

Terms & Conditions T&C-V047B
Terms & Conditions for 'hmv PLAY' Service

1) Your Acceptance

1.1 This is an agreement between SmarTone Mobile Communications Limited ("SmarTone" or "the Company") and you ("you"), a user of hmv PLAY ("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) hmv PLAY Service

2.1 hmv PLAY 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.

2.2 The Customer shall use the hmv PLAY service for the period specified in the Sales and Services Agreement ("Term"). The Term shall start from the service effective date.

2.3

Service Plan	Term
hmv PLAY <ul style="list-style-type: none"> • HK\$49 / month • No fixed term contract 	--
hmv PLAY (3-month contract plan) <ul style="list-style-type: none"> • HK \$49 / month • No monthly fee for the 3rd month 	3 months
hmv PLAY (6-month contract plan) <ul style="list-style-type: none"> • HK \$49 / month 	6 months (Applicable for retention only)
hmv PLAY (6-month contract plan) <ul style="list-style-type: none"> • HK \$49 / month • No monthly fee for the 5th and 6th month 	6 months (Applicable for selected customer only)
hmv PLAY (12-month contract plan) <ul style="list-style-type: none"> • HK \$49 / month • No monthly fee for the 12th month 	12 months
hmv PLAY (12-month contract plan) <ul style="list-style-type: none"> • HK \$49 / month • No monthly fee for the 11th and 12th month 	12 months
hmv PLAY (12-month contract plan) <ul style="list-style-type: none"> • HK \$49 / month 	12 months

2.4 The Service Plan is charged on a monthly basis. The monthly charges are non-refundable under whatever circumstances.

- 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 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/roamingdatapack for details.
- 2.7 You agree:
- To use the Service for personal and non-commercial use only;
 - 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.
- 2.8 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.
- 2.9 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 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.
- 2.11 The Company makes no warranty that:
- The Service will meet the customers' requirements;
 - The Service will be uninterrupted, timely, secure or error-free;
 - The results that may be obtained from the use of the Service will be accurate or reliable; or
 - The quality of any services, information or other material obtained by the customer through the Services will meet his/her expectation.
- 2.12 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 or loss of data that results using the Service, including without limitation, the download of any materials, data or information. Customer expressly relieves SmarTone from any and all liabilities arising from the access or use of any part of the Service.
- 2.13 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.
- 2.14 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.
- 2.15 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.
- 2.16 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.
- 2.17 Users agree to be bound by the End Users Licence Agreement of using the Service, which agreement can be found at www.hmv.com.hk/hmvplay.

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) Rebate

3.1 If the Customer subscribes to contract for hmv PLAY service, the Customer shall be entitled to the following rebate.

Credit Amount and Payment Method:

Bonus	Credit Arrangement	Liquidated Damages (HK\$)
3 months bonus	Total Credit Amount of HK\$71 bonus, over 3 months (HK\$11 x 2 months and HK\$49 in 3 rd month)	HK\$49 x remaining months of the Term
6 months bonus	Total Credit Amount of HK\$142 bonus, over 6 months (HK\$11 x 4 months and HK\$49 in 5 th and 6 th month)	HK\$49 x remaining months of the Term
6 months bonus	Total Credit Amount of HK\$66 bonus, over 6 months (HK\$11 x 6 months)	HK\$49 x remaining months of the Term
12 months bonus	Total Credit Amount of HK\$170 bonus, over 12 months (HK\$11 x 11 months and HK\$49 in 12 th month)	HK\$49 x remaining months of the Term
12 months bonus	Total Credit Amount of HK\$208 bonus, over 12 months (HK\$11 x 10 months and HK\$49 in 11 th and 12 th month)	HK\$49 x remaining months of the Term
12 months bonus	Total Credit Amount of HK\$132 bonus, over 12 months (HK\$11 x 12 months)	HK\$49 x remaining months of the Term

3.2 The Credit Amount will be credited to the monthly bill of the Customer's Account. The first Credit Amount will be credited to the 1st monthly bill after the service effective date.

3.3 The Credit Amount paid by the Company will only be applied by the Company to meet the Customer's payment obligations to the Company in respect of the Customer's Account. However, the Customer cannot set-off any other sum payable to the Company against any part of the Credit against any part of the Credit Amount payable by the Company to the Customer's Account.

3.4 The Credit Amount cannot be exchanged for cash.

3.5 The Company shall not be under any obligation to pay any interest to the Customer on the Credit Amount.

3.6 The Customer will not be entitled to the Credit Amount or any balance thereof and shall pay the Company liquidated damages specified in clause 3.1 upon the occurrence of any of the following events before the expiry of the Term:

- a) if the Customer changes to a service not specified above; or
- b) if the Customer terminates the hmv PLAY service; or
- c) if the Customer changes the mobile telephone number or the registered name for the mobile telephone number; or
- d) 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) Intellectual Property rights

- 4.1 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.

5) Privacy Policy

- 5.1 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.
- 5.2 The Company will do its best to keep your privacy safe, but still need your help. Please protect your own personal information carefully.

6) Applicable Laws

- 6.1 You shall comply with the laws of Hong Kong Special Administrative Region that apply to your use of the Service.
- 6.2 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.

7) Limitation of Liability

- 7.1 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.

8) Advertising

- 8.1 You acknowledge and agree that the Service includes advertisement.
- 8.2 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.
- 8.3 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.



- 8.4 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.
- 9) The Company reserves the right to revise the terms and conditions of the Service from time to time.