

# GLOBAL CALL LIMITED

## TERMS AND CONDITIONS OF PROVISION OF SERVICES

Global Call Limited (“**we**”, “**us**” or “**our**”), will provide you (“**you**” or “**your**”), with the telecommunications services described in your Registration Form (“**Services**”) in accordance with these terms and conditions. By using the Services you agree to these terms and conditions and any variations to them.

### 1. SERVICES

- 1.1 We will provide the **Services** using our facilities or those of such carriers or other service providers as we may decide. For this purpose, you authorise us to make any arrangements we see fit with any carriers or other service providers in order for us to provide the Services to you.
- 1.2 The Services will be made available to you on condition that you do not re-supply or resell or otherwise make the Services available to any other person(s) without our written consent and that you do not use the Services in any way or for any purpose that is prohibited by law.
- 1.3 You must keep confidential all passwords or access numbers you have nominated to be connected with the Services. You agree that we may disclose any information in connection with your use of the Services to anyone who correctly quotes your password(s) or access number(s).

### 2. CHARGES FOR SERVICES

- 2.1 You acknowledge and agree that our charges for the Services (the “Charges”) are determined by us and that we may change them at any time. Our current charges are posted on our website [www.globalcall.com.hk](http://www.globalcall.com.hk). You will be given notice of any changes to our Charges in accordance with Clause 12.2.
- 2.2 You must pay all Charges as stated in your invoice, whether the Services were used by you or any other person with or without your authorisation, consent or knowledge.
- 2.3 You agree that our records are conclusive evidence of your use of the Services and the Charges payable by you.
- 2.4 If you wish to dispute any Charges stated in your invoice, you must notify us within 30 days from the date of the invoice. If you do not notify us within 30 days, you will be deemed to have accepted the invoice. If you ask us to provide detailed call records and they show that all Charges have been correctly rendered we may charge you an administration fee of HK\$50.

### 3. VARIATIONS TO TERMS AND SERVICES

- 3.1 We may vary these terms and conditions or any other terms or conditions upon which we provide the Services to you. You will be given written notice in accordance with Clause 12.2 of any changes which apply to the Services we provide to you. You agree that if you continue to use the Services after we have issued the relevant notice(s), you are bound by the terms and conditions as varied irrespective of whether you have actual notice or knowledge thereof.

### 4. CREDIT LIMIT AND SECURITY DEPOSIT

- 4.1 We may, at any time and at our sole discretion, impose a credit limit on your account, and/or require you to pay a security deposit or make advance or interim payments. If you have paid a security deposit you authorise us to deduct from that security deposit any amount necessary to meet any cost, loss or liability incurred by us as a result of your failure to comply with these terms and conditions or any other term of your agreement with us or to pay any amount owed by you to us or our related companies. We may suspend or disconnect the Services if you do not provide the security deposit or make any payment which is due to us.

### 5. CALLING CARDS

- 5.1 At your request, we may issue you with a calling card for the use of the Services. Each calling card will at all times remain our property. You will be responsible for the safekeeping of the calling card and must at all times keep the calling card and its password separately. If that the calling card or password is lost or stolen, you must immediately inform us of such loss or theft in writing. You will in any event be responsible for all Charges incurred as a result of the use of the Services until the expiry of 48 hours after our receipt of your written notice. We will issue your first calling card free of charge. We may charge you a fee for production of subsequent, replacement or additional calling cards.

### 6. EQUIPMENT

- 6.1 We may install any equipment (“Equipment”) at your premises necessary for the supply of Services to you. You acknowledge that any Equipment installed by us will always remain our property.
- 6.2 You will allow us or our suppliers and contractors and, where applicable, will ensure that the owner or occupier allows us to, have access to any premises where our Equipment is to be installed to enable us to install, inspect, maintain or remove the Equipment. If you do not provide such access we may limit, suspend or disconnect the Services.
- 6.3 Within 7 days after termination of our agreement with you, all our Equipment must be returned to us or made available for collection by us, failing which we reserve the right to recover the value of it as a debt due to us.
- 6.4 You agree to indemnify us against any loss or damage to the Equipment, unless that loss or damage arises from fair wear and tear. You also agree to indemnify us against any claim by the owner or occupier of the premises in relation to our entry onto the premises.
- 6.5 You must not remove or obscure any identification marks on the Equipment and must comply with our reasonable instructions to protect our ownership and not do anything which might affect our ownership of the Equipment.
- 6.6 We may suspend the Services to the extent necessary to perform maintenance on the Equipment. We will use our reasonable endeavors to give you reasonable notice of any interruption to the Services bearing in mind the urgency and nature of the work and to minimize any interruption to the Services.

### 7. INVOICES

- 7.1 We will invoice you electronically for the Services according to the schedule in your Registration Form. We may vary invoice frequency upon notification in writing. We may issue interim invoices at any time.
- 7.2 We may invoice you in advance for periodic Charges, connection and service fees (where applicable) and we will generally invoice you in arrears for usage and other Charges.
- 7.3 All Charges must be paid within 14 days from the date specified on the invoice (“**Due Date**”). Time is of the essence with respect to all payments due to us.
- 7.4 We reserve the right:
- (a) to charge interest on any unpaid amount of any invoice not paid to us by the Due Date. Interest will be charged at a rate of 3.75% on the outstanding amount from the Due Date until the date that the outstanding amount is paid in full; and
- (b) to charge you an administration fee of HK\$80 if any amount remains unpaid after its Due Date. The amount of that administration fee may be varied from time to time.
- 7.5 If you pay an invoice by cheque which is dishonored we may charge you an administration fee of HK\$50.
- 7.6 If an invoice is paid by direct debit (whether from a credit card or otherwise) and there are insufficient funds available in the account from which the direct debit is to be drawn to pay the invoiced amount in full we may charge you an administration fee of HK\$50.
- 7.7 We reserve the right to suspend or terminate the Services for late payment of any amount due to us.
- 7.8 If you ask us to request a duplicate of any invoice we may charge you an administration fee of HK\$50 for providing it.
- 7.9 A fee of Eight Hong Kong Dollars for each posted mail will be charged.
- 7.10 You must pay the Charges and all other amounts due to us without any set-off, counterclaim or deduction. We may set-off any amount payable to you against any amount payable by you to us.

### 8. YOUR OBLIGATIONS

- 8.1 You warrant to us that the information provided to us in your Registration Form is true, accurate, complete and up to date.
- 8.2 You must notify us promptly, in writing, of any change to the information provided to us in your Registration Form.
- 8.3 You will indemnify us against any action, liability, cost, claim, loss, damage or expense suffered or incurred by us arising from or in connection with use or misuse of the Services by any person whether or not that person is authorised by you.
- 8.4 We may at any time and at our sole discretion seek security, including without limitation personal guarantees, for payment of our Charges, any reconnection or administration fee payable by you and any other costs incurred by us in connection with a default in payment by you.
- 8.5 You agree that we may record verbal communications between you and us in relation to the Services and that we may rely on any such record of communications.
- 8.6 You warrant that you will at all times comply fully with all legal and regulatory requirements applicable to the use of the Services. If the Services are used for any illegal purpose, we may suspend or disconnect the Services.

### 9. LIMITATION OF LIABILITY

- 9.1 We will commence providing the Services to you as soon as possible upon receipt of your signed Registration Form. However, we will not be liable in any way should there be any delay or disruption in the provision of the Services to you. We do not warrant that the Service will be free of interruption, blockage, delay or fault.
- 9.2 To the maximum extent permitted by law all conditions and warranties expressed or implied by any ordinance, the common law, equity, trade, custom, usage or otherwise in relation to the supply of the Services or the Equipment (if any) are expressly excluded.
- 9.3 To the maximum extent permitted by law, we will not be liable in any way for any loss or damage (including direct or indirect or consequential loss or damage including loss of profit, loss of data or damage that may reasonably be supposed to have been in the contemplation of the parties as at the date of the first supply of the Services).
- 9.4 We will have no liability to you or to any other person for:
- (a) faults or defects caused by your own misconduct or misuse;
- (b) faults or defects to the Service caused by your use of other telecommunication services (even if they are connected with our consent);
- (c) act or defaults of any supplier, network provider, or other person; or
- (d) any delay or default in performance under this Agreement caused by any event beyond our control, including without limitation war, accident, act of God, industrial action, typhoon, storm, delay or failure or default by any other carrier.
- 9.5 Without prejudice to the limitations in Clauses 9.2 to 9.4 under no circumstances will our liability arising from the provision of the Services exceed:
- (a) HK\$30,000 for any one incident or series of events arising from a single incident or common cause; or
- (b) an aggregate amount of HK\$100,000 for all liability arising out of the provision of the Services.

### 10. SUSPENSION AND TERMINATION OF SERVICES

- 10.1 Subject to Clause 10.2, our agreement to provide the Services to you may be terminated by either party giving the other at least 30 days' written notice.
- 10.2 We may terminate this Agreement or suspend or limit the Services (in our absolute discretion) without prior notice to you if:
- (a) you breach any of the terms and conditions of any agreement between you and us or any of our related companies;
- (b) we are unable, for any reason including any act or omission of any third party provider (where relevant), to supply or provide the Services;
- (c) we are unable to contact you at the address and/or telephone number you have provided to us after we have made reasonable efforts to do so or if you vacate, or we are unable to enter the premises to which we supply the Services for the purpose of inspecting, maintaining or repairing any Equipment;
- (d) if any information provided by you is incorrect;
- (e) you do not pay any invoice by its Due Date;
- (f) we believe that you may not be willing or able to meet your payment obligations;
- (g) you become, or in our reasonable opinion are likely to become, bankrupt or insolvent or have a receiver, manager, administrator or liquidator appointed, or in the case of a partnership, on dissolution or filing of an application for dissolution of that partnership;
- (h) you die;
- (i) we reasonably determine that such action is desirable or necessary or the purposes of network maintenance or restoration of any part of our network;
- (j) you or any authorized user under your account misuses the Services or uses the Services for any unlawful purpose;
- (k) we are permitted or required to do so by law.

- 10.3 The termination of our agreement with you will not prejudice the exercise of any right or remedy of either party arising before such termination.
- 10.4 You remain liable for all Charges payable in respect of Services provided to you and all other amounts due to us up to the time of termination.

### 11. RESUMPTION OF SERVICE

If the Service is terminated or suspended for any reason, we may at your request reconnect or resume the Service subject to payment by you of all amounts due or owing to us. You may be charged a reconnection fee of HK\$90.

### 12. NOTICES

- 12.1 All notices required or given by you must be given in writing and sent to us at Room 2107, 21/F, Harcourt House, 39 Gloucester Road, Wan Chai, Hong Kong.
- 12.2 All notices required or given by us under this Agreement may be published, displayed or notified to you in any manner as we shall deem appropriate including, without limitation, by post, electronically, by facsimile or by inclusion in a newspaper or other common media format. Any such notice will take effect from the date of its first publication, display or notification to you, irrespective of whether you have actual notice or knowledge thereof.
- 12.3 We are entitled to rely on any signatory chop, business chop, personal seal, signature or mark appearing on your Registration Form or in any correspondence between you and us.

### 13. ASSIGNMENT

- 13.1 We may assign any or all of our obligations, and any or all of our rights (including our right to receive payment from you), to any person at any time without your consent.
- 13.2 You may not assign or transfer your agreement with us, or any of your rights or obligations under it, to any person without our prior written approval.

### 14. PERSONAL DATA (PRIVACY) ORDINANCE (CAP 468) (THE “PRIVACY ORDINANCE”)

- 14.1 From time to time we may collect personal data from you. We collect this data so we can provide the Services to you. The Privacy Ordinance governs the collection, use and disclosure of that personal data. If you do not provide the necessary personal data to us, we may not be able to provide Services to you.
- 14.2 You consent to us transferring or disclosing your personal data to:
- 14.3 our related companies, agents and subcontractors or other parties, either within Hong Kong or overseas for the purposes of conducting direct marketing to you and other purposes as determined by us from time to time, subject to our complying with our obligations under the Privacy Ordinance;
- 14.4 any person who is under a duty of confidentiality to us who has undertaken to keep such information confidential;
- 14.5 any financial institutions, charge or credit card issuing companies, credit information, credit reference, or collection agencies necessary to:
- 14.6 establish, support and recover the payments you are required to make to us in consideration of us providing the Services to you; or
- 14.7 to detect and prevent any alleged fraudulent or illegal activity;
- 14.8 any financial institutions, banks, credit rating agencies or like organisations for the purpose of our financing of our business;
- 14.9 the Telecommunications Authority or other bodies where such transfer and/or disclosure is required by law for the discharge of any obligations under the provisions in the Telecommunications Ordinance (Cap.106) or other applicable law, rules or regulations; and
- 14.10 any carrier or other service provider whose facilities we use to provide the Services to you.
- 14.11 The Privacy Ordinance provides you with rights to ascertain whether we hold your personal data, to obtain a copy of that data and to correct any inaccuracies in that data. In accordance with the Privacy Ordinance, we may charge a reasonable fee for processing of any data access request. All requests relating to ascertaining whether we hold your personal data, access to that data, correction of that data or for information regarding our personal data protection policies and practices should be addressed to us marked to the attention of the Privacy Compliance Officer.
- 14.12 If you do not want us to use your personal data for the purpose of direct marketing to you or to supply your personal data to any other person, you must notify us in writing addressed to the attention of the Privacy Compliance Officer.

### 15. GENERAL PROVISIONS

- 15.1 No failure or delay on our part in exercising any right, power or remedy under this Agreement operates as a waiver. A single or partial exercise by us of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. Each right, power and remedy provided to us in this Agreement is in addition to, and does not exclude or limit, any right, power or remedy provided by law or equity or any agreement.
- 15.2 These terms and conditions are provided in English and Chinese. In the event that there is any inconsistency between the English and the Chinese versions, the English version will prevail.
- 15.3 These terms and conditions contain the entire agreement between the parties and supersede all prior agreements and understandings between the parties in connection with it.

### 16. LIMITATION OF LIABILITY

- 16.1 To the extent permitted by law, (a) GLOBAL CALL mobile shall not be liable for any Consequential Loss; and (b) GLOBAL CALL mobile's aggregate liability to the Customer shall in any event not exceed the total fees paid by the Customer to GLOBAL CALL mobile for the immediately preceding 12 months prior to any incident giving rise to such liability.
- 16.2 GLOBAL CALL mobile expressly disclaims all responsibilities and liabilities for or arising from:
- (a) the use of the Services, Content, handset or mobile device by the Customer;
- (b) any damage to or loss of data suffered by the Customer arising from his use of any of the Services, Content, handset or mobile device;
- (c) any claim based in contract, tort, or otherwise for any loss of revenue (whether direct or indirect), loss of profits or any consequential loss whether of an economic nature or not;
- (d) any claim relating to any Services, Content, handset or mobile device supplied, provided, sold or made available by GLOBAL CALL mobile (or any failure or delay to so supply, provide, sell or make available);
- (e) any injury, disease, seizure or loss of consciousness suffered by the Customer or any person arising whether directly or indirectly from accessing and using the Services or playing any computer games through the Services; and
- (f) any disruption or suspension of the Services or any part thereof which is attributable to an event or circumstance beyond GLOBAL CALL mobile's reasonable control.
- 16.3 In the event that the provision of the Services is undertaken by GLOBAL CALL mobile's contractors, sub-contractors, service providers or agents (collectively referred to as “Independent Service Providers”), GLOBAL CALL mobile disclaims for itself and on behalf of the Independent Service Providers all responsibilities or liabilities arising from the acts, default, neglect, omission and mistakes committed by the Independent Service Providers. In consideration of the services (including information and content services) provided by the Independent Service Providers to the Customer, it is expressly acknowledged and agreed by the Customer that GLOBAL CALL mobile has the requisite authority to make the disclaimer on behalf of the Independent Service Providers and that this clause 10.3 shall be extended to protect the Independent Service Providers and shall be relied upon by the Independent Service Providers as if they were parties to the contract with the Customer.
- 16.4 Without limitation to any other provision in the Agreement, GLOBAL CALL mobile expressly disclaims and excludes any liability whatsoever arising directly or indirectly from GLOBAL CALL mobile exercising any of its rights under the Agreement.
- 16.5 Nothing in the Agreement excludes or restricts a party's liability for death or personal injury resulting from the negligence or fraud of that party.
- 16.6 Notwithstanding any other provision in the Agreement, GLOBAL CALL mobile shall not be liable for any failure to fulfill an obligation under the Agreement if such a fulfillment is delayed, prevented, restricted or interfered with for any reason as a result of a Force Majeure Event provided that GLOBAL CALL mobile has used its reasonable endeavours to mitigate the effect of the Force Majeure Event and to carry its obligations in any other way reasonably practicable.

### 17. WARRANTY

- 17.1 Save and except for the warranties expressly provided under the Agreement, GLOBAL CALL mobile provides no warranty (express or implied) as to the title, fitness for a particular purpose, quality, merchantability and durability of the handset, mobile device and the Services provided to the Customer, any obligation to maintain confidentiality of information (although GLOBAL CALL mobile's current practice is to maintain confidentiality) or the results to be obtained from the use of the handset, mobile device, the Content or the Services.
- 17.2 GLOBAL CALL mobile makes no warranty as to the quality and availability of any of the Services, its network and customer service. GLOBAL CALL mobile accepts no responsibility and the Customer shall not hold GLOBAL CALL mobile liable for any failure, interruption, delay, suspension or error on the part of GLOBAL CALL mobile including without limitation, in relation to the Services, the Content, its network, customer service and after-sale service.
- 17.3 The limited warranty of the handsets or mobile devices shall be provided by the manufacturers directly in accordance with each manufacturer's standing warranty policies. GLOBAL CALL mobile assumes no responsibility in providing any repair and maintenance service to the Customer.
- 17.4 All product liability relating to the handset, mobile device, equipment and accessories (“Equipment”) sold, supplied and/or provided by GLOBAL CALL mobile shall rest with the respective manufacturers solely in any event. GLOBAL CALL mobile makes no warranty as to the safety and suitability of the Equipment. The Customer shall read and get familiar with the user handbook / user manual (or equivalent) released by the respective manufacturers prior to using or operating the Equipment and shall not contravene any instruction, guidance or restriction therein specified. The Customer expressly acknowledges and agrees that GLOBAL CALL mobile's role is merely a distributor of the Equipment and that the Customer shall not make any claim against GLOBAL CALL mobile or hold GLOBAL CALL mobile liable for any product liability either in contract law or tort law.

For the Chinese version, please call 29151557 如閣下要中文版本章則, 請電 29151557