

Terms & Conditions T&C 01-05 (TERMS AND CONDITIONS FOR MOBILE TELEPHONE SERVICE)

TERMS AND CONDITIONS FOR MOBILE TELEPHONE SERVICE

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

SALE OF EQUIPMENT/ACCESSORY ITEM

1. PAYMENT FOR EQUIPMENT/ACCESSORY ITEM

- 1.1 The Customer shall pay the Company the full purchase price or any balance thereof on the delivery of the Equipment/Accessory Item. If the Equipment/Accessory Item has been delivered to the Customer and the balance of the purchase price is not paid by the Customer, the Company shall have the right to forfeit the deposit paid by the Customer and repossess the Equipment/Accessory Item.

2. TITLE AND RISK

- 2.1 Title to the Equipment/Accessory Item shall remain vested in the Company until the Company has received full payment of the purchase price but risk shall pass to the Customer upon delivery of the Equipment/Accessory Item to the Customer.

3. WARRANTY

- 3.1 The warranty period of the Equipment is 12 months and the Accessory Item is 6 or 12 months (as the case may be) from the date of purchase. The warranty shall continue notwithstanding any transfer of ownership of the Equipment/Accessory Item.
- 3.2 The Customer's sole and exclusive remedy during the warranty period shall be limited to repair or replacement.
- 3.3 The warranty will be rendered invalid and ineffective (A) if a claimed malfunction, anomaly or deficiency on the Equipment or Accessory Item or any part thereof is caused by (i) abnormal wear and tear, (ii) negligent or intentional damage; (iii) the Equipment or Accessory Item being in any way mishandled or tampered with; (iv) the Equipment or Accessory Item having been used for a purpose which is not their intended purpose; (v) the Equipment or Accessory Item having been stored, transported or used in a manner which is in breach of manufacturer's recommendations, namely in excess heat or humidity; (vi) the handset having been subject to impact, crushing or immersion in liquid; or (vii) an alteration or repair having been made without the authorization of the Company; or (B) if any manufacturer's warranty, security or anti-tampering seals or stickers on the Equipment or Accessory Item are damaged or broken.
- 3.4 The Company may at the request of the Customer carry out the repair or replacement work not covered by the warranty but subject to the Customer paying the Company's prevailing charges (which are subject to change from time to time) for such services.

PROVISION OF SERVICES

4. THE SERVICES

- 4.1 Subject to the terms and conditions set out herein, and according with the Services Agreement signed (the "Services Agreement"), the Company shall provide and the Customer shall subscribe to the mobile telephone services ("the Services") in accordance to the selected service plan ("Service Plan"). Subject to the approval of the Macao Bureau of Telecommunications Regulation, the Company has the right to vary the Service Plan and the rate of charges at any time.
- 4.2 The Customer shall select the features of the Services ("Service Features"). The Company reserves the right at any time to do all such things that is necessary to the Service Features to ensure the quality of the Services.
- 4.3 The Customer may request for the provision of international communication service. The international communication service provided by the Company is subject to the terms and conditions set out herein and the terms and conditions prescribed by the relevant provider of such service from time to time.
- 4.4 The Company does not provide directory entries for the Services.
- 4.5 Roaming service for use of the Services outside Macau Special Administrative Region is available in countries where the Company may maintain roaming arrangements. Roaming arrangements may be effected or terminated from time to time without prior notice.

5. SUBSCRIBER IDENTITY MODULE CARD

- 5.1 The Company will issue to the Customer a Subscriber Identity Module Card ("SIM Card") for his use of the Services.
- 5.2 The provision of the SIM Card is subject to and conditional upon the communication equipment in which the SIM Card shall be installed is of a type approved by the Macao Bureau of Telecommunications Regulation.
- 5.3 The Customer acknowledges that the Company is the absolute and exclusive owner of all information written into, incorporated, stated or otherwise included in the SIM Card (excluding information stored by the Customer) and undertakes to keep all such information confidential at all times.
- 5.4 The Customer shall take proper care of the SIM Card and shall not permit any person (other than the Company or authorized users under the Services Agreement) to take possession or control of the SIM Card. The Customer shall not copy, extract, alter, tamper with or otherwise misappropriate any information in the SIM Card or allow, permit or authorize any other person to do so.

6. DEPOSIT

- 6.1 The Company shall have the right at any time to:
- (a) require the Customer to pay a deposit as security for the due performance and discharge by the Customer of his obligations and liabilities relating to the provision of the Services or any other obligations under the Agreement(s); and
- (b) increase the amount of the deposit.
- The deposit shall be retained by the Company free of any interest to the Customer.
- The amount of the deposit shall be determined by the Company at its sole discretion. The Customer may be requested to provide a deposit by any form of communication, including but not limited to voice call or SMS to his registered number, e-mail or written notice.
- 6.2 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 against any sum due or owing by the Customer under the Services Agreement, these Terms and Conditions, or under any other Agreement signed by the Customer with the Company, 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 contract or terms and conditions applicable.
- 6.3 Subject to the above, the deposit or the balance shall be refunded to the Customer without interest after the termination of the Agreement or the settlement of the last outstanding claim by the Company against the Customer under the Agreement or these Terms and Conditions; whichever shall occur later.

7. PAYMENT FOR THE SERVICES

- 7.1 The Customer shall, forthwith upon signing the Services Agreement, pay in advance the first month's service charges for the provision of the Services and the first month's charges for such Service Features selected by the Customer and any other charges as the Company may require, each in such amount as the Company may in its sole and absolute discretion determine. Any sum so paid to the Company shall not bear interest for the Customer.
- 7.2 A monthly bill setting out the charges for the relevant month payable by the Customer shall be forwarded to the Customer. The amounts shown on the monthly bill shall be final and binding on the Customer. The Customer shall pay and settle in full his monthly bill on or before the due date for payment as specified therein or otherwise forthwith upon demand by the Company.
- 7.3 All sums payable to the Company hereunder shall be in full without any deductions or set-offs. All sums shall be paid in Patacas and in such manner as the Company may from time to time specify.

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- 7.4 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.
 - 7.5 Time of payment is of essence for the Services Agreement. 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.
 - 7.6 In situations where the Customer is registered with more than one Services Agreement, the company is entitled to transfer credits or deposits made under any one of the contracts to offset debts accrued in respect of any other contracts.
 - 7.7 Any dispute regarding the amounts shown on the monthly bill shall be raised in writing within fifteen (15) days from the date of such monthly bill; failing which the amounts shown on the monthly bill shall be considered correct, due and accepted by the Customer.
- 8. SUSPENSION AND TERMINATION OF THE SERVICES**
- 8.1 The Company is entitled to immediately suspend the Services without prior notice to the Customer upon the occurrence of any of the following (each, an "Event of Default"):
 - (a) if any charges or other sums whatsoever payable by the Customer 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 Services Agreement misuses the Services; or
 - (d) if the Customer dies or is subject to the law of insolvency and/or bankruptcy or makes any arrangement or composition with his creditors or has a Receiver appointed or enters into liquidation; or
 - (e) if the SIM Card is or becomes lost or stolen property; or
 - (f) if the Customer copies, extracts, alters, tampers with or otherwise misappropriates any information written into, incorporated, stored or otherwise included in the SIM Card or allows, permits or authorizes any other persons to do so; or
 - (g) if the Customer modifies, alters or otherwise tampers with the Equipment or Accessory Item used for the Services or allows, permits or authorizes any other person to do so; or
 - (h) if the Customer or any authorized users under the Services Agreement uses the Services for any fraudulent or unlawful purposes or uses abusive or indecent language to other customers or employees of the Company through the Services, or allows permits or authorizes any other person to do so; or
 - (i) if the Customer fails to pay the deposit specified in Clause 6; or
 - (j) if the call charges for the use of the Services exceed the credit limit as specified by the Company from time to time; or
 - (k) if the Customer furnishes information to the Company which he knows to be false or misleading; or
 - (l) if it is necessary for the Company to comply with an order, instruction, determination or direction of a judicial body, government or regulatory authority.
 - 8.2 Either the Company or the Customer may at any time terminate the Services Agreement without reason by giving to the other party five (5) working days prior written notice to that effect.
 - 8.3 Without prejudice to other provisions contained in the Services Agreement, the Company shall be entitled to terminate the Services Agreement by three (3) working days prior written notice to the Customer, upon the occurrence of any Event of Default stated in 8.1.
 - 8.4 Termination shall be without prejudice to any rights and/or claims that the Company may have against the Customer prior to the date of termination or arising as a consequence of or which are connected in any way with termination, and shall not relieve the Customer from fulfilling all of his obligations including payment of all outstanding charges, penalties or fees. Any amount accrued and unpaid shall be due and payable forthwith upon termination.
 - 8.5 In the event of termination pursuant to Clause 8.2, the Customer shall continue to be liable for all charges related with the provision of the Services until notice of termination is actually received by the Company and becomes effective.
 - 8.6 Termination of the Services Agreement by the Company under clause 8.3 or by the Customer under clause 8.2 before expiry of the term shall entitle the Company to claim the Liquidated Damages stated in the Services Agreement.
 - 8.7 The Company shall have the right to assign the Customer's service number for the Services to another customer after the Services Agreement is terminated.
 - 8.7 In the event that the Customer has more than one Services Agreement with the Company, the Company shall have the right to forthwith disconnect and suspend all the Services provided under all the Services Agreements and to terminate them upon the occurrence of any Event of Default under clause 8.1.
- 9. RECONNECTION**
- 9.1 If the Services are suspended due to the occurrence of an Event of Default and this Agreement has not been terminated under clause 8.3, upon the Customer's request the Company may 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.
- 10. LOST OR STOLEN COMMUNICATION EQUIPMENT AND/OR SIM CARD**
- 10.1 If the communication equipment registered for the Services or the SIM Card is lost or stolen or if the SIM Card is converted, tampered with or otherwise misappropriated, the Customer must immediately report such incident to the Company and shall require the Company to Suspend the provision of the Services. The Customer shall confirm such incident and suspension in writing within three (3) working days.
 - 10.2 The Customer shall continue to be liable for all call or service charge payable under this Agreement attributable to the period during which the communication equipment or the SIM Card is lost or stolen or the SIM Card is converted, tampered with or otherwise misappropriated until the moment when the Company has been informed and has been required the suspension of the Services.
 - 10.3 If the Customer recovers the lost or stolen communication equipment registered for the Services or the SIM Card, the Company may upon the request of the Customer reconnect the Services to the item concerned subject to payment by the Customer of all items 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. The Company may require a pre-service inspection of the communication equipment and/or SIM Card prior to reconnection.
- 11. VERIFICATION**
- 11.1 The Customer shall 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.
 - 11.2 In the case of the Customer being a firm, body corporate and incorporate, the Company reserves the right to request the Customer to produce a copy of its business registration certificate.
 - 11.3 Individual Customer must be over the age of eighteen (18) to enter the Services Agreement. The Company reserves the right to request a personal guarantee.

Terms & Conditions T&C 01-05 (TERMS AND CONDITIONS FOR MOBILE TELEPHONE SERVICE)

12. USE OF CUSTOMER INFORMATION

- 12.1 The Company is hereby authorized, in relation to any information it has relating to the Customer or the authorized user under the Contract, to use and/or disclose such information for the purpose of the Company performing its obligation or enforcing its rights under the Agreement.
- 12.2 The Customer authorizes the Company to collect, store and process the Customer's personal information for the purposes of the Company providing the Services and comply with applicable laws, and accepts that failure by the Customer to provide personal information which the Company may reasonably request may result in the Company being unable to provide certain or all the Services.
- 12.3 By subscribing to the Services, the Customer authorizes the Company to transfer the Customer's personal information to third parties which may provide services to the Company such as roaming, billing, debt recovery, customer service inquiries or payment processing. At times, it may be necessary or prudent for the provision of the Services that Customer's personal information be transferred to a location outside of Macau, and Customer expressly agrees to such transfer.

13. LIMITATION OF LIABILITY

- 13.1 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, the value added services and/or Service Features offered under the Services Agreement including without limitation (i) any interruption or failure of the Services, the value added service and/or the Service Features, or (ii) any failure, delay or mistake in establishing communication between the Customer and any other person, or (iii) any failure or delay while 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 communication equipment.
- 13.2 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 the Agreement.
- 13.3 Information supplied through the value-added services are supplied by third party information providers. The Company and the third party information provider make no warranties of any kind in relation to the information provided and accept no responsibilities for its accuracy or completeness and/or consistency or for any loss or damage whatsoever and howsoever suffered or incurred by any party. With the use or access to the information provided, the Customer or any party irrevocably and unconditionally accepts and agrees to be bound by this disclaimer.

GENERAL

14. VARIATION

- 14.1 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.

15. ASSIGNMENT

- 15.1 The Customer shall not assign, transfer, convey, license or otherwise dispose of any of its rights and obligations under the Agreement to any other party without the prior consent of the Company.
- 15.2 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 the Agreement.
- 15.3 The Customer shall not assign, transfer, convey, license or otherwise dispose of the service number which has been allocated by the Company to the Customer for the use of the Services.

16. APPLICABLE LAW

- 16.1 The Agreement and these Terms and Conditions shall be construed in accordance with the laws of Macau Special Administrative Region and the parties shall submit to the exclusive jurisdiction of the courts of Macau Special Administrative Region in the event of dispute.

17. FORCE MAJEURE

- 17.1 The Company shall not be liable for any loss or damage resulting from delay or failure to perform the Agreement or these Terms and Conditions 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.

18. NOTICES

- 18.1 Any notice or consent to be given by the Company under or pursuant to these Terms and Conditions to the Customer may be given either personally to the Customer, by post to the address specified in the Agreement or any address as notified by the Customer, facsimile, or by electronic means addressed to the Customer, such as voice call, SMS or e-mail. Such notice or consent shall be deemed to have been immediately received by the Customer if transmitted by facsimile or SMS or when personally delivered, twenty-four (24) hours after transmission if transmitted by electronic means such as e-mail, and forty-eight (48) hours after dispatch if sent by post.

19. SEVERABILITY

- 19.1 If any provisions of these Terms and Conditions shall be construed to be illegal or invalid, they shall not affect the legality, validity and enforceability of the other provisions herein.

20. ENTIRE AGREEMENT

- 20.1 These Terms and Conditions shall always apply once the Company Services are subscribed by the Customer. to the matters stated herein. In addition others Terms and Conditions may be agreed in writing between the Company and the Customer.

21. INTERPRETATION

- 21.1 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 unincorporated.
- 21.2 These Terms and Conditions are written in Chinese, Portuguese and English. The Chinese and Portuguese versions shall prevail in the event of any inconsistency or interpretation of this Agreement. A copy of the Chinese or Portuguese versions are available on the Company Website at www.smartone.com.mo, upon request at the Company's Sales & Customer Services Office or by calling the Company's hotline.