

**Terms & Conditions T&C-V147**  
**Terms & Conditions for "hmvod" 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 hmvod Service ("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) Service**

- 2.1 The Service is only available for SmarTone Customers with a mobile or/ and SmarTone Home 5G Broadband monthly service plan subscription.
- 2.2 hmvod is a mobile app service provided and operated by Anyplex Marketing Limited ("Anyplex") for Customers to enjoy video-on-demand (VOD) programme and related content via supported smartphones and/or tablets.
- 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) ("Term"). The Term shall start from the service effective date.
- 2.4 The Service includes "VIP UNLIMITED" VOD programme and 2 movie vouchers per month. Movie vouchers can be used for renting programmes tagged with "VOUCHER". Renting programmes which require movie vouchers are marked with "VOUCHER" on respective information pages. The time allowed for usage each movie voucher is limited to 48 hours, customers can watch the rented programme repeatedly during the period. When movie vouchers allowed for each month are fully deducted, customer has to wait until the beginning of the next service bill month to resume service using newly issued movie vouchers. Unused movie vouchers cannot be accumulated and will be deemed voided at the end of each service bill month.
- 2.5 The Service Plan is charged on a monthly basis. Even if the Customer is to actually use the Service for less than a month, the applicable monthly service fee shall still be payable by the Customer in full. The monthly charges are non-refundable under whatever circumstances.
- 2.6 Customer who subscribes to the Standard Plan for the first-time can enjoy a first month free trial offer. Unless otherwise a notice of cancellation by the Customer is received before the trial period lapses, the relevant service will continue to be provided to the Customer after the expiry of the free trial offer, and the monthly service fee of the Standard Plan will be charged. If the Customer cancels subscription of the Service, please call SmarTone Customer Services Hotline prior to the end day of the free trial period. Customers who have subscribed to the Contract Plan prior to the Standard Plan are not entitled to the first month free trial offer.
- 2.7 In addition to service fees, download and use of the Service will incur data usage and shall be charged. Local data will be charged at or deducted from the Customer's subscribed monthly service 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](http://smartone.com/roamingdatapack) for details.
- 2.8 This Service can be used on smartphones and/or tablets running iOS 9.0 or above and Android™ 5.0 or above. For Android™ smartphone which does not support Google Play services, the Value-Added Service will not be applicable. Applicable mobile operating system and its designated software versions are subject to updates and changes from time to time, please check with our shop assistants for details.
- 2.9 You agree :
- 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.
- 2.10 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.
- 2.11 The Service can only be used on smartphones and/or tablets models specified by the Company. Any actions on jailbroken or rooted devices are taken at your own risk.
- 2.12 Customer can enjoy video-on-demand (VOD) programme and related content under the Service. Each registered subscriber can use the Service on a maximum 2 smartphones and/or tablets simultaneously. The Service will be terminated simultaneously upon the termination of the mobile and/or SmarTone Home 5G Broadbandservice plan.
- 2.13 The Company makes no warranty that :
- 2.13.1 The Service will meet the Customer's requirements;
  - 2.13.2 The Service will be uninterrupted, timely, secure or error-free;



- 2.13.3 The results that may be obtained from the use of the Service will be accurate or reliable; or
- 2.13.4 The quality of any services, information or other material obtained by the Customer through the Services will meet his/her expectation.
- 2.14 Customer understands and agrees to bear his/her own risks of using the Service. The Service is provided on an "as is" and "as available" basis, that 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 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 from any and all liabilities arising from the access or use of any part of the Service.
- 2.15 All contents under the Service are provided by Anyplex, and SmarTone is not responsible or liable for their quality, nature, accuracy and usefulness of the contents.
- 2.16 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.
- 2.17 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.
- 2.18 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.
- 2.19 Users agree to be bound by the Terms of Use of hmvod, which agreement can be found at <https://hmvod.com.hk/#/setup/helpcenter>.
- 2.20 SmarTone is the authorized agent of Anyplex for billing and collection of the charges of the Service from the Customer during the subscription period.

### **3) Credit Rebate (if applicable)**

- 3.1 Credit Amount 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 1st monthly bill after the service effective date.
- 3.3 If, on the date of this 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.
- 3.6 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 & Services Agreement (or Supplemental Agreement to Sales and Services Agreement) or (ii) non-specified service plan in the Sales & Services Agreement (or Supplemental Agreement to Sales and Services Agreement); or
  - b) if customer changes the Home 5G Broadband Service Plan in the Sales & Service Agreement; or
  - c) if the Customer cancels or changes hmvod Service; or
  - d) if the Customer enjoys special phone offer; or
  - e) if the Customer changes the mobile telephone number / the registered name for the mobile telephone number; or
  - f) if the mobile telephone service or Home 5G Broadband Service is terminated/disconnected for whatever reason.



- g) 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) 2G Service Plan or (iii) IC2N Service plan; or
- b) if the Customer changes the Home 5G Broadband Service in the Sales & Service Agreement; or
- c) if the Customer cancels or changes hmvod Service; or
- d) if the Customer changes the mobile telephone number / the registered name for the mobile telephone number; or
- e) if the mobile telephone service or Home 5G Broadband 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.

#### **5) Intellectual Property rights**

5.1. The design of the Service along with any service features (“Applications”) and the trademarks, service marks and logos contained therein (“Marks”) are owned by Anyplex 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.

#### **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](http://smartone.com/privacypolicyen) for full details of the Company's 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 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 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 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 Service includes advertisement.
- 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 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.
- 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 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.
- 9.4 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.

## 10) **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.**