

Terms and Conditions **T&C-V152**
(Contract Term for SmarTone Data Guard Service)

Your Acceptance

- 1 This is an agreement between SmarTone Mobile Communications Limited ("SmarTone" or "the Company") and you ("You" or "the Customer") for use of Data Guard Service ("the Service"). BY USING THE SERVICE, THE CUSTOMER ACKNOWLEDGES AND AGREES TO THESE TERMS AND CONDITIONS. If the Customer does not agree to any of these terms and conditions, the Customer may not use the Service.

Data Guard Service ("Service")

- 2.1 The Service is only available to customers who have subscribed to the Company's mobile monthlyservice plan (except PayGo customers).
- 2.2 Service Plan
- 2.2.1 The Customer shall use the Service for the period specified in the Sales and Services Agreement ("Term"). The Term shall start from the service effective date.
- 2.2.2 The Service Plan is charged on a monthly basis. The service charges are not refundable under any circumstances. Fees relating to the Service will be reflected in the monthly bill.
- 2.2.3 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 charged at the then prevailing comparable standard plan on noncontract basis that is specified from time to time.
- 2.2.4 The Customer shall pay the Company liquidated damages specified upon the occurrence of any of the following events before the expiry of the Term:
- a) if the Customer changes to another service not specified above; or
 - b) if the Customer terminates the 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.
- 2.2.5 In addition to service fees, download and use of the Service will incur a data charge. Local data will be charged to, 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.
- 2.2.6 Each service plan for subscription of the Service is limited to 1 device only.
- 2.3 You agree not to violate, reverse-engineer, duplicate, transfer, copy, distribute or otherwise tamper with any part of the Service for any reason, or assist another person in doing so.
- 2.4 Usage rules established by the Company relating to the Service may be controlled and modified by the Company for compliance purposes and the Company reserves the right to enforce such usage rules without notice to the Customer.
- 2.5 The Service can only be used on Smartphones specified by the Company.
- 2.6 The Company cannot guarantee that:
- a) The Service will meet the customers' 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. Copies of Terms and Conditions are available upon request by calling our Account Manager or on website or Company hotline.
- 2.7 The Company assumes no responsibility for the timeliness, deletion, mis-delivery or failure to store any user communications or personalisation settings, or for any damage to customers devices or loss of data that results from using the Service, including but not limited to, the download of any materials, data or information.
Customers expressly relieve SmarTone from any and all liabilities arising from the access or use of any part of the Service.
- 2.8 All contents under the Service are provided by Zimperium Inc, and the Company is not responsible or liable for their quality, nature, accuracy and usefulness of the contents.
- 2.9 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.
- 2.10 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 or omit to take any steps, with or

- without notice to you, if for any reason the Company deems it relevant to the management or the operation 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.
- 2.11 The Company may, upon discovery of suspected fraudulent, deceptive, unlawful or improper use of the Service by users, suspend users' access to any or all of the Service temporarily or permanently.
- 2.12 You agree to be bound by the End Users License Agreement when using the Service, details of the agreement are set out at <https://connectapac.com/dataguard-eula/>.
- 3) Intellectual Property Rights
- 3.1 The design of the Service along with any service features ("Applications") and the trademarks, service marks and logos contained therein ("Marks") are owned by 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.
- 4) Privacy Policy
- 4.1 The Customer's privacy is important to the Company. The Company has developed a Privacy Policy that covers how it collects, uses, discloses, transfers and stores the Customer's information. Please visit smartone.com/privacypolicyen for full details of the Company's Privacy Policy.
- 4.2 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.
- 5) Applicable Laws
- 5.1 The Customer shall comply with the laws of Hong Kong Special Administrative Region that apply to your use of the Service.
- 5.2 The Customer expressly agrees to the exclusive jurisdiction of the courts of Hong Kong Special Administrative Region for any claim or dispute with the Company relating in any way to the use of the Service.
- 6) Limitation of Liability
- 6.1 The Company 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, or any person (directly or indirectly) arising from or relating to the Service.
- 7) Advertisement
- 7.1 The Customer acknowledges and agrees that the Service includes advertisements.
- 7.2 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 in the Service. Copies of Terms and Conditions are available upon request by calling our Account Manager or on website or Company hotline.
- 7.3 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 the Customer as a result of an advertisement or any other information displayed in the Service. By using the Service, the Customer expressly acknowledges and agrees 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.
- 7.4 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 the Customer's 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 the Customer.
- 8) The Company reserves the right to revise the terms and conditions of the Service at any time, without prior notice.
- 9) If any dispute arises, the Company's decision shall be final.