new contract for FUP Unlimited Data Plan. The monthly fee of the new FUP Unlimited Data Plan as specified in the Sales and Services Agreement shall take effect simultaneously when the new contract for iPhone/Smartphone Plan commences and will apply until the expiration of the Term.

2.4 If the Customer subscribes to a SuperCare Unbundled Smartphone Plan, the monthly fee of FUP Unlimited Data Plan specified in the Sales and Services Agreement shall take effect simultaneously when the new SuperCare Unbundled Smartphone Plan commences and will apply until the expiration of the FUP Unlimited Data Plan Term.

- 2.5 The Service Plan is charged on a monthly basis. The monthly charges for the first month will be charged on a pro-rata basis from the service effective date to the first bill date. The monthly charges are payable in advance and non-refundable under whatever circumstances.
- 2.6 After subscription of the FUP Unlimited Data Plan, the total local data usage of the Specified Service Plan will be raised to unlimited data usage (subject to Fair Usage Policy, described in Clause 5) for the Term.
- 2.7 This Service Plan is not applicable to 2G phones / connected devices or any phones / connected devices which have manually opted for 2G network, and not applicable to other connected devices (including but not limited to USB modem / pocket wi-fi / TV box).

3) Liquidated Damages

3.1 Liquidated Damages under FUP Unlimited Data Plan Term:

3.1.1 The Customer shall pay the Company liquidated damages (which is equivalent to the monthly fee of FUP Unlimited Data Plan specified in the Sales and Services Agreement (or Supplemental Agreement to Sales and Services Agreement) multiply by the remaining months of the FUP Unlimited Data Plan Term) upon the occurrence of any of the following events before the expiry of the FUP Unlimited Data Plan Term:

- a) if the Customer changes to a service plan that is not a Specified Service Plan; or
- b) if the Customer terminates the FUP Unlimited Data Plan; or
- c) if the Customer cancels or changes any of the Selected Services resulting in the aggregate monthly fee (after deduction of any rebate) of the Selected Services to be below the amount specified in the Sales and Services Agreement (or Supplemental Agreement to Sales and Services Agreement); or
- d) if the Customer changes the mobile telephone number / the service number / the registered name for the mobile telephone number / the service number; or
- e) if the service is terminated/disconnected for whatever reason ; or
- f) if at the request of the Customer or for whatever reason caused by the Customer, the mobile telephone services cannot be activated within 90 days from the date of the Sales and Services Agreement.

3.2 Liquidated Damages under Term (i.e. Outstanding months under unexpired Previous Contract Term + Smartphone Plan Contract Term):

3.2.1 (Where applicable) The Customer shall pay the Company liquidated damages (which is equivalent to the sum of monthly fee of applicable FUP Unlimited Data Plan under the Previous Contract Term multiply by the remaining months of the unexpired Previous Contract Term + sum of monthly fee of applicable FUP Unlimited Data Plan under Smartphone Plan Contract Term multiply by remaining months of the Term) upon occurrence of any of the following events on or before the expiry date of the unexpired Previous Contract Term:

- a) if the Customer changes to a service plan that is not a Specified Service Plan; or
- b) if the Customer terminates the FUP Unlimited Data Plan; or
- c) if the Customer cancels or changes any of the Selected Services resulting in the aggregate monthly fee (after deduction of any rebate) of the Selected Services to be below the amount specified in the Sales and Services Agreement (or Supplemental Agreement to Sales and Services Agreement); or
- d) if the Customer changes the mobile telephone number / the service number / the registered name for the mobile telephone number / the service number; or
- e) if the service is terminated/disconnected for whatever reason ; or
- f) if at the request of the Customer or for whatever reason caused by the Customer, the mobile telephone services cannot be activated within 90 days from the date of the Sales and Services Agreement.

3.2.2 (Where applicable) The Customer shall pay the Company liquidated damages (which is equivalent to the sum of the monthly fee of applicable FUP Unlimited Data Plan under Smartphone Plan Contract Term multiply by the remaining months of the Term) upon the occurrence of any of the following events after the expiry of the unexpired Previous Contract Term but before the expiry of the Term:

- a) if the Customer changes to a service plan that is not a Specified Service Plan; or
- b) if the Customer terminates the FUP Unlimited Data Plan; or
- c) if the Customer cancels or changes any of the Selected Services resulting in the aggregate monthly fee (after deduction of any rebate) of the Selected Services to be below the amount specified in the Sales and Services Agreement (or Supplemental Agreement to Sales and Services Agreement); or

- d) if the Customer changes the mobile telephone number / the service number / the registered name for the mobile telephone number / the service number; or
- e) if the service is terminated/disconnected for whatever reason ; or
- f) if at the request of the Customer or for whatever reason caused by the Customer, the mobile telephone services cannot be activated within 90 days from the date of the Sales and Services Agreement.

4) Data Services for Service Plan (“the Data Services”):

4.1 4G is only available with compatible phones and SIM cards.

4.2 The data usage applies to local use only. Standard roaming data charge applies during roaming.

4.3 Users of Blackberry 7 OS and earlier version need to subscribe to the specified Blackberry service plan for the data usage.

4.4 The Customer must use the Data Services with settings [including but not limited to the APN setting (only applicable to data services)] and devices specified by the Company. Customer can check with the Company’s front-line staffs for the latest information on setting and devices. If the Customer does not follow this specification in the use of the Data Services, the Company has the right to forthwith suspend / terminate the Data Services without notice. Also the Company has the right to charge the Customer use of the Data Services at the Company’s prevailing rate.

5) Fair Usage Policy:

5.1 The following terms and conditions apply to telecommunication services (“Services”) provided by SmarTone Mobile Communications Limited (“the Company”).

- a) The Company will ensure the system resources of the Company’s telecommunications network (“Network”) is equitably allocated amongst users (“Users”) of the Services.
- b) Under FUP (Fair Usage Policy), when monthly data usage reaches the plan’s data allowance, data service continues without speed throttling or data capping, but access to network resources will be given lower priority and data service experience may be affected.