

## Subscriber Terms and Conditions

### Key Points

The terms for Services only cover the terms on which you may use the Services. They do not cover your purchase of your Handset. Services will be provided within our network provider's network area but it's always possible that the quality or coverage may be affected at times.

You must not use the Services for any illegal or improper purposes. Anyone under 18 is not permitted to access Age Restricted Services.

You agree that we and our network provider can process your personal data, which we collect or which you submit to us during any sales or registration process, for a number of purposes, including to open and manage an account for Services, to deliver products and services ordered by you, for credit checking and fraud prevention, and for product analysis and direct marketing (subject to your preferences) as set out in our 'Privacy Notice' in the Terms for Services.

### TERMS FOR SERVICES

#### 1. About your agreement

1.1 It is your responsibility to make sure any SIM is only used to access Services as permitted in this agreement.

1.2 This agreement does not cover the supply of your Handset. The manufacturers of Handsets are not related to us. Any terms relating to Handsets will be given to you separately.

#### 2. Variations to your agreement or prices

2.1 We may vary any of the terms of your agreement on the following basis:

(a) we will let you know at least one month in advance if we decide to:

(i) discontinue the Services; or

(ii) make any variations to your agreement which are likely to be of detriment to you; or

(iii) increase the fixed periodic charges for the Services (if applicable) by an amount which is more than the percentage increase in the Retail Prices Index Figure (or any future equivalent) in any twelve month period.

You can end the agreement for such variations as explained in Section 10. Subject to the above, you will not be able to end the agreement if such variation or increase:

(i) is due to changes to the law, government regulation or licence which affect us; or

(ii) relates solely to Additional Services;

(b) if you carry on using Services after the variation commences, you will be deemed to have accepted the variation.

#### 3. What we will provide for you

A phone number and SIM

3.1 We will open an account for you and provide you with a SIM and a phone number (and we may agree to provide you with additional SIMs and phone numbers on your request).

3.2 We or our network provider own each SIM and each SIM remains our or their property at all times. You are being allowed to use the SIM by us on a limited licence to enable you to access Services, in accordance with the terms of this agreement. We or they may recall the SIM(s) at any time for upgrades, modifications, misuse or when your agreement ends. You can only use our SIM to obtain Services from us.

3.3 Each SIM may only be used in Handsets which are enabled for Services and are authorised by us for Connection to our network. Any attempt to use the SIM in other Handsets may result in serious damage to the Handset and may prevent you from being able to use it, including the making of emergency calls. In these instances, we and our network provider are not responsible for any such damage or usage problems.

3.4. Handsets which can be used to access Services should be unlocked 3G in order to be able to access our network. The software in the Handset and all intellectual property rights in that software is owned by the Handset manufacturer and you are being allowed to use the software on a limited licence from the Handset manufacturer.

#### 4. Services

4.1 Once you are Connected, we will provide you with access to our Services. The Services will include Premium Services, provided you ask for them and we approve, and may also include Age Restricted Services, provided you are 18 or over and you do not show or send any content from the Age Restricted Services to anyone under 18.

4.2 You will also be able to upload and send your own content using the Services. You grant us and our network provider a royalty free, perpetual and worldwide licence to store, transmit or otherwise deal with any content you upload on the Services.

4.3 We may:

(a) change or withdraw some, or part, of the Services from time to time. This may be because of changing technologies, obsolescence, new or different product features, changing content providers or the need to remove, replace or modify content. Subject to Section 4.1, you can end the agreement if this variation is likely to be of detriment to you as explained in Section 10; and

(b) also determine how Services are presented and delivered to the Handset or are otherwise made available to you. We can change the way they are presented, delivered or otherwise made available to you at any time.

#### 5. Limitation of Services

We will always try to make Services available to you. However, Services are only available within our coverage area (which comprises a video service area and a voice & picture area within the UK). Within this, there may be areas where you do not have access to all Services or where coverage is otherwise limited or unavailable. For more information about coverage, visit our website.

#### 6. Disruption to Services

6.1 There may be situations when Services are not continuously available or the quality is affected and so we cannot guarantee continuous fault-free service.

For instance:

(a) when we or our network provider need to perform upgrading, maintenance or other work on the network or Services;

(b) when you move outside our video service area whilst you are on a call (in this case calls may not be maintained);

(c) when you are in areas not covered by our network. In these cases Services rely on other operators' networks where we have no control; and

(d) because of other factors outside our control, such as the features or functionality of your Handset, regulatory requirements, lack of capacity, interruptions to services from other suppliers, faults in other communication networks, the weather or radio interference caused by hills, tunnels or other physical obstructions.

## **7. What you will do in return**

### **Secure your PIN, Passwords and SIM**

7.1 As we or our network provider own the SIM and it remains our or their property at all times, you must ensure that you keep the SIM safe and secure whilst it is in your possession and you must ensure that you are able to return it to us, if required to do so by us at any time, as set out in these terms. There will be a charge for any replacement SIM, unless, it is defective through faulty design or workmanship.

7.2 You must keep all PINs and passwords secure and confidential. You are also responsible for the security of your Handset and must ensure that you keep it secure (refer to the Handset manufacturer's user guide for details of how to keep your Handset secure).

7.3 You should immediately change your PIN or password if you become aware that someone is accessing Services on your account without your permission.

### **Responsible use of Services**

7.4 You may only use Services:

- (a) as laid out in this agreement; and
- (b) for your own personal use. This means you must not resell or commercially exploit any of the Services or content.

7.5 You must not use Services, the SIM or phone number or allow anyone else to use Services, the SIM or phone number for illegal or improper uses. For example:

- (a) for fraudulent, criminal or other illegal activity;
- (b) in any way which breaches another person's rights, including copyright or other intellectual property rights;
- (c) to copy, store, modify, publish or distribute Services or content (including ringtones), except where we give you permission;
- (d) to download, send or upload content of an excessive size, quantity or frequency. We will contact you if your use is excessive;
- (e) in any way which breaches any security or other safeguards or in any other way which harms or interferes with our network, the networks or systems of others or Services;
- (f) to falsify or delete any author attributions, legal or other proper notices or proprietary designation or labels of the origin or source of software or other content contained in a file that you upload; and
- (g) to use or provide to others any directory or details about customers.

7.6 You must always co-operate with us and follow our reasonable instructions to ensure the proper use and security of the Services and your account. You must only use Handsets authorised by us for Connection to our network and also comply with all relevant legislation relating to their use.

7.7 We may publish an acceptable use policy, which provides more detail about the rules for use of certain Services in order to ensure that use of Services is not excessive, to combat fraud and where Services we may introduce require certain rules to ensure they can be enjoyed by our customers. If we publish a policy, we will let you know – such a policy may be amended from time to time – for instance, if we discover that the Services are being used fraudulently or for fraudulent purposes, or the excessive use of certain Services is causing problems for us, our network provider, its systems or for other users or if we introduce new services which may require certain rules to ensure that such new services can be enjoyed by our customers, again, we will let you know if this happens.

### **Responsible use of Messaging and Storage Services**

7.8 While using the Messaging Services, you must not send or upload:

- (a) anything that is copyright protected, unless you have permission;
- (b) unsolicited bulk or commercial communications or other unauthorised communications, or knowingly send any viruses; or
- (c) anything that is obscene, offensive, abusive, defamatory, menacing, harassing, threatening or is unlawful in any other way.

7.9 We may put limits on the use of certain Services, such as Messaging Services or Storage Services. For example, we may limit the size of messages or storage space.

7.10 While we have no obligation to monitor the Messaging Services or Storage Services, if you exceed our use limits set out in our fair use policy, or we are made aware of any issues with your use of these Services, (for example, if we are made aware that you are using Services in any of the ways prohibited in Section 6.8 above) we reserve the right to remove or refuse to send or store content on your behalf.

### **Responsible use of Age Restricted Services**

7.11 If you are under 18, you are not permitted to access our Age Restricted Services (if any). If you are 18 or over and you access the Age Restricted Services, you must not show or send content from the Age Restricted Services to anyone under 18. You must also ensure that you have deactivated any access to Age Restricted Services if you let anyone under 18 use your Handset.

### **Responsible use of Services outside the UK**

7.12 If you use Services from a country outside the UK, your use of the Services may be subject to laws and regulations that apply in that other country. We are not liable for your failure to comply with those laws or regulations.

## **8. Our Rights – Intellectual Property**

8.1 All rights, including copyright in Services and their content, belong to us, our network provider, or our licensed source, such as a content provider. We and they reserve all our and their rights.

8.2 The '3' trade mark and other related images, logos and names on the Services are proprietary marks of the Hutchison Whampoa group of companies. We and they reserve all our and their rights.

## **9. Suspension of Services**

We may Suspend any or all of the Services you use without notice if:

- (a) we reasonably believe you have provided us with false or misleading details about yourself as set out in Section 13;
- (b) we advise you that your excessive use of Services (as may be defined in accordance with Section 6.7 above) is causing problems for other users, and you are continuing to use Services excessively;
- (c) we believe your Handset or SIM has been lost or stolen;
- (d) we reasonably believe that you have used Services, the SIM(s) or a phone number for illegal or improper purposes in contravention of our responsible use requirements in Section 6 above;
- (e) we receive a serious complaint against you which we believe to be genuine (for example, if we receive a complaint that you are using Services in any of the ways prohibited in Sections 6.5, 6.8 and 6.11). If this happens, we will deal with the complaint in the manner set out in Section 7;

(f) we are required to suspend your Services by the emergency services or other government authorities; or  
(g) we reasonably believe you have permitted your Handset to be unlocked via any unauthorised manner and/or have not paid any relevant Charges due in contravention of Section 5.4 above.

9.1 We may turn off your Messaging Services if they are inactive for an extended period of time - we will let you know before this happens. If we do turn off your Messaging Services we will have no obligation to maintain any of the content in your Messaging Services, or to forward any unopened or unsent messages to you, or anyone else.

9.2 If we Suspend any or all of your Services, you will still be able to make emergency calls (unless they have been Suspended at the request of the emergency services).

9.3 If your Services are Suspended, we may agree to re-Connect you if you ask us to do so and there may be a re-Connection Charge for this.

#### 10. **Ending this agreement and Disconnection of Services**

10.1 You may end this agreement in the following ways:

(a) You can end the agreement during your Minimum Term (if you have one) by giving notice at least 30 days before the date you want to end the agreement. However, you must pay us all the Charges you owe, plus any Cancellation Fee.

(b) On 30 days' notice, outside the Minimum Term. You can end the agreement if your agreement does not contain a Minimum Term, or if you want to end the agreement at the end of your Minimum Term or any time after your Minimum Term has expired, provided you give notice to Customer Services at least 30 days before the date you want to end the agreement.

(c) Within one month of a detrimental variation to your agreement. You can end the agreement within one month of us telling you about a variation to your agreement which is likely to be of detriment to you. You must give written notice within that month and your agreement will finish at the end of that month once we receive your notice. We may end this agreement in the following ways:

(a) On 30 days' notice, outside the Minimum Term.

If your agreement does not have a Minimum Term, or the Minimum Term has expired, we can end this agreement by giving at least 30 days' notice of ending the agreement.

(b) Because of your conduct.

In the following cases, we may end your agreement immediately and you have to pay all the Charges you owe up until we Disconnect you:

(i) if we have the right to Suspend your Services on any of the grounds in Section 9 and we believe that the grounds are serious and have not been, or are unlikely to be, rectified;

(ii) if we believe that your use of our Services, are jeopardising the operation of our or our network provider's network, or are of an unacceptable nature; or

(iii) in the event of your bankruptcy, insolvency or death.

(c) No network access or Services. We may end your agreement if we no longer have access to other operators' networks which we need to provide Services, or if we are no longer able to provide Services due to factors beyond our control or because we cease business.

10.2 Once you are Connected, you can only end this agreement in the ways set out in this Section 10. However, if you are a consumer, any statutory rights which you may have, which cannot be excluded or limited, will not be affected by this section. For more information on your statutory rights, contact your local authority Trading Standards Department or Citizen's Advice Bureau.

#### 11. **Effect of this agreement ending**

11.1. If this agreement ends, we will close your account and Disconnect you and you will not be able to use Services or make emergency calls.

11.2 You must immediately pay all Charges you owe up to the date the agreement ends. If we end the agreement due to your conduct or if you end your agreement within the Minimum Term, the Charges will include a Cancellation Fee.

#### 12. **Liability - Limits on our liability**

12.1 All of our obligations to you relating to Services are set out in your agreement. If you wish to make any variations to this agreement or rely on any other term, you must obtain our agreement to the variation or term in writing.

12.2 Except as set out in 12.3:

(a) all other terms, conditions and warranties relating to Services are excluded;

(b) our and our network operator's entire liability to you for something we do or don't do will be limited to £3,000 for one claim or a series of related claims; and

(c) we and our network operator are not liable for any loss of income, business or profits, or for any loss or corruption of data in connection with the use of Services. We and our network operator are not liable for any loss or damage that was not reasonably foreseeable when you entered into the agreement.

12.3 Nothing in this agreement removes or limits our liability for fraud, for death or personal injury caused by our negligence or for any liability which can't be limited or excluded by applicable law. If you are a consumer, the terms of this agreement will not affect any of your statutory rights which you have, which cannot be excluded by this agreement. For more information on your statutory rights, contact your local authority Trading Standards Department or Citizen's Advice Bureau.

#### **Services – Area where we have no responsibility**

12.4 We will try to ensure the accuracy, quality and timely delivery of Services. However:

(a) we and our network operator accept no responsibility for any use of, or reliance on, Services or their content, or for any disruptions to, or any failures or delays in, Services. This includes, without limitation, any alert Services or virus detection Services; and

(b) subject to Section 12.3 we and our network operator do not make any representations as to the accuracy, comprehensiveness, completeness, quality, currency, error-free nature, compatibility, security or fitness for purpose of Services or their content. They are provided to you on an 'as is' basis; and

(c) we and our network operator are not providing you with advice of any kind (including without limitation investment or medical advice). Where Services contain investment information, we do not make invitations or offer inducements to enter into any investment agreements.

12.5 We and our network operator will not be liable:

(a) for any loss you may incur as a result of someone using your PINs or passwords, with, or without, your knowledge; or

(b) if we or they cannot carry out our duties, or provide Services, because of something beyond our control. **Others' content and services –**

#### **Areas where we have no responsibility.**

12.6 You may be able to use Services:

(a) to upload, email or transmit content using Services; and

(b) to access content which is branded or provided by others and to acquire goods and services from others. Where we provide you with such access, all we do is transmit the content to you and we do not prepare or exercise control over the content, goods or services. We and our network operator are not responsible or liable in any way for, and do not endorse, any of this content, goods or services.

12.7 This Section 12 will apply even after this agreement has ended.

### **13. Privacy Notice and Your Information**

13.1 We may pass and share your personal information to our network provider, other communications service providers and network operators for the detection and prevention of theft and fraud, and to carry out any activities or disclosures to comply with any regulatory, government or legal requirement.

13.2 If you use Services from a country outside the UK it may be necessary to transfer your information to that country. If that country is outside of the EEA, the treatment of your personal information may be subject to laws and regulations applying in that country and which may not protect your information to the same standards applying in the UK and the EEA.

13.3 You must keep any passwords and PIN numbers relating to your account and the Services safe and secure. You must not share them with anyone else. If you find or suspect that anyone else knows your passwords or PIN numbers, or can guess them, you must contact us immediately and ask us to change them. This is your responsibility.

### **14. Other terms**

14.1 This agreement is governed by English law unless you live in Scotland in which case, it will be governed by Scots Law. Each of us agrees to only bring legal actions about this agreement in a UK court.

14.2 If you, or we or our network provider, delay, or do not take action to enforce our respective rights under this agreement, this does not stop you, or us or them, from taking action later.

14.3 If any of the terms in this agreement are not valid or legally enforceable, the other terms will not be affected. We may replace any item that is not legally effective with a similar term that is.

14.4 We may assign or transfer our rights and obligations under your agreement to a party who agrees to continue complying with our obligations under this agreement, provided that your rights under the agreement or any guarantees given by us to you are not affected. No other person (other than our assignee, if any) may benefit from this agreement.

14.5 In exceptional circumstances, a government authority may order the reallocation or change of phone numbers, in which case we may have to change your phone number for Services.

14.6 You confirm that you have full contractual capacity to agree to the agreement.

### **15. Third Party Rights**

15.1 This agreement is entered into by us for the benefit of us and our network provider.

15.2 For the purposes of the Contracts (Rights of Third Parties) Act 1999 it is intended that our network provider will have the right to enforce any rights conferred on it under this agreement and to that extent our network provider will have the same rights against you as would be available if they were a party to this agreement.

## **Glossary for Terms of Services**

**Additional Services:** additional or supplemental services for which a charge is made in addition to the fixed periodic charges for the Services (if applicable).

**Age Restricted Services:** any Services for use only by customers 18 or over.

**Cancellation Fee:** means, a fee charged if we end the agreement due to your conduct or if you end your agreement within the Minimum Term. This fee may cover (without limitation) your fixed periodic Charges for the Minimum Term, our administrative costs, costs incurred by us in Connecting and Disconnecting the Services and our payments to operators, network providers, stores or agents.

**Charges:** charges for access to, and use of, Services. These charges may cover (without limitation) fixed periodic charges, usage charges, account administration fees, fees for Connection and re-Connection, a Cancellation Fee (where applicable) and any costs incurred in collecting outstanding payments from you.

**Connection:** the procedure by which we give you access to Services. 'Connected', 'Connecting', and 're-Connection' have corresponding meanings.

**Damage:** any accidental, sudden and unforeseen damage to the Handset caused by external means which affects the operational functioning of the Handset.

**Disconnection:** the procedure by which we stop your access to Services. 'Disconnected' and 'Disconnecting' have corresponding meanings.

**Handset:** the device or mobile handset that is authorised by us for Connection to the network which is used to access Services.

**Messaging Services:** any email, fax and voicemail Services, text message and multimedia messaging Services, personal information management and other message or communication facilities which let you communicate with others.

**Minimum Term:** the minimum fixed term for the supply of Services.

**Premium Services:** any Services which are charged at premium rates. You can only access these Services – such as international calling and international roaming – with our approval.

**Services:** the services offered by us, including call services, Messaging Services, Storage Services, Age Restricted Services and Premium Services, which we agree to provide for you.

**SIM:** a card which contains your phone number and enables you to access Services.

**SIM Only Basis:** applies to you if you have only purchased a SIM from us, for use in any Handset.

**Storage Services:** any Services which offer you storage capacity on the network for storage of content which you access from us.

**Suspension:** the procedure by which we temporarily Disconnect your access to the Services. 'Suspend' has a corresponding meaning.