

Terms & Conditions T&C-V162

Terms & Conditions for "Disney+" Service



1) Your Acceptance

1.1. This is an agreement between SmarTone Mobile Communications Limited ("SmarTone" or "the Company") and you ("you" or the "Customer"), a user of Disney+ service ("the Service"). Customer understands and agrees that SmarTone is not the content provider of Disney+, Customer will need to create a Disney+ account or log into an existing Disney+ account (if applicable), complete the activation of Disney+ service, and agree to and accept Disney+ Subscriber Agreement and its relevant terms of use and privacy policies (collectively, the "Disney+ Agreement") in order to enjoy the Disney+ service. Customer must be 18 years of age or older to subscribe to Disney+ service. The Service is subject to the special terms and conditions of the relevant SmarTone service that may be in effect from time to time. Customer agrees to be bound by these respective terms and conditions. Without prejudice to other services and service plans provided by SmarTone, if there is any conflict between the Disney+ Agreement and these terms & conditions, or any other special terms and conditions of the relevant SmarTone service and SmarTone's General Terms & Conditions, the Disney+ Agreement shall prevail, except with respect to any terms and conditions herein specific to the provision of the Service by SmarTone. For the purpose of the Service and except with respect to any terms and conditions herein specific to the provision of the Service by SmarTone, the documents shall be construed in the following descending order of precedence:

- a) Disney+ Agreement;
- b) any other terms and conditions applicable to the service plan(s) of Disney+ Service;
- c) any other special terms and conditions of the relevant SmarTone service; and
- d) SmarTone's General Terms & Conditions.

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) Service

- 2.1 The Service is only available for SmarTone Customers with an active monthly mobile service plan subscription, Home 5G Broadband monthly service plan subscription or / and Fibre Broadband service plan subscription (this means that the Service is not available for customers using only SmarTone pre-paid SIM cards). The Customer's monthly mobile service plan subscription, Home 5G Broadband monthly service plan subscription or / and Fibre Broadband service plan subscription must be successfully activated or installed and remain active for the duration that the Customer commits to subscribing the Service. Otherwise, the Customer will lose access to the Service. The Service does not include any option to purchase Extra Member Add-on. Customers shall direct any inquiries regarding matters related to the Extra Member Add-on to Disney+.
- 2.2 Disney+ is a digital entertainment subscription service provided and operated by The Walt Disney Company (Hong Kong) Limited ("TWDCHK"). SmarTone will provide reasonable and necessary customer information to TWDCHK to activate the Disney+ service. Once the Customer's Disney+ account is activated, their use of Disney+ service and the Disney+ App, including its features or functions, shall be governed by the Disney+ Agreement, any other terms and conditions applicable to the service plan(s) of Disney+ Service, and any other usage rules or policies implemented and updated by TWDCHK concerning the respective service tiers (unless otherwise terminated pursuant to these terms and conditions). SmarTone shall in no event be liable to any Customer's failure to comply with these applicable terms and conditions in using the Service or any Customer's delay or failure in activating or using the Service. For the purpose of these terms and conditions, "Disney+ App" means a software application on any application platform operating system (e.g., Apple iOS, Android OS), the web extensions thereof (e.g., DisneyPlus.com), and other access points owned or controlled by TWDCHK or any affiliate of TWDCHK.
- 2.3 The Customer shall use the Service for the period specified in the Sales and Services Agreement (or Supplemental Agreement to Sales and Services Agreement) signed with SmarTone ("Term"). The Term shall start from the service effective date set forth therein.
- 2.4 The Service can be charged on a monthly or annual basis (as the case may be). Even if the Service has actually been used by the Customer for less than a month or a year, the applicable monthly or annual service fee (as the case may be) shall still be payable by the Customer in full. The paid monthly or annual charges are non-refundable under whatever circumstances.
- 2.5 Customer may not be allowed to upgrade or downgrade and may be required to commit and remain committed to the designated service tier of Disney+ service within the fixed term contract of Disney+ Agreement. Upon expiry of the Disney+ Agreement, the Customer may change the Disney+ service tier and the new service tier and new billing will take effect at the next billing cycle.
- 2.6 SmarTone will send an email or SMS notification about Disney+ service activation to Customer's registered email address or contact number on the start date / effective date of the Service. It is the sole responsibility of the Customer to receive such email or SMS notification and to timely and properly activate the Service. To activate Disney+ service, Customer must complete the activation by creating a Disney+ account (or log into an existing Disney+ account (if applicable)) and entering required information at Disney+ website through the designated activation link provided by SmarTone per instruction stated in the notification.



- 2.7 If Customer has an existing Disney+ account, Customer can link to it during Disney+ service activation. To avoid duplicated or unintended subscription and charge, Customer must review / manage subscription on the 'Account' page under the Disney+ account. For any queries regarding billing with Disney+ for the existing Disney+ account, please contact Disney+ customer service directly. If Customer has an existing Disney+ subscription through a third party, he / she must manage that subscription directly via such third party. SmarTone shall in no event be responsible to give any prior reminder in this respect nor be liable for any Customer's failure to timely and properly review or manage their Disney+ subscription.
- 2.8 After successful Disney+ service activation, Customer must download and successfully install the Disney+ App from Google Play or Apple App Store to use the Disney+ service or any other compatible operating environments; or use the Disney+ service via the Disney+ website online.
- 2.9 The Service can be only activated once. The activation link will become invalid after successful activation.
- 2.10 All start date / effective date, expiry date, contract period and charge related to the Service must be referred to the Service details provided by SmarTone, and have no relation to the actual Disney+ service activation date.
- 2.11 Unless the Customer gives notice to SmarTone to cease the use of the Service prior to the expiration of the Term, the Customer upon the expiration of the Term will be charged by SmarTone at the prevailing standard monthly or annual (as the case may be) fee applicable to the Service. Should the Customer wish to terminate the Service, he / she must timely contact the SmarTone customer hotline prior to the expiration of the Term.
- 2.12 Customer understands that if the monthly mobile service, Home 5G Broadband monthly service or / and Fibre Broadband service cannot be successfully installed or activated or such monthly mobile service, Home 5G Broadband monthly service or / and Fibre Broadband service account is suspended / terminated for whatever reasons, the Disney+ service may also be not activated, be suspended or terminated.
- 2.13 If a Customer had an existing Disney+ account (with or without the Extra Member Add-on), terminating the Service billed by SmarTone may not automatically cancel such Customer's Disney+ account (and the Extra Member Add-on (if applicable)), Disney+ will automatically resume the subscription which has been paused (if applicable) once the Service billed by SmarTone is terminated, and charge the existing payment method that Disney+ has on file. Customer can review / manage subscription on the 'Account' page under the existing Disney+ account. If the Customer has a Disney+ Extra Member Add-on via his / her existing Disney+ account, TWDCHK will continue to provide the Extra Member Add-on to the Customer and bill accordingly until the Customer cancels such Extra Member Add-on with TWDCHK in accordance with the respective Disney+ Agreement.
- 2.14 Customer shall keep the related Disney+ account and password secure. SmarTone and TWDCHK shall not be liable for any loss or damage suffered directly or indirectly as a result of and / or in relation to a lost or stolen account.
- 2.15 The Service / activation link is non-exchangeable for cash, credit or any other form of compensation, whether in kind or otherwise.
- 2.16 The video and audio quality of the Disney+ content are subject to internet service, device capabilities, content type and service tier. For details, please visit Disney+'s Help Centre.
- 2.17 Customer should contact SmarTone only for queries related to (i) availing the Service and / or the eligibility criteria for the Service; (ii) activation or deactivation of the Service; (iii) general billing enquiries related to the Service or Customer's account with SmarTone. All Disney+ account, supported devices and specifications details to use Disney+ are subject to Disney+'s latest announcement (please visit <https://www.disneyplus.com>) and the Disney+ Agreement. SmarTone shall not be responsible for any liability incurred from or in connection with the contents thereof, the downloading of the Disney+ App and / or use of Disney+ service.
- 2.18 Disney+ service is only available in designated countries / regions including Hong Kong. Contents vary based on the countries / regions and may change from time to time.
- 2.19 Customer understands and agrees that the provision of the Service is subject to availability and the discretion of SmarTone and Disney+, and is only available until such date as SmarTone and Disney+ may determine and may be rescinded at any time. If Disney+ service is no longer available to be provided for whatever reasons, SmarTone reserves the right to terminate the Service or offer alternative product of similar type, while SmarTone will strive to give reasonable and feasible notification 30 days prior to the change. Any refund shall be subject to the sole discretion of SmarTone.
- 2.20 In addition to service fees, downloading Disney+ App and use of the Disney+ service will incur data usage. 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](https://www.smartone.com/roamingdatapack) for details. Customers shall be responsible for all data usage so incurred and any data charges that may also apply.
- 2.21 The Disney+ service must be used with supported devices such as compatible mobile devices that operate on the iOS or Android mobile operating systems and their designated software versions, or other compatible operating environments. If an Android mobile device does not support Google Play services, Customer may not be able to use the Disney+ App to access the Disney+ service. The compatible mobile operating systems and their designated software versions for applicable mobile devices will be updated and changed from time to time; for details, please visit Disney+'s Help Centre. All contents related to Disney+ accounts, supported devices, and specifications will be governed by the latest announcements from Disney+ (please visit <https://www.disneyplus.com>), the Disney+ Agreement and any other terms and conditions applicable to the service plan(s) of Disney+ Service. SmarTone shall not be liable for any content on Disney+, the download of the Disney+ App, and / or the use of the Disney+ service.



2.22 Customer agrees :

- a) To use the Service for personal and non-commercial use only;
- b) 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.

2.23 If a Customer of the Home 5G Broadband monthly service plan terminates their broadband service within the Trial & Return Guarantee period, the same application for the Service will be canceled simultaneously.

2.24 The Company makes no warranty that:

- a) the Service will meet the Customer's requirements;
- b) the Service will be uninterrupted, timely, secure or error-free;
- c) the results that may be obtained from the use of the Service will be accurate or reliable; or
- d) the quality of any services, information or other material obtained by the Customer through the Service will meet his / her expectation.

2.25 The Company and TWDCHK assume no responsibility for the timeliness, deletion, mis-delivery or failure to store any user communications or personalization settings or for any damage to the Customer's device or loss of data that results using the Service, including without limitation, the download of any materials, data or information. The Customer expressly relieves SmarTone and TWDCHK from any and all liabilities arising from the access or use of any part of the Service.

2.26 All contents under the Disney+ service are provided by TWDCHK, and SmarTone is not responsible or liable for their quality, nature, accuracy and usefulness of the contents.

2.27 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.

2.28 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; (iv) upon receiving any request or order from any competent government, public authority or court, take actions the Company deems necessary to comply with such request or order that may deactivate, limit, suspend, make inaccessible or adversely affect the Service or any part thereof, with or without notice to you.

2.29 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.

2.30 By using the Service, the Customer agrees to be bound by the Disney+ Agreement, which can be viewed at <https://www.disneyplus.com/en-gb/legal>.

2.31 SmarTone is the authorized agent of TWDCHK for arranging, billing and collection of the charges of the Service from the Customer during the Term.

3) Rebate (if applicable)

3.1 Any Credit Amount (if applicable) to be rebated to the Customer will be credited to the Customer during the Term according to the credit arrangement specified in the Sales and Services Agreement (or Supplemental Agreement to the Sales and Services Agreement).

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 first monthly bill after the service effective date unless otherwise specified.

3.3 If, on the date of the Sales and Services Agreement, the Account is already subject to an arrangement (each a "Previous Credit Arrangement") under which any sums or charges prepaid by the Customer or the Company are to be credited by the Company to the Account, the crediting of the first installment to the Account by the Company under this Sales and Services Agreement shall be postponed to the date falling 30 days after the date of cessation of: (a) the Previous Credit Arrangement; or (b) if there is more than one Previous Credit Arrangements, the Previous Credit Arrangement with the latest expiry date. The date of cessation of the Previous Credit Arrangement will be deemed to be the date on which the last amount to be credited to the Account under the Previous Credit Arrangement is actually credited to the Account.

3.4 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 Account. However, the Customer cannot set-off any other sum payable to the Company against any part of the Credit Amount payable by the Company to the Account.



- 3.5 The Credit Amount cannot be exchanged for cash or any other form of compensation, whether in kind or otherwise.
- 3.6 The Credit Amount shall not carry interest. The Company shall not be under any obligation to pay any interest to the Customer on the Credit Amount.
- 3.7 The Customer shall not be entitled to the Credit Amount or any balance thereof upon the occurrence of any of the following events before the expiry of the Term:
- a) if the Customer changes to a (i) service plan with monthly fee equal to or below the Service Plan amount specified in the Sales and Services Agreement (or Supplemental Agreement to Sales and Services Agreement) or (ii) non-specified service plan in the Sales and Services Agreement (or Supplemental Agreement to Sales and Services Agreement); or
 - b) if the Customer cancels or changes Disney+ service; or
 - c) if the Customer enjoys special phone offer; or
 - d) if the Customer changes the mobile telephone number / the registered name for the mobile telephone or broadband account; or
 - e) if the mobile / broadband service plan 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) Liquidated Damages (if applicable)

- 4.1 The Customer shall pay the Company liquidated damages (which is equivalent to the sum of the monthly fee of the Service multiplied by the remaining months of the Term) upon the occurrence of any of the following events before the expiry of the Term:
- a) if the Customer changes to a (i) service plan with monthly fee equal to or below the Service Plan amount specified in the Sales and Services Agreement (or Supplemental Agreement to Sales and Services Agreement) or (ii) non-specified service plan in the Sales and Services Agreement (or Supplemental Agreement to Sales and Services Agreement); or
 - b) if the Customer cancels or changes Disney+ service; or
 - c) if the Customer changes the mobile telephone number / the registered name for the mobile telephone or broadband account; or
 - d) if the mobile / broadband service plan is terminated / disconnected for whatever reason; or
 - e) 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.

5) Intellectual Property rights

- 5.1 The design of the Disney+ service along with any service features ("Applications") and the trademarks, service marks and logos contained therein ("Marks") are owned by TWDCHK and are 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 Disney+ service. You shall not modify, rent, lease, loan, sell, distribute or create derivative works based on the Applications in any manner.

6) Privacy Policy

- 6.1 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](https://www.smartone.com/privacypolicyen) for full details of the Company's Privacy Policy. For details regarding the privacy policy of Disney+, please visit <https://www.disneyplus.com/legal/privacy-policy> and <https://www.disneyplus.com/legal/supplemental-privacy-policy>.
- 6.2 The Company will do its best to keep your privacy safe, but still need your help. Please protect your own personal information carefully.

7) Applicable Laws

- 7.1 You shall comply with the laws of the Hong Kong Special Administrative Region in relation to your use of the Service.
- 7.2 You expressly agree to the exclusive jurisdiction of the courts of the Hong Kong Special Administrative Region in determining any dispute with the Company or relating to the use of the Service.



8) Limitation of Liability

- 8.1 The Company and TWDCHK 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.

9) Advertising

- 9.1 You acknowledge and agree that the Disney+ service may include advertisement (as the case may be).
- 9.2 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 Disney+ 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 Disney+ service.
- 9.3 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 Disney+ 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 Disney+ service. By using the Disney+ 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 Disney+ service.

10) Force Majeure

The Company shall not be liable for any loss or damage resulting from delay or failure to perform 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.

11) Severability

If any provision of these terms and conditions is found to be invalid, illegal, or unenforceable in any applicable jurisdiction, such provision shall be deemed severed from these terms and conditions to the extent of such invalidity, illegality, or unenforceability, without affecting the remaining provisions hereof, which shall continue in full force and effect.

12) The Company reserves the right to revise the terms and conditions of the Service from time to time. If any dispute arises, the Company's decision shall be final.

13) In the event of any discrepancy between the English and Chinese versions of these terms and conditions, the English version shall prevail.