

Terms and Conditions **T&C-V171**
Terms & Conditions for SmarTone Kids CARE Service

SmarTone

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The following terms and conditions (the “**Terms and Conditions**”) are supplemental to the Sales and Services Agreement and the other applicable terms and conditions of SmarTone Mobile Communications Limited (the “**Company**”) (please refer to www.smartone.com for further details). **By use of the Service (as defined below), the customer of the Company (the “Customer”) agrees to accept and be bound by the Terms and Conditions, the Privacy Policy and the Statement of Rights relating to the Use of Children’s Data.** The Company reserves the right to revise the Terms and Conditions at any time, with or without prior notice. **By continuing to use the Service, the Customer agrees that the amended and restated Terms and Conditions and privacy policies will apply to him/her. The Customer must not subscribe to the Service if the Customer does not accept all of the Terms and Conditions:**

1. Service

- 1.1. The Service is only available to the Customers who have subscribed to the Company’s mobile monthly service plan (except customers using only the Company’s pre-paid SIM cards) and/or Home 5G Broadband monthly service plan and/or Fibre Broadband service plan] (if applicable) and any other eligible service plans that the Company may designate from time to time and could satisfy any other requirements as the Company and/or the Partner (as defined below) may impose from time to time for the purpose of activating the Service.
- 1.2. Notwithstanding anything contained in the Terms and Conditions, the Company and/or the Partner reserve(s) the right not to activate the Service for any reasons.
- 1.3. By subscribing to the Service, the Customer can monitor and control the use of monitored devices of the users (the “**Users**”), (the “**Service**”), **subject to the following conditions:**
 - 1.3.1. **if the Customer (as a parent or as a legal guardian) uses the Service, the Customer must consent to the Company collecting and processing data about his/her child and must have notified his/her child of this arrangement. In other cases, the Customer must procure such consent from a parent or a legal guardian of such child;**
 - 1.3.2. **if the Customer (as a parent or as a legal guardian) creates a profile for any of the adults who is aged 18 or above, the Customer consents to their use and access to his/her child’s data and the Customer represents that he/she has notified the Users of this and the Users agree with such arrangements. In other cases, the Customer must procure such consent from a parent or a legal guardian of such child and the satisfaction of the requirements herein; and**
 - 1.3.3. **If any of the User(s) is aged 18 or above, the Customer must procure the User to agree to accept and be bound by the Terms and Conditions and the Privacy Policies.**
- 1.4. The Service is available for the period specified in the Sales and Services Agreement unless otherwise suspended or terminated earlier in accordance with the Terms and Conditions (the “**Term**”). The Term shall start from the service effective date. The Service fees are charged on a monthly basis and **are not refundable under any circumstances** (including the Customer’s failure to install or upgrade the application, or any other digital platforms, of the Company and/or its Partner). Fees relating to the Service will be reflected in the monthly bill.
- 1.5. **The Company will automatically renew the Service on a monthly basis (or such other term which the parties may agree) upon the expiry of the Term and will charge the Service at the prevailing price that is specified by that time, unless (a) the Customer notifies the Company the otherwise before the expiry of the Term or any renewed term (if any); (b) the Company ceases to offer the same service plan and/or designated value-added service.** This auto-renewal arrangement shall be subject to the Company’s final and absolute discretion. **For the avoidance of doubt, Rebate (if any) (see clause 2 below) is not applicable to the Service during any renewed term.**
- 1.6. In addition to the Service fees, download and use of the Service will incur data charge. Local data will be charged at or deducted from the Customer’s applicable monthly service plan, whichever is applicable and roaming data fees will be charged separately while using the Service outside Hong Kong.
- 1.7. The Customer understands, confirms and agrees that the Service is provided by the Company and/or the Partner on an “as is” and “as available” basis. The Company and/or the Partner make(s) no representations or warranties of any kind (express or implied) with respect to the provision of the Service including but not limited to the suitability for a particular purpose, availability, quality, nature, accuracy and usefulness or the content or functions of the Service. The Company and/or the Partner do(es) not warrant the following:
 - 1.7.1. the Service will meet the requirements of the Customer;
 - 1.7.2. the Service will be uninterrupted or delivered timely, securely or error-free,
 - 1.7.3. the results or information that obtained from use of the Service will be accurate or reliable; and
 - 1.7.4. the quality of any services, information or other materials obtained through the Service will meet the Customer’s expectation.
- 1.8. The Company may provide the Customer with the Service and/or the Application (either by itself or via a third-party provider whom the Company partners with or engages, where applicable (the “**Partner**”)).
- 1.9. **The Customer understands and agrees that the provision of the Service is subject to availability and the discretion of Company and/or the Partner, and is only available until such date as the Company and/or the Partner may determine and may be rescinded at any time. Notwithstanding anything contained in these Terms and Conditions, the Company and/or the Partner is/are entitled to, with or without notice, (a) modify the contents and other features of the Service (including methods to activate or re-activate the Service), (b) suspend or terminate the Service; (c) change the service provider; and/or (d) provide an alternative product of similar type. The Company and/or the Partner shall in no event be liable in any circumstances.**

2. Rebate (if applicable)

- 2.1. 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).
- 2.2. 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.
- 2.3. 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.
- 2.4. The Credit Amount paid by the Company will only be applied by the Company to meet the Customer's payment obligations of 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.
- 2.5. The Credit Amount cannot be exchanged for cash or any other form of compensation, whether in kind or otherwise.
- 2.6. 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.
- 2.7. The Customer shall not be entitled to the Credit Amount or any balance thereof upon the occurrence of any of the following events under before the expiry of the Term:
 - 2.7.1. if the Customer changes to a (a) 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 (b) non-specified service plan in the Sales and Services Agreement (or Supplemental Agreement to Sales and Services Agreement); or
 - 2.7.2. if the Customer cancels or changes the Service; or
 - 2.7.3. if the Customer enjoys special phone offer; or
 - 2.7.4. if the Customer changes the mobile telephone number / the registered name for the mobile telephone or broadband account; or
 - 2.7.5. if the mobile / broadband service plan is terminated / disconnected for whatever reason; or
 - 2.7.6. 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. Early Termination Fee (if applicable)

- 3.1. **The Company reserves the right to charge an early termination fee (which is equivalent to the sum of the monthly fee of the Service multiplied by the remaining months of the Term and the Rebate) upon the occurrence of any of the following events before the expiry of the Term:**
 - 3.1.1. if the Customer changes to (a) a 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 (b) a non-specified service plan in the Sales and Services Agreement (or Supplemental Agreement to Sales and Services Agreement); or
 - 3.1.2. if the Customer cancels the service; or
 - 3.1.3. if the Customer changes the mobile telephone number or the registered name for the mobile telephone or broadband account; or
 - 3.1.4. if the mobile / broadband service plan is terminated / disconnected for whatever reason; or
 - 3.1.5. 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. Suspension and Termination

- 4.1. Subject to clauses 4.2 and 4.3, the Company may terminate the Service by providing the Customer with not less than three (3) working days' prior written notice.
- 4.2. The Company may terminate the Service with immediate effect and without notice: (a) if any of conditions in Clause 1.3 is not satisfied; (b) if, in the Company's opinion, providing the Service to the Customer would cause the Company and/or the Partner to be in breach of any applicable law, sanction or requirement of any competent authority; (c) if the Company and/or the Partner is/are required to do so in compliance with any law, sanction or requirement of any competent authority or the Company's and/or the Partner's internal policy or (if applicable) (d) in the event the third party stops providing the Company with any part of the Service and/or the Application. Upon such termination, any obligation due by the Customer to the Company shall become immediately due and payable.
- 4.3. The Company may suspend or restrict the Service in whole or in part (without prejudice to its right under clause 4.2) for any reasons without prior notice to the Customer until the earlier of the end of the Term or any renewed term (if any) of the Service or such other date which the Company and/or the Partner may determine, including without limitation where: (a) to carry out system maintenance, upgrading, testing and/or repairs; (b) if the Company is of the opinion that such action is appropriate as a result of the Customer's or the User's use of the Service; (c) for any reason the Company deems relevant to the management or the operation of any of the Service and the Company's business; (d) the provision of the Service and/or any other services provided by the Company is the subject of any dispute or third party claim; (e) the Customer and/or the User(s) could not comply with any of any other requirements which the Company may reasonably impose; (f) if the Company and/or the Partner is/are required to do so in compliance with any law, sanction or requirement of any competent authority or the Company's and/or the Partner's internal policy; (g) (if applicable) the third party and/or the Partner stop(s) providing the Company with any part of the Service and (h) if the Company discovers or reasonably suspects that (i) any

information which the Customer provides is inaccurate, incomplete, false or misleading in any respect; and/or (ii) the Customer and/or the User(s) might have participated in any illegal, fraudulent, suspicious, deceptive, abusive or unfair behaviours or otherwise breaching the terms and conditions of the Company or applicable laws and regulations.

4.4. **The Customer shall not claim any refund for any reason and the Company shall not be responsible for, or liable to, the Customer and the User(s) for any loss or damage, arising from the suspension or termination of the Service arising from this clause.** The Company reserves the right to charge for reconnection (if applicable).

5. Intellectual Property Right

5.1 The design of the Service along with any service features (the “**Application**”) and the trademarks, service marks and logos contained therein (the “**Marks**”) are owned by the Company and are protected by applicable intellectual property laws including but not limited to copyright. Except to the extent permitted by law, the Customer shall not use such Applications and/or Marks in any way whatsoever except for use of the Service. The Customer shall not modify, rent, lease, loan, sell, distribute or create derivative works based on the Applications in any manner.

6. Privacy Policy

6.1. By using the Service, the Customer agrees and accepts that the Company collects, uses, discloses their personal data for the administration of the Service and all purposes related to the Service. The Customer has carefully read, understood and agreed to the content contained in the Company’s Privacy Policy and the Statement of Rights relating to the Use of Children’s Data and agrees to be bound by them. **The Company reserves the rights, with or without prior notice, to amend or update the Company’s Privacy Policy and the Statement of Rights for Children and any changes will be posted at the Company’s website at www.smartone.com. The Customer continued use of the Service after the posting of such changes indicate the acceptance to the same.**

6.2. The Company will do its best to keep the Customer’s privacy safe, but the Customer is advised to protect his/her own personal information carefully.

7. The Customer’s Undertakings

7.1. The Customer expressly agrees and undertakes that he/she:

7.1.1. must comply with the laws of Hong Kong Special Administrative Region (“**Hong Kong**”) that apply to his/her use of the Service;

7.1.2. must only use the Service for his/her personal use;

7.1.3. must not use the Service for any of the following acts and/or purposes: (a) involves or allows any act or content that infringes the rights, copyrights or intellectual property rights of third parties; (b) involves or allows any unlawful, improper, obscene, indecent, immoral, defamatory, fraudulent or dishonest use, misleading, discriminatory, incitement to hatred, sedition, separatism, endangering public order or endangering national security; (c) involves or allows hacking, attacks, interference with or unauthorized access to, use of, or access to any other third party device, device, facility, system, website, web page, information or content; (d) receive, copy, publish, distribute, transmit or circulate or make any use of illegal or unauthorized content; or (e) involves or permits any storage, use or downloading of any tools or software for the purpose of collecting any address or IP address, any personal data or any unauthorized information.

7.2. The Customer expressly agrees and undertakes that the Customer must procure all Users to accept and agree the terms hereof, including Clause 4 (Suspension and Termination), Clause 7.1 (Customer’s undertakings), Clause 7.3 (Indemnity) and Clause 8 (Limitation of liability).

7.3. **THE CUSTOMER AGREE TO INDEMNIFY IN FULL AND ON DEMAND, AND TO HOLD THE COMPANY AND ITS SUBSIDIARIES AND AFFILIATES, AS WELL AS ITS/THEIR OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES, HARMLESS FROM AND AGAINST ANY LOSSES, CLAIMS, LIABILITIES, DAMAGES, DEMANDS, COSTS AND/OR EXPENSES (INCLUDING ALL LEGAL FEES AND EXPENSES) THAT MAY BE INCURRED OR SUFFERED BY THE COMPANY AND/OR ANY OF THE FOREGOING PARTIES (WHETHER DIRECTLY OR INDIRECTLY) CAUSED BY, IN CONNECTION WITH OR OTHERWISE ARISING FROM THE BREACH OF THE TERMS AND CONDITIONS BY THE CUSTOMER OR THE USER(S), AND/OR THE CUSTOMER’S AND/OR THE USER(S)’ ACCESS TO OR USE OF THE APPLICATION.**

8. Limitation of Liability

8.1. **The Company, its subsidiaries and affiliates, as well as its/their officers, directors, agents and employees and/or the Partner shall under no circumstances be liable whether in contract, tort, statute or otherwise (including but not limited to negligence, breach of contract and defamation) for any special, direct, indirect or consequential loss or damage (including but not limited to loss of revenue, loss of data or goodwill) which is suffered, sustained or incurred by the Customer, the User(s) or any person (directly or indirectly) arising from or relating to the Service.**

8.2. The Customer expressly relieves, and shall procure all Users to relieve, the Company and/or the Partner from any and all liabilities arising from the access or use of any part of the Service.

9. Force Majeure

9.1. The Company shall not be liable for any loss or damage resulting from delay or failure to perform the 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, lightning, earthquakes and other natural calamities.

10. Miscellaneous

- 10.1. If any provision of the Terms and Conditions is found to be invalid, illegal, or unenforceable in any applicable jurisdiction, such provision shall be deemed severed from the 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.
- 10.2. The Customer shall ensure, and shall procure the Users to ensure, its systems and equipment are compatible for the use of the Service. The Company shall not be liable to support the Service if the Customer's or the User(s) systems or equipment are incompatible with the Service.
- 10.3. Any person who is neither the Customer nor the Company shall have no right to enforce any term of the Terms and Conditions under the Contracts (Rights of Third Parties) Ordinance (Chapter 623 of the Laws of Hong Kong).
- 10.4. The Terms and Conditions and all matters related to the Terms and Conditions are governed by, and shall be construed in accordance with, the laws of Hong Kong and the Customer shall irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of Hong Kong for any claim or dispute with the Company relating in any way to the use of the Service.
- 10.5. If any dispute arises, the Company's decision shall be final.
- 10.6. **In the event of any discrepancy between the English and Chinese versions of the Terms and Conditions, the English version shall prevail.**