

Terms and Conditions of Sale

AO Mobile Limited trading as 'The Smartphone Company'

Version [3]; posted and effective as of 04.04.19

What these terms cover. These Terms and Conditions of Sale (together with our Privacy Policy and Terms of Website Use) set out the terms and conditions on which we supply smartphones, mobile devices, wireless data products, accessories and other related products listed on our website at the URL <http://www.smartphonecompany.co.uk>.

These terms will apply to any contract between us for the sale of products to you and will be referred to as the contract.

If you buy a product from this website you are entering into a contract with The Smartphone Company for the supply of the products and (unless you are buying the product on its own without any telecommunication or data services) a contract with the relevant network provider ("**Network Operator**") for the supply of telecommunications or data services provided by that Network Operator ("**Services**").

Your contract for Services is not with us, but is a separate contract with the Network Operator ("**Network Contract**").

Why you should read them. Please read these Terms carefully before you submit your order to us. These tell you who we are, how we will provide products to you, how you and we may change or end the contract, what to do if there is a problem and other important information. If you think there is a mistake in these terms, please contact us to discuss.

Before you place an order on our site you will be asked to click on the button marked "I Accept" to indicate that you accept these terms. If you do not accept these Terms, you will not be able to order any products from this website.

You should print a copy of these Terms for future reference.

These Terms, and any Contract between us, are only in the English Language.

1. Information about us and how to contact us

1.1. This website is owned by and operated by AO Mobile Limited, a company registered in England and Wales under company number 7570386 and with registered office at 5a, The Parklands, Lostock, Bolton, BL6 4SD. Our VAT number is 945 6981 69.

1.2. To contact us, please see our Contact us page at <http://www.smartphonecompany.co.uk/help/contact>. Our call centre will assist you with any order related questions and is open Monday to Friday between 8.00am and 8.00pm, Saturday 9.00am to 5.30pm, Sunday 10.00am to 3.00pm except public holidays.

1.3. If we have to contact you we will do so by telephone or by writing to you at the email address or postal address you provided to us in your order.

2. Use of this website

2.1. Your use of this website is governed by our Terms of Website Use below. Please take the time to read these, as they include important terms which apply to you.

3. Placing an order

3.1. You may only purchase products from this website if you:

3.1.1. Provide your real name and correct address, phone number, email address, payment details and other required information;

3.1.2. Are at least 18 years old;

3.1.3. Provide a delivery address in the mainland United Kingdom

(Note that we are unable to deliver to overseas army addresses, hotels, hostels or prisons and as an anti-fraud measure we will only deliver to your home address as used to verify your credit/debit card and if applicable for your Network credit check);

3.1.4. Are the owner or authorised holder of a valid debit/credit card to purchase the product(s) or Services if paying with a debit/credit card; and

3.1.5. Are registered with a payer authentication scheme such as Verified by Visa and/or MasterCard Secure Code ("**Payer Authentication Schemes**") if paying with a Visa or MasterCard.

3.2. You may only purchase Services from the Network Operator if you meet their eligibility criteria (which may include providing adequate proof of your identity and satisfying the Network Operator's credit checking requirements).

3.3. You may place an order by clicking on the "Buy now" and/or "Add to basket" button and proceeding to the checkout page. On the checkout page you have the option to either:

3.3.1. Register, by creating your personal account; or

3.3.2. Proceed without registration.

Note however that our call centre may, when contacted by phone, ask for personal details provided in your order to verify your identity.

3.4. When you create a personal account you will also create a personal user identification (your email address) and password. You must keep your password safe at all times and not disclose it to anyone else, as you are personally responsible for each purchase made using your user identification and password.

4. How the contract is formed between you and us

4.1. Our acceptance of your order will take place when we email you to accept it, at which point a contract for the sale of products will come into existence between you and us.

4.2. Our order process allows you to check and amend any errors before submitting your order to us. Please take the time to read and check your order at each page of the order process.

4.3. After you place an order, we will send you an acknowledgement e-mail (known as "**Order Confirmation**") with your order number and details of the product(s) you have ordered. Please note that the Order Confirmation is an acknowledgement that we have received your order, not an acceptance of your order.

4.4. Our acceptance of your order for product(s) and the formation of the contract of sale between us and you will take place when we send you an email that confirms that the products have been despatched (known as "**Order Despatch**"). You have the option to cancel your order at any stage before we have sent the Order Despatch by contacting our call centre.

4.5. If we are unable to supply you with a product, for example because that product is not in stock or no longer available or because of an error in the price as referred to below, we will inform you of this by e-mail and we will not process your order. If you have already paid for the products, we will refund you the full amount as soon as possible.

4.6. If you place an order for products and Services and the Network Operator declines your order for Services because you do not satisfy a Network Operator's credit checking requirements or the Network Operator refuses to enter into a Network Contract with you for some other reason and we are unable to alter this decision we may cancel your order for products. If we choose to cancel your order we will let you know about this by email and/or telephone.

4.7. In certain instances we may request on behalf of the Network additional proof/s of identity and/or a deposit payable to the Network to allow the contract connection to be accepted.

4.8. Should the products and/or Services not be available, within 30 days of the Order Confirmation, we reserve the right to cancel your order and refund any payment made by you in full as soon as possible.

5. Pre-orders

5.1. A pre-order is only a statement of interest from you towards the pre-order products. After having received your pre-order, we will send you an acknowledgement email ("Pre-order Confirmation") with your order number and details of the pre-order products. The Pre-order Confirmation is not an acceptance of your order. When the pre-order products are available we will send you an email ("**Pre-order in Progress**") informing you that we are now processing your order and releasing it for delivery. Acceptance of your pre-order and the formation of the contract of sale between us and you will take place as stated in clause 4 of these Terms when you will receive the Order Despatch.

5.2. Note that if you are paying with a debit/credit card, when sending you the Pre-order Confirmation we shall pre-authorise a nominal amount of up to £2.50 from your account to validate your debit/credit card. This amount will not be debited from your account but if there are no funds available on your account this validation will fail. The payment card will be charged on dispatch of the ordered product(s) as described in clause 10 below.

5.3. Pre-orders are date and time stamped on receipt by us, and will be processed strictly in the order in which they are received. All pre-orders are subject to availability. In some instances there may be unforeseen delays in launching the pre-order products. In these instances we will make all reasonable attempts to inform you of the delay. Any launch date displayed on this website is indicative only and may change.

5.4. You have the right to cancel your pre-order at any time until the order is released for despatch and you have received Order Despatch. To cancel either visit the 'your account' section of this website to view and amend pending orders or contact our customer service department.

5.5. If we are not able to deliver the whole of your Order at one time due to operational reasons or shortage of stock, we will deliver the Order in instalments. We will not charge you extra delivery costs for this. However, if you ask us to deliver the Order in instalments, we may charge you extra delivery costs. Each instalment shall constitute a separate contract governed by these Terms. If we are late delivering an instalment or one instalment is faulty, that will not entitle you to cancel any other instalment.

5.6. You will receive an Order Despatch email to confirm that your ordered products have been despatched.

5.7. If the product you have pre-ordered is not released or does not become available within 60 days (commencing the day after you ordered the product) ("Pre-order Expiry Date"), we shall contact you by email or phone and propose either to:

5.7.1. Cancel your order, or

5.7.2. If feasible and subject to your prior acceptance, provide you with a substitute product of equivalent quality or price ("Substitute product(s)") for those products that are not available on or before the Pre-order Expiry Date and proceed with the payment for any such Substitute product(s) in accordance with your chosen payment method. Where we provide you with Substitute product(s), you may still exercise your right to cancel and claim a refund in respect of such Substitute product(s) in accordance with clause 13 of these Terms (in accordance with your rights under the Distance Selling Regulations).

5.8. All pre-orders that are accepted by us (at our sole discretion) shall be subject to these Terms.

6. Our right to make changes or vary these Terms

6.1. We may change our terms:

6.1.1. to reflect changes in relevant laws and regulatory requirements; and

6.1.2. to reflect changes in the manufacturer's specification or example to implement minor technical adjustments and improvements for example to address a security threat. We will endeavour to make sure that these changes will not reduce the quality or performance of such product.

6.2. **More significant changes to the products.** Where you have ordered product and there are significant changes to the product that you have ordered we will let you know in advance to ensure that you still want to proceed with your order and if you do not wish to proceed you may then contact us to end the contract and receive a refund for any products paid for but not received:

Every time you order products from us, the Terms in force at that time will apply to the contract between you and us.

We may vary these Terms from time to time. Unless you have placed an order for products we do not have to notify you of any changes to the Terms.

The Terms that will apply to any order you make for products are the Terms that you accept at the time you place your order.

7. Prices, delivery and handling charges and taxes

7.1. The price charged for a product will be the price quoted on our website at the time the order is placed and will be set out in the Order Confirmation and Order Despatch. We take all reasonable care to ensure that the prices for products are correct at the time when the relevant information was entered onto the system. However, occasionally we may make a mistake in the price quoted on our website or in an advertisement and if we have made such an error, then we will inform you of this as soon as we become aware of it and will tell you the correct price. If we discover an error in the price of the product(s) you ordered:

7.1.1. Where the product's correct price is less than the price on this website, we will charge the lower amount when dispatching the products to you; and

7.1.2. If the product's correct price is higher than the price stated on our website, we will contact you as soon as possible to inform you of this error and we will give you the option of continuing to purchase the product(s) at the correct price or cancelling your order.

7.2. If the pricing error is obvious and unmistakable and could have reasonably been recognised by you as a mispricing, we do not have to provide the products to you at the incorrect (lower) price. We will not process your order until we have your instructions. If we are unable to contact you using the contact details you provided during the order process, we will treat the order as cancelled and notify you in writing.

7.3. We may change prices at any time and without notice. Price increases will only apply to orders placed after such changes.

7.4. Prices for the products include VAT or other applicable taxes but do not include charges for delivery and handling.

7.5. Separate charges for delivery, handling and their related VAT or other taxes will be shown when you place your order. The Order Confirmation and Order Despatch provide proof of applicable delivery, handling and tax charges.

8. Products, Services, availability and delivery

8.1. **Products may vary slightly from their pictures.** The images of the products on this website are for illustrative purposes only. Although we have made every effort to display the colours accurately, we cannot guarantee that your computer's display of the colours accurately reflect the colour of the products. Your products may vary slightly from those images. Although we have made every effort to be as accurate as possible, all weights, sizes, capacities, dimensions and measurements quoted on our website are approximate.

8.2. **We may withdraw the product.** We may write to you to let you know if we are going to stop providing a product that you have ordered. We will endeavour to let you know promptly in advance of our stopping the supply of the product and will refund any sums you have paid in advance for products which will not be provided.

8.3. **Delivery costs.** The costs of delivery will be as displayed to you on our website.

8.4. **When we will provide the products.** During the order process we will let you know when we will provide the products to you. We will contact you with an estimated delivery date or to agree a delivery date.

8.5. **We are not responsible for delays outside our control.** If our supply of the products is delayed by an event outside our control then we will contact you as soon as possible to let you know and we will take steps to minimise the effect of the delay. Provided we do this we will not be liable for delays caused by the event, but if there is a risk of substantial delay you may contact us to end the contract and receive a refund for any products you have paid for but not received.

8.6. If you order any personalised products, the manufacturing time for such personalised products is added to the delivery time of the selected delivery option. There may also be reasons for us to re-schedule your order in case the product(s) cannot be delivered on the estimated delivery date. In that case we will contact you to discuss a revised delivery date.

8.7. We will complete delivery when we deliver the products to the address you gave us.

8.8. The products will be your responsibility from the time we deliver the product to the address you gave us.

8.9. Unfortunately we do not deliver to addresses outside the mainland United Kingdom. You may place an order for products from outside the mainland United Kingdom, but this order must be for delivery to an address in the mainland United Kingdom.

8.10. We encourage you to examine the delivery package and received products within a reasonable period of time after they are delivered to you and check their condition and that the delivery package is unopened and the content of the delivery package is complete. It is your responsibility to notify us as soon as possible, that packaging has been damaged in transportation, or the delivery is incomplete. For information on our returns policy see clause 14 below.

8.11. If no one is available at your address to take delivery and the products cannot be posted through your letterbox, we will provide you with information on how you can rearrange delivery or arrange to collect the products from a local collection point.

8.12. If you do not collect the products from us as arranged or if, after a failed delivery to you, you do not re-arrange delivery or collect them from a collection point we will contact you for further instructions and may charge you for storage costs and any further delivery costs. If, despite our reasonable efforts, we are unable to contact you or re-arrange delivery or collection we may end the contract and Clause 14 will apply.

9. Compatibility

9.1. It is your responsibility to ensure that the products you purchase are compatible for their intended use. Where a Service is ordered with a product we recommend that you check that satisfactory network airtime service is available in the areas that you intend to operate the product.

10. Payment

10.1. Payment by credit/debit cards shall be made by a credit or debit card approved by us as indicated on this website. You must supply your payment card details when you place your order.

10.2. Your payment card will be charged at the time of order for the full purchase price. Should your order be cancelled, or subsequently returned following our returns process, then a full refund will be applied to your card. Please allow 3-5 working days for this refund to show.

10.3. In the case of an order with no purchase price, we will perform a £2.50 deferred transaction (shadow payment) to validate the credit or debit card before an order is placed. Once an order is placed, we will 'Abort' the transaction of £2.50, and no money would have been physically removed from the customer's account.

10.4. A deferred payment means that the card details are checked and a "shadow" is placed on your account – this means that you cannot spend those funds elsewhere, and again, you would see a differing "available balance" on your bank account.

10.5. Unlike immediate payments, deferred transactions are not sent to the bank for completion the following morning. And they won't be unless we manually "release" them.

10.6. At any point within this time we can "release" these funds (meaning we can give the Bank an instruction to say 'the order has now completed and we now wish to take the full some of money from your bank account and place it in to our own') We can, if we wish, also abort the transaction instead of releasing it, so that you are not charged and no money is ever physically removed from your account.

10.7. The "shadow" on your bank account will remain for up to 30 days regardless of whether or not the order is fully complete. If the order does not complete, after a 30 day period the transactions are automatically aborted and you will be given access to the full funds in your account.

10.8. In the case of an unsuccessful transaction, we can send an instruction to the bank to abort the shadow payment, releasing the payment back to you within 3 to 5 working days. We do not have a mechanism to expedite this time frame.

10.9. We will not supply the ordered products to you until your card issuer has authorised the use of your card for payment of the ordered products. As your Order Despatch is your proof of purchase, we recommend that you save and print that document for your potential future use. Note that the VAT/tax invoice delivered to you by us either electronically or in the delivery package can also be used as proof of purchase.

10.10. We may use Verified by Visa and MasterCard SecureCode to provide additional security checks when processing your order. If you decline to register with either of the above Payer Authentication Schemes when prompted, we reserve the right to decline your order.

10.11. We are not responsible for your card issuer or bank charging you as a result of our processing of your credit/debit card payment in accordance with your order

11. Title to products

11.1. We retain full legal title to products until we have received in full all amounts due on the ordered products, including all applicable delivery charges.

11.2. Unless we have specifically agreed to sell you a product on a standalone basis (without a Service) we only agree to sell or supply a product to you on the basis that you enter into a Network Contract, adhere to the terms and conditions of that Network Contract and pay the Network Operator all airtime bills as specified within the Network Contract for the agreed minimum term of the Network Contract. The reason we insist on this is because products can have a significant cost to us and we can only supply the product free or for a price below what the item is worth because the Network Operator subsidises the cost of the product. If you do not comply with the terms of your Network Contract at any time during the agreed minimum term of the Network Contract – for example if you do not pay your airtime bills or you cancel your Network Contract or are disconnected - the Network may recover from us any subsidies that it has paid to us for your product. If this happens, we may charge you the cost of the product as if it had been supplied to you on a SIM free basis (without a Network Contract) and we may debit your credit or debit card on the basis that the product was supplied to you on a SIM free basis. Once this payment has been received we will then credit your original VAT/tax receipt and re-issue to you a new SIM free product receipt.

11.3. We reserve the right (subject to the applicable law) to end your right to use, sell, or otherwise deal in the products and to enter your premises and repossess the products (or instruct a third party to do so), if payment is not made, or if the debit/credit card company declines payment or requires us to return any payment made for the products, for any reason.

12. Communications between us

12.1. When we use the words "writing" or "written" in these terms, this includes emails.

12.2. To cancel a Contract in accordance with your legal right to do so as set out in clause 13, you must contact us in writing by sending an e-mail to webshop@smartphonecompany.co.uk or by sending a letter to the address set out in clause 1. You may wish to keep a copy of your cancellation notification for your own records. If you send us your cancellation notice by e-mail or by post, then your cancellation is effective from the date you sent us the e-mail or posted the letter to us.

- 12.3. If you wish to contact us for any other reason, you can write to us by e-mail at webshop@smartphonecompany.co.uk or by post to The Smartphone Company to the address set out in clause 1. You can always contact us using our Customer Services telephone number.
- 12.4. If we have to contact you or give you notice in writing, we will do so by e-mail or by pre-paid post to the address you provide to us in your order.
- 12.5. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

13. Your right to end the contract

- 13.1. **You can always end your contract with us.** Your rights when you end the contract will depend on what you have bought, whether there is anything wrong with it, how we are performing and when you decide to end the contract:
- 13.1.1. If what you have bought is faulty or misdescribed you may have a legal right to end the contract (or to get the product repaired or replaced or a service re-performed or to get some or all of your money back), see Clauses 14.5, 14.9 – 14.12 inclusive and 17;
- 13.1.2. If you want to end the contract because of something we have done or have told you we are going to do, see Clause 13.2;
- 13.1.3. If you have just changed your mind about the product, see Clause 8.3. You may be able to get a refund if you are within the cooling-off period, but this may be subject to deductions for example you may have to pay the costs of return of any products;
- 13.1.4. In all other cases (if we are not at fault and there is no right to change your mind), see Clause 13.6.
- 13.2. **Ending the contract because of something we have done or are going to do.** If you are ending a contract for a reason set out below the contract will end immediately and we will refund you in full for any products which have not been provided. The reasons are:
- 13.2.1. we have told you about an upcoming change to the product or these terms which you do not agree to (see Clause 6.2);
- 13.2.2. there is a risk that supply of the products may be significantly delayed because of events outside our control;
- 13.2.3. we have suspended supply of the products for technical reasons, or notify you we are going to suspend them for technical reasons; or
- 13.2.4. you have a legal right to end the contract because of something we have done wrong.
- 13.3. **Exercising your right to change your mind (Consumer Contracts Regulations 2013).** For most products bought online you have a legal right to change your mind within 14 days and receive a refund. These rights, under the Consumer Contracts Regulations 2013, are explained in more detail in these terms.
- 13.4. **When you don't have the right to change your mind.** You do not have a right to change your mind in respect of:
- 13.4.1. any made-to measure or custom-made products or products made to your specification or clearly personalised;
- 13.4.2. digital products after you have started to download or stream these;
- 13.4.3. sealed audio or sealed video recordings or sealed computer software, once these products are unsealed after you receive them; and
- 13.4.4. any products which become mixed inseparably with other items after their delivery.
- 13.5. **How long do I have to change my mind?** You have 14 days after the day you (or someone you nominate) receives the products, unless:
- 13.5.1. Your products are split into several deliveries over different days. In this case you have until 14 days after the day you (or someone you nominate) receives the last delivery to change your mind about the products.
- 13.5.2. Your products are for regular delivery over a set period. In this case you have until 14 days after the day you (or someone you nominate) receives the first delivery of the products.
- 13.6. **Ending the contract where we are not at fault and there is no right to change your mind.** Even if we are not at fault and you do not have a right to change your mind (see Clause 14), you can still end the contract before it is completed, but you may have to pay us compensation. A contract is completed when the product is delivered, downloaded or streamed and paid for. If you want to end a contract before it is completed where we are not at fault and you have not changed your mind, just contact us to let us know. The contract will end immediately and we will refund any sums paid by you for products not provided but we may deduct from that refund (or, if you have not made an advance payment, charge you) reasonable compensation for the net costs we will incur as a result of your ending the contract.

14. How to end the contract with us (including if you have changed your mind)

- 14.1. To cancel a contract, please contact us by sending an email to webshop@smartphonecompany.co.uk or by contacting our call centre. We will then send you by email, to the address that you provided, a Returns Authorisation Number (RAN) and give you the necessary return instructions.
- 14.2. **Returning products after ending the contract.** If you end the contract for any reason after products have been dispatched to you or you have received them, you must return them to us. Please call customer services on 0345 470 4000 or email us at webshop@smartphonecompany.co.uk for details on how you can arrange for the products to be returned. If you are exercising your right to change your mind you must send off the products within 14 days of telling us you wish to end the contract.
- 14.3. **When we will pay the costs of return.** We will pay the costs of return:
- 14.3.1. if the products are faulty or not as described;
- 14.3.2. if you are ending the contract because we have told you of an upcoming change to the product or these terms, an error in pricing (that is to your disadvantage) or description, a significant delay in delivery due to events outside our control or because you have a legal right to do so as a result of something we have done wrong; or
- 14.3.3. In all other circumstances (including where you are exercising your right to change your mind) you must pay the costs of return.
- 14.4. **What we charge for collection.** If you are responsible for the costs of return and we are collecting the product from you, we will charge you the direct cost to us of collection.
- 14.5. Some minor faults can be rectified by a simple download of the latest release of the manufacturer's operating software and our customer service team can advise on this and the best course of action.
- 14.6. Please note that in order for us to accept your phone for a cancellation where you have changed your mind it must meet the following criteria:
- 14.6.1. Must be in a resalable condition
- 14.6.2. Must be in its original box and packaging which must remain undamaged
- 14.6.3. Must be returned with its original charger, and all other in box accessories that it was delivered with
- 14.6.4. Must be returned with any gift you may have received as a result of the phone contract
- 14.6.5. Must have pin locks or passcodes removed
- 14.7. **Returning Gifts:**
- 14.7.1. The gift must be unopened and unused in order for us to accept the mobile phone cancellation
- 14.7.2. The gift must be in its original undamaged packaging along with any associated accessories
- 14.8. If any of the above criteria is not met then we may not accept your handset back for cancellation.
- 14.9. For any handsets which are faulty we understand that some of the above criteria may not be met and we will do our best to offer a like for like exchange within the 30 day exchange period. For any faults outside of 30 days you could be covered by your manufacturer warranty, and should contact the relevant points of contact listed below.
- 14.10. **Returning a faulty EE iPhone:** Apple and EE have simplified the exchange process to make it much faster for you to exchange your handset should there be fault within the first 14 days of use. To exchange, simply contact Apple to arrange your exchange on 0800 107 6285.
- 14.11. If you are returning a SIM-Free iPhone or an iPhone which is on a Vodafone or Three Contract, please see our standard returns policy below.
- 14.12. **Returning a faulty handset to The Smartphone Company**

14.12.1. To return a faulty handset within The Smartphone Company's returns policy, please complete the returns form that can be found here: <https://www.smartphonecompany.co.uk/help/returns> or contact us by email at: webshop@smartphonecompany.co.uk or call our customer services on: 0345 470 4000.

14.12.2. Returns will only be accepted with a valid authorisation. To ensure a fast and secure return we encourage you to use a recorded delivery service.

14.12.3. To arrange a handset repair under the standard manufacturer's warranty and outside of The Smartphone Company's own 30 day returns period, please use the points of contact below;

14.12.4. Where a product has been purchased as a part of a bundle of products, all products within that bundle must be returned. Until you return them to us you must keep the products in your possession, take reasonable care of the products while they are in your possession and return them to us in the condition that they were delivered to you.

14.12.5. Where a product you have purchased is defective, you can, for a period of 14 days from your receipt of the defective product(s), return them for exchange or refund. Defective products that are returned will be tested for the reported fault to confirm the return reason. In these cases our call centre will give you return instructions and arrange for the replacement or refund of your product(s) as applicable.

14.12.6. To ensure a fast and secure return we encourage you to use a recorded delivery service.

14.12.7. In case of replacement identical new products will replace the original products.

14.13. Refunds

14.13.1. Once we have received and validated your returned products, we will confirm this to you by email.

14.13.2. **When your refund will be made.** We will make any refunds due to you as soon as possible. If you are exercising your right to change your mind then your refund will be made within 14 days from the day on which we receive the product back from you. For information about how to return a product to us, see clause 14.12.1.

14.13.3. Your refund will be credited to your payment card as soon as possible and, in any case, within 30 calendar days of the day on which you gave us notice of cancellation and confirmed by email ("Order Refunded" email).

14.13.4. Deductions from refunds if you are exercising your right to change your mind. If you are exercising your right to change your mind:

14.13.5. We may reduce your refund of the price (excluding delivery costs) to reflect any reduction in the value of the products, if this has been caused by your handling them in a way which would not be permitted in a shop. Use would include, for example, using the products to make or receive a call, sending or receiving SMS/MMS, accessing the internet via the product, using the functions of the product for example amending settings, saving data, adding contacts, taking photos or using applications. If we refund you the price paid before we are able to inspect the products and later discover you have handled them in an unacceptable way, you must pay us an appropriate amount up to the full cost of the product.

14.13.6. The maximum refund for delivery costs will be the costs of delivery by the least expensive delivery method we offer. For example, if we offer delivery of a product within 3-5 days at one cost but you choose to have the product delivered within 24 hours at a higher cost, then we will only refund what you would have paid for the cheaper delivery option.

14.13.7. Please note that we will only process returns and refunds for products bought on this website. If you bought products through some other distribution channel, such as from another website, a mobile network or a retail store or catalogue, please follow the applicable seller's product return policy.

15. Our right to end the contract

15.1. **We may end the contract if you break it.** We may end the contract for a product at any time by writing to you if:

15.1.1. you do not make any payment to us when it is due and you still do not make payment within 7 days of us reminding you that payment is due;

15.1.2. you do not, within a reasonable time of us asking for it, provide us with information that is necessary for us to provide the products;

15.1.3. you do not, within a reasonable time, allow us to deliver the products to you or collect them from us.

15.2. **You must compensate us if you break the contract.** If we end the contract in the situations set out in Clause 15.1 we will refund any money you have paid in advance for products we have not provided but we may deduct or charge you reasonable compensation for the net costs we will incur as a result of your breaking the contract.

16. Disconnection of network airtime service

16.1. If you have returned a product supplied and connected to a Network pay monthly contract service, we will upon receipt of the returned handset (within the period specified in our return policy), arrange for the network to disconnect the airtime service. You will be charged for any calls that were made whilst the phone or device was in your possession, plus a proportionate line rental charge for the period between the time of connection and disconnection. These charges will be taken by direct debit directly by the Network Operator.

16.2. Where you have returned a handset or device connected to a 'pre-paid' airtime service such as pay as you go, we are unable to refund the cost of any pre-paid airtime service or 'top-up' once the service is activated.

17. Warranties for the products or if there is a problem with the product

17.1. **How to tell us about problems.** If you have any questions or complaints about the product, please contact us. You can telephone our customer service team at 0345 470 4000 or write to us at webshop@smartphonecompany.co.uk.

17.2. **Summary of your legal rights.** We are under a legal duty to supply products that are in conformity with this contract. Nothing in these terms will affect your legal rights.

17.3. **Your obligation to return rejected products.** If you wish to exercise your legal rights to reject products you must post them back to us or (if they are not suitable for posting) allow us to collect them from you. We will pay the costs of postage or collection. Please call customer services on 0345 470 4000 or email us at webshop@smartphonecompany.co.uk for details on how you can arrange for the products to be returned. In addition to your legal rights set out above, a manufacturer's limited warranty offered for products will be included in the user guide or included in the product packaging or made available otherwise to you. For details of the applicable terms and conditions, please refer to the manufacturer's warranty. The manufacturer's warranty does not affect your legal rights.

17.4. In case you have purchased an extended warranty or warranty insurance for products for which such warranty is applicable please refer to those terms and conditions.

18. Cashback

18.1. Automatic cashback will be paid directly into your bank account within 90 days. There is no need to do anything, the funds will be automatically sent to your account from us and you will receive an email as soon as the payment has been made. The contract must be active for 90 days for the automatic-cashback to be accepted, therefore if you cancel before this deadline, your automatic cashback will become void.

18.2. How to claim cash back & line rental discounts:

18.3. We offer cash backs and line rental discounts with selected deals on our website - The cash back is shown as a discount to the standard monthly line rental by dividing the cash back amount over the initial contract duration of the airtime agreement. For example; a £72 cash back, or discounted line rental on a 24 month contract would reduce the standard line rental by £3 per month.

18.4. If your deal includes cashback or line rental discount this will be shown on the confirmation email sent immediately following a successfully completed order. Cashback and line rental discount is claimed in five separate instalments, on specific billed months over the initial duration of the airtime agreement.

18.5. Cashback on 24 month contracts can be claimed as of the 6th, 9th, 12th, 15th and 18th billed month of the connection or upgrade.

18.6. Cashback on 12 month contracts can be claimed as of the 4th, 6th, 8th, 10th and 12th billed month of the connection or upgrade.

18.7. To make a Cashback claim, simply fill out our cashback claim form (which can be found in the 'My Account' section of the website) on the appropriate date and upload a copy of that month's bill. Only the one month's bill is required. The mobile contract bill you provide us must be in relation to the pay-monthly or upgraded contract we connected you to.

18.8. Please note that claims must be made within 60 days from the date shown on the appropriate mobile phone contract bill you upload to us. The cashback will then be approved and paid by bank transfer directly into your bank account as supplied by you at the point of ordering within 14 working days.

18.9. Please note that you cannot claim a cashback if you have cancelled your contract, disconnected the SIM card from the network provider, or changed your price plan with us or the network provider directly. You are able to port an existing number from another network or a pay as you go SIM- if this is the case the bills you submit then need to show the number you have ported to.

19. Gifts

19.1. We offer gifts with selected deals on our website. If your contract with us includes a gift, then the following terms will apply to your contract with us.

19.2. Your gift will be despatched separately to your mobile phone directly from our gifting supplier. Allow up to 15 days for delivery before contacting us.

19.3. If you cancel your contract you will no longer be eligible to receive the gift and if you have already received the gift you must return it to us in as good a condition as it was in when you received it, with its original packaging. If you have already used the gift or it is damaged and the damage is your fault, or if you do not return the gift to us then you must pay us a sum equal to the full value of the gift when new and selling at full price.

19.4. We reserve the right to substitute the gift offered with a similar gift at the same or higher value as the gift offered.

19.5. No cash alternatives will be offered.

19.6. Your gift may come with a manufacturer's warranty. If it does, it is your responsibility to contact the manufacturer or visit the manufacturer's website to register your gift for the warranty.

20. Mobile Phone Insurance

20.1. Where you have purchased Mobile Phone Insurance, please refer to the separate [Mobile Phone Insurance Terms & Conditions](#).

21. Circumstances beyond our reasonable control

21.1. We will use reasonable efforts to perform our obligations under this Contract; however, we will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under this Contract that is caused by an event outside our control.

21.2. An event outside our control means any act or event beyond our reasonable control, including but not limited to strikes, lock-outs or other industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster, or failure of public or private telecommunications networks or impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport.

21.3. If an event outside our control takes place that affects the performance of our obligations under a Contract:

21.3.1. we will contact you as soon as reasonably possible to notify you; and

21.3.2. our obligations under a Contract will be suspended and the time for performance of our obligations will be extended for the duration of the event outside our control. Where the event outside our control affects our delivery of products to you, we will try to arrange a new delivery date with you after the event outside our control is over.

22. How we use your personal information

22.1. We only use your personal information in accordance with our Privacy Policy. For details, please see our Privacy Policy. Please take the time to read these, as they include important terms which apply to you.

23. Our liability

23.1. If we fail to comply with these Terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breaking this contract or our failing to use reasonable skill and care, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the contract was made, both we and you knew it might happen, for example, if you discussed it with us during the sales process.

23.2. We only supply the products for domestic and private use. You agree not to use the product for any commercial, business or re-sale purposes, and we have no liability to you for any loss of profit, loss of network airtime service or billing incurred, loss of business, business interruption, loss of business opportunity.

23.3. We do not in any way exclude or limit our liability to you where it would be unlawful to do so. This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors; for fraud or fraudulent misrepresentation; for breach of your legal rights in relation to the products including the right to receive products which are: as described and match information we provided to you; of satisfactory quality; fit for any particular purpose made known to us; supplied with reasonable skill and care; and for defective products under the Consumer Protection Act 1987.

24. Other important terms

24.1. We may transfer our rights and obligations under a Contract to another organisation, but this will not affect your rights or our obligations under these Terms.

24.2. You may only transfer your rights or your obligations under these Terms to another person if we agree in writing. However if you are a consumer and you have purchased a product as a gift, you may transfer the benefit of the warranty in clause 17 to the recipient of the gift without needing to ask our consent.

24.3. This contract is between you and us. No other person shall have any rights to enforce any of its terms. However, the recipient of your gift of a product will have the benefit of the warranty at clause 17, but we and you will not need their consent to cancel or make any changes to these Terms.

24.4. Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.

24.5. If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date. For example, if you miss a payment and we do not chase you but we continue to provide the products, we can still require you to make the payment at a later date.

24.6. These terms are governed by English law and you can bring legal proceedings in respect of the products in the English courts. If you live in Scotland you can bring legal proceedings in respect of the products in either the Scottish or the English courts. If you live in Northern Ireland you can bring legal proceedings in respect of the products in either the Northern Irish or the English courts.

24.7. We will not file a copy of the contract between us.

Terms of website use

These Terms tell you the rules for using our website www.smartphonecompany.co.uk ("our site"), whether as a guest or a registered user.

By using our site, you confirm that you accept these terms of use and that you agree to comply with them.

If you do not agree to these terms, you must not use our site.

We recommend you print a copy of these terms for future reference

1. Information about us

1.1. This website is owned by and operated by AO Mobile Limited, a company registered in England and Wales under company number 7570386 and with registered office at 5a, The Parklands, Lostock, Bolton, BL6 4SD. Our VAT number is 945 6981 69.

2. Your use of our site

2.1. You may use our site only for lawful purposes. You may not use our site:

2.1.1. in any way that breaches any applicable local, national or international law or regulation.

2.1.2. in any way that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect.

2.1.3. for the purpose of harming or attempting to harm minors in any way.

2.1.4. to send, knowingly receive, upload, download, use or re-use any material which does not comply with our content standards in paragraph 6.

2.1.5. to transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation (spam).

2.1.6. To knowingly transmit any data, send or upload any material that contains viruses, Trojan horses, worms, time-bombs, keystroke loggers, spyware, adware or any other harmful programs or similar computer code designed to adversely affect the operation of any computer software or hardware.

2.2. You also agree:

2.2.1. not to reproduce, duplicate, copy or re-sell any part of our site in contravention of the provisions of these terms of use.

2.2.2. not to access without authority, interfere with, damage or disrupt:

2.2.2.1. any part of our site;

2.2.2.2. any equipment or network on which our site is stored;

2.2.2.3. any software used in the provision of our site;

2.2.2.4. or any equipment or network or software owned or used by any third party.

2.3. We may not necessarily monitor any materials posted, transmitted or communicated to or within our site. If you believe that something on our site is in breach of these terms of use please contact us as set out later in these terms of use.

3. Accessing our site

3.1. Access to our site is permitted on a temporary basis, and we reserve the right to withdraw or amend the service we provide on our site without notice (see below). We will not be liable if for any reason our site is unavailable at any time or for any period.

3.2. From time to time, we may restrict access to some parts of our site, or our entire site, to users who have registered with us.

3.3. If you choose, or you are provided with, a user identification code, password or any other piece of information as part of our security procedures, you must treat such information as confidential, and you must not disclose it to any third party. We have the right to disable any user identification code or password, whether chosen by you or allocated by us, at any time, if in our opinion you have failed to comply with any of the provisions of these terms of use. You must also let us know immediately if you believe that your password is known to someone else or if it may be used in an unauthorised way.

3.4. You are responsible for making all arrangements necessary for you to have access to our site. You are also responsible for ensuring that all persons who access our site through your internet connection are aware of these terms of use, and that they comply with them.

4. Intellectual property rights

4.1. We are the owner or the licensee of all intellectual property rights in our site, and in the material published on it. Those works are protected by copyright laws and treaties around the world. All such rights are reserved.

4.2. You may print off one copy, and may download extracts, of any page(s) from our site for your personal reference and you may draw the attention of others within your organisation to material posted on our site.

4.3. You must not modify the paper or digital copies of any materials you have printed off or downloaded in any way, and you must not use any illustrations, photographs, video or audio sequences or any graphics separately from any accompanying text.

4.4. Our status (and that of any identified contributors) as the authors of material on our site must always be acknowledged.

4.5. You must not use any part of the materials on our site for commercial purposes without obtaining a licence to do so from us or our licensors.

4.6. If you print off, copy or download any part of our site in breach of these terms of use, your right to use our site will cease immediately and you must, at our option, return or destroy any copies of the materials you have made.

5. Reliance on information posted

5.1. The content on our site is provided for general information only. It is not intended to amount to advice on which you should rely. You must obtain professional or specialist advice before taking, or refraining from, any action on the basis of the content on our site.

6. Content standards

6.1. These content standards apply to any and all material which you contribute to our site ("contributions"), and to any interactive services associated with it.

You must comply with the spirit of the following standards as well as the letter. The standards apply to each part of any contribution as well as to its whole.

6.2. Contributions must:

6.2.1. be accurate (where they state facts);

6.2.2. be genuinely held (where they state opinions);

6.2.3. comply with applicable law in the UK and in any country from which they are posted.

6.3. Contributions must not:

- 6.3.1. contain any material which is defamatory of any person;
- 6.3.2. contain any material which is obscene, offensive, hateful or inflammatory;
- 6.3.3. promote sexually explicit material;
- 6.3.4. promote violence;
- 6.3.5. promote discrimination based on race, sex, religion, nationality, disability, sexual orientation or age;
- 6.3.6. infringe any copyright, database right or trade mark of any other person;
- 6.3.7. be likely to deceive any person;
- 6.3.8. be made in breach of any legal duty owed to a third party, such as a contractual duty or a duty of confidence;
- 6.3.9. promote any illegal activity;
- 6.3.10. be threatening, abuse or invade another's privacy, or cause annoyance, inconvenience or needless anxiety;
- 6.3.11. be likely to harass, upset, embarrass, alarm or annoy any other person;
- 6.3.12. be used to impersonate any person, or to misrepresent your identity or affiliation with any person;
- 6.3.13. give the impression that they emanate from us, if this is not the case;
- 6.3.14. advocate, promote or assist any unlawful act such as (by way of example only) copyright infringement or computer misuse.

7. Our site changes regularly

7.1. We may update and change our site from time to time to reflect changes to our products, our users' needs and our business priorities. We may suspend access to our site, or close it indefinitely. We do not guarantee that our site, or any content on it, will always be available or be uninterrupted. Although we make reasonable efforts to update the information on our site, we make no representation, warranties or guarantees, whether express or implied, that the content on our site is accurate, complete or up to date.

8. Our liability

8.1. Whether you are a consumer or a business user:

8.1.1. We do not exclude or limit in any way our liability to you where it would be unlawful to do so. This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors and for fraud or fraudulent misrepresentation.

8.1.2. Different limitations and exclusions of liability will apply to liability arising as a result of the supply of any products to you, which will be set out in our Terms and conditions of Sale above.

8.2. If you are a business user:

8.2.1. We exclude all implied conditions, warranties, representations or other terms that may apply to our site or any content on it.

8.2.2. We will not be liable to you for any loss or damage, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, even if foreseeable, arising under or in connection with:

- 8.2.2.1. use of, or inability to use, our site; or
- 8.2.2.2. use of or reliance on any content displayed on our site.
- 8.2.3. In particular, we will not be liable for:
 - 8.2.3.1. loss of profits, sales, business, or revenue;
 - 8.2.3.2. business interruption;
 - 8.2.3.3. loss of anticipated savings;
 - 8.2.3.4. loss of business opportunity, goodwill or reputation; or
 - 8.2.3.5. any indirect or consequential loss or damage.

8.3. If you are a consumer:

8.3.1. Please note that we only provide our site for domestic and private use. You agree not to use our site for any commercial or business purposes, and we have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

8.3.2. If defective digital content that we have supplied, damages a device or digital content belonging to you and this is caused by our failure to use reasonable care and skill, we will either repair the damage or pay you compensation. However, we will not be liable for damage that you could have avoided by following our advice to apply an update offered to you free of charge or for damage that was caused by you failing to correctly follow installation instructions or to have in place the minimum system requirements advised by us.

9. Information about you and your visits to our site

9.1. We process information about you in accordance with our privacy policy <http://www.smartphonecompany.co.uk/privacy-policy>. By using our site, you consent to such processing and you warrant that all data provided by you is accurate.

10. Transactions concluded through our site

10.1. Contracts for the supply of our products formed through our site or as a result of visits made by you are governed by our Terms and Conditions of Sale above.

11. Uploading material to our site

11.1. Any material you upload to our site will be considered non-confidential and non-proprietary, and we have the right to use, copy, distribute and disclose to third parties any such material for any purpose. We also have the right to disclose your identity to any third party who is claiming that any material posted or uploaded by you to our site constitutes a violation of their intellectual property rights, or of their right to privacy.

11.2. This website may include information and materials uploaded by other users of the site, including to bulletin boards and chat rooms. This information and these materials have not been verified or approved by us. The views expressed by other users on our site do not represent our views or values.

11.3. If you wish to complain about information and materials uploaded by other users please contact us.

11.4. We have the right to remove any material or posting you make on our site if, in our opinion, such material does not comply with the content standards set out in paragraph 6.

12. Viruses, hacking and other offences

12.1. We do not guarantee that our site will be secure or free from bugs or viruses.

12.2. You are responsible for configuring your information technology, computer programmes and platform to access our site. You should use your own virus protection software.

12.3. You must not misuse our site by knowingly introducing viruses, trojans, worms, logic bombs or other material which is malicious or technologically harmful. You must not attempt to gain unauthorised access to our site, the server on which our site is stored or any server, computer or database connected to our site. You must not attack our site via a denial-of-service attack or a distributed denial-of service attack.

12.4. By breaching this provision, you would commit a criminal offence under the Computer Misuse Act 1990. We will report any such breach to the relevant law enforcement authorities and we will co-operate with those authorities by disclosing your identity to them. In the event of such a breach, your right to use our site will cease immediately.

13. Linking to our site

13.1. You may link to our home page, provided you do so in a way that is fair and legal and does not damage our reputation or take advantage of it, but you must not establish a link in such a way as to suggest any form of association, approval or endorsement on our part where none exists.

13.2. You must not establish a link from any website that is not owned by you.

13.3. Our site must not be framed on any other site, nor may you create a link to any part of our site other than the home page. We reserve the right to withdraw linking permission without notice. The website from which you are linking must comply in all respects with the content standards in paragraph 6.

13.4. If you wish to make any use of material on our site other than that set out above, please address your request to webshop@smartphonecompany.co.uk.

14. Links from our site

14.1. Where our site contains links to other sites and resources provided by third parties, these links are provided for your information only. Such links should not be interpreted as approval by us of those linked websites or information you may obtain from them. We have no control over the contents of those sites or resources.

15. Suspension and termination

15.1. We treat any failure to comply with these terms as serious. If you break these terms through your use of our site, we may take such action as we deem appropriate, this may include taking one or more of the following actions:

15.1.1. Immediate, temporary or permanent withdrawal of your right to use our site;

15.1.2. Immediate, temporary or permanent removal of any posting or material uploaded by you to our site;

15.1.3. Issue of a warning to you;

15.1.4. Legal proceedings against you for reimbursement of all our costs (including, but not limited to, reasonable administrative and legal costs) resulting from the breach;

15.1.5. Further legal action against you;

15.1.6. Disclosure of such information to law enforcement authorities as we reasonably feel is necessary.

15.2. The responses described in this policy are not limited, and we may take any other action we reasonably deem appropriate.

16. Jurisdiction and applicable law

16.1. If you are a consumer, please note that these terms of use, their subject matter and their formation, are governed by English law. You and we both agree that the courts of England and Wales will have exclusive jurisdiction except that if you are a resident of Northern Ireland you may also bring proceedings in Northern Ireland, and if you are resident of Scotland, you may also bring proceedings in Scotland.

16.2. If you are a business, these terms of use, their subject matter and their formation (and any non-contractual disputes or claims) are governed by English law. We both agree to the exclusive jurisdiction of the courts of England and Wales.

16.3. Our site is directed to people residing in the United Kingdom. We do not represent that content available on or through our site is appropriate for use or available in other locations. Some of the services offered through our site may not be lawful or may otherwise not be permitted in certain countries outside the United Kingdom.

17. Trade marks

17.1. The Smartphone Company and thesmartphonecompany.co.uk are trademarks of AO Mobile Limited.

18. Variations

18.1. We may amend these terms from time to time. Every time you wish to use our site, please check these terms to ensure you understand the terms that apply at that time. Some of the provisions contained in these terms of use may also be superseded by provisions or notices published elsewhere on our site.

19. Severance

19.1. If any provision of these terms of use (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of these terms of use, and the validity and enforceability of the other provisions of these terms of use shall not be affected.

20. Your concerns

20.1. If you have any concerns about material which appears on our site, please contact webshop@smartphonecompany.co.uk