

## NOW TV General Terms and Conditions (Retail Solution)

### 1. Grant of rights

1.1 "We" and "us" mean PCCW IMS Limited acting for and on behalf of PCCW VOD Limited. "You" means the "Customer" specified in the application form (the "Application Form").

1.2 Subject to the terms and conditions of this Agreement, we hereby grant to you, and you hereby accept, a non-exclusive right during the term of this Agreement, to exhibit the Content (being the channels, films or television programmes, advertising (all whether animated or otherwise), music video or other series of moving images, music, still pictures, data and/or other material, goods or services that you are entitled to access through the NOW TV service ("NOW TV") provided by PCCW MEDIA Limited), in its entirety in the Installation Address (as specified in the Application Form).

1.3 For the avoidance of doubt, we do not grant to you any right to (i) exhibit or retransmit any Content in whole or in part by any means or in any manner other than by means of the Service Provisioning Equipment (being the Decoder/s) (which shall mean a standard decoder which comprises the integrated receiver and decoder unit, remote control unit and cables), modem(s) and all other equipment specified on the NOW TV Service Provisioning Equipment delivery note which is supplied to you to access NOW TV; (ii) exhibit or retransmit NOW TV or any Content on more than the number of screens specified in the Application Form; or (iii) authorize any other party to exhibit or retransmit such Content or any part thereof, without our express prior written consent. All rights not specifically granted to you are expressly reserved and retained by us.

### 2. Our rights and responsibilities

2.1 You should note that we may (i) deactivate NOW TV at any time without notice to carry out system maintenance, upgrading, testing and/or repairs; (ii) limit or suspend your NOW TV access without notice where we believe that such action is appropriate as a result of your use of NOW TV and/or when you fail to make any payment in accordance with clause 4 or we reasonably believe that you are acting in breach of this Agreement or to comply with any law of regulation; (iii) modify any of the Services (being any of the services which may be accessed through NOW TV) or any Content; (iv) remove, disable or suspend transmission of any Content which we consider in our sole opinion, breaches any applicable law, regulation or regulatory directive or to be otherwise unacceptable; (v) edit any Content; (vi) change the number of channels available to you on NOW TV; and (vii) introduce, or amend the amount of, fees and/or amend this Agreement or our operating rules by notice to you, such amendments to take effect 30 days after such notification is made.

### 3. Your responsibilities

3.1 You (i) will be responsible for your and any User's (being those other persons who access NOW TV at the Installation Address) use of NOW TV; (ii) must not, and must not permit any other person, to sell, reproduce, copy, distribute, modify, prepare derivative works based on the Content or exploit any Content; (iii) must ensure that all users comply with these terms and conditions; (iv) not play or show any Content in public other than at the Installation Address; (v) shall not permit access to NOW TV to any person who is not at the Installation Address; (vi) shall not charge a fee for access to any Content; (vii) shall not copy any Content for the purpose of re-transmitting them later, or for any other reason, except as may be required by any relevant law; (viii) shall not cut, edit, dub, voice-over, sub-title, reformat or otherwise change or make additions to any Content except as may be required by any relevant law; (ix) shall not use any of the copyright, trademarks, trade names, logos, names and/or likenesses, or any part of them, included in any Content, except in connection with its receipt or promotion of any channel on NOW TV and with our prior written approval; (x) shall not do anything that could indicate that any Content is associated with a television service other than us; (xi) shall not incorporate any Content as part of any interactive television, PPV, VOD or NVOD services or on-line services, or otherwise exhibit or cause the exhibition of any stills, extracts or data from any Content via the Internet or any other local or area-wide computer network; (xii) shall not reformat any Content so that it appears on less than the full screen of a television, or add or super-impose any data, crawlers, buttons or other items to any Content; (xiii) deliver or distribute any encrypted Content in an unencrypted format; and (xiv) shall abide by all relevant laws, regulations and codes of practice in Hong Kong when using or exhibiting NOW TV.

3.2 If you suspect that any Content is being used or dealt with in violation of clause 3.1, you must immediately inform us and must co-operate with us, in any action we may take in connection with such unauthorised use.

3.3 You acknowledge that (i) we may not be permitted by our licensors to edit or amend any Content before it is transmitted or made available through NOW TV; (ii) nothing you do on or in relation to the Content or NOW TV will transfer any intellectual property rights or licence you to exercise any intellectual property rights; (iii) Content on NOW TV is provided by third party providers and not by us. Please note that there may be some Content which is not suitable for viewing or which must not be viewed by minors. You are responsible for (i) checking the identity and/or age of any person who wishes to view any such Content before that Content is made available to that person; and (ii) generally ensuring that minors do not access such Content and for monitoring and supervising all users in their use of NOW TV and the Content.

3.4 You agree to indemnify us against any action, liability, cost, claim, loss, damage, proceeding and/or expense suffered or incurred by us, our sub-contractors, licensors or agents arising from or which is related to (i) your use, all Users' use and/or any other person's use of NOW TV; (ii) any breach or non-observance of any term of this Agreement by you or any User; or (iii) any theft, loss and/or damage caused to the Service Provisioning Equipment.

3.5 If we request personal data from you that constitutes Personal Data (meaning personal data as defined in the Personal Data (Privacy) Ordinance, account information including data set out in the Application Form and other information obtained from you, our network, the networks of our Affiliates (meaning any other entity which directly or indirectly controls us, is controlled by us, or is under common control with us) or from another source), you may decline to provide the Personal Data but in that event we may decline to provide NOW TV to you. You agree that we may use the Personal Data for any and all of the following purposes: (i) provision of NOW TV to you (including the transfer of such Personal Data to other telecommunications network providers or third parties as necessary for the provision of NOW TV); (ii) matching (as defined in the Personal Data (Privacy) Ordinance) the Personal Data with other data collected for other purposes and from other sources including third parties in relation to the provision of NOW TV; (iii) marketing of goods and/or services by us, our agents or Affiliates, in relation to NOW TV; (iv) improving of goods and/or services in relation to provisioning of NOW TV; (v) processing of any benefits arising out of or in connection with NOW TV; (vi) analysing, verifying and/or checking your credit, payment and/or status in relation to provision of NOW TV; (vii) processing of any payment instructions, direct debit facilities and/or credit facilities in relation to provisioning of NOW TV or requested by you; (viii) enabling the daily operation of your account and/or the collection of amounts outstanding in your account in relation to NOW TV; (ix) enabling us to comply with our obligations to interconnect or other industry practices; (x) keeping you informed of other services we provide; (xi) prevention or detection of crime; (xii) disclosure as required by law; (xiii) the operation of all other businesses conducted by us and/or our Affiliates from time to time and all related purposes connected with these businesses and including the purposes listed in sub-clauses (i) to (xii) above as if NOW TV included a reference to those other businesses; and (xiv) any other purposes as may be agreed to by the parties. You agree that the Personal Data may be disclosed and transferred in Hong Kong or in places outside Hong Kong to our Affiliates, agents, contractors, telecommunications operations, any other third parties, including collection agencies, credit reference agencies, security agencies, credit providers or other financial institutions and any of our actual or proposed assignees or transferees of our rights with respect to you for such person to use, disclose, hold, process, retain or transfer for the purposes listed in this paragraph. We may also provide aggregated, segmental or otherwise, anonymous, statistical information on customers' NOW TV usage, such as but not limited to channel subscription and preview usage data, to existing and potential third party content providers and/or advertisers upon their request.

3.6 You shall, as soon as practicable, notify us of any changes of address or any other particulars provided to us which may affect the provision of NOW TV to you. On our request, you shall provide us with information relating to you and your use of NOW TV reasonably required by us: (i) to assist us in complying with our obligations under any applicable law; (ii) to report to any government agency regarding compliance with those obligations; and (iii) to assess whether or not you have complied, are complying and will be able to continue to comply with all of your obligations under this Agreement. If you do not provide us with this information within 2 business days, you license us and our authorised representatives during the term of the Agreement and for 3 months after its termination, to enter the premises owned or occupied by you during business hours, after giving reasonable notice, for the purpose of obtaining any information requested under this paragraph.

### 4. Payment

4.1 We will invoice you every month with a list of all Fees (which may include but are not limited to membership, installation, removal and service fees, Content, subscription fees, fees for the Service Provisioning Equipment and any other relevant fees and charges current from time to time) which relate to your use of NOW TV, the Services and/or any Content.

4.2 Unless you have subscribed to NOW TV pursuant to a term plan; in which case, you shall make such payment as required by such term plan, monthly subscription fees are payable in advance. You agree to pay the full amount of such invoice before the due date for payment specified therein by the payment method specified by you in the Application Form. Any disputes regarding an invoice must be raised within 30 days of the invoice date.

4.3 Please note that no credit or refund is available in respect of any time when NOW TV or any part thereof is disrupted or suspended for maintenance or as a result of technical difficulties or a circumstance beyond our reasonable control.

4.4 If you have not paid any invoice by the due date, we reserve the right to (i) charge interest on any outstanding amount at 2% per month until the invoice has been paid in full and to charge a handling fee, collection agency fee, reconnection fee and/or require a security deposit if your access to NOW TV is suspended or terminated before payment is made; (ii) transfer any amount that is owing to you or due from you under any of your accounts, if you have more than one account with PCCW MEDIA Limited, so as to settle any outstanding amount due to PCCW MEDIA Limited under any of your accounts, whether they have been terminated or suspended.

4.5 We shall not be obliged to extend your term plan (if any) to any Content on a pro-rata basis for the period you're your access to any Content and/or NOW TV was suspended as a result of your failure to make payment of your invoice by its due date.

4.6 We reserve the right to (i) vary the billing frequency at any time without prior justification; (ii) issue an interim invoice for accrued charges, which will become immediately due and payable; (iii) re-issue any invoice if any error is subsequently discovered; and invoice you through a billing agent or any of our affiliates (meaning any other entity which directly or indirectly controls us, is controlled by us, or is under common control with us); and (iv) invoice you from the commencement of your subscription to any Content to the start of our billing cycle and for every calendar month thereafter.

4.7 At any time before or during the provision of NOW TV, we may require you to provide a security deposit for the Fees to be incurred in relation to the use of NOW TV. The amount of the deposit may be any amount required by us.

4.8 We may in its discretion, vary our requirement for a security deposit under this clause at any time. Unless otherwise provided in this Agreement, a deposit may be held until (i) termination of the Agreement pursuant to any of the provisions herein; and (ii) all of your liabilities to us in respect of the use of NOW TV are discharged. We shall be entitled to apply the security deposit in whole or

any part to satisfy any amount due by you to us.

4.9 A security deposit does not relieve you from its obligations to pay amounts to us as they become due and payable, nor does it enable you to make allowance by way of set off, deduction or withholding from any such amount. The deposit will not affect any of our rights to suspend, cancel or terminate this Agreement for non-payment.

4.10 In addition to any other remedy or right permitted hereunder or by law, we may revise the Fees chargeable for all or any part of the Term if we determine that you have:

- permitted access to any Content to any person who is not at the Installation Address (whether or not any consideration is received by you); or
- exhibited any Content or NOW TV on more than the number of screens as specified in the Application Form. Under either of these circumstances, you must pay us immediately upon demand the difference between the revised Fees and the Fees that you have already paid for the Term.

### 5. Service Provisioning Equipment

5.1 You agree (i) that you may be required to pay a security deposit or rental charges for each Decoder, each Modem and/or any other Service Provisioning Equipment, at the then current rate set by us; (ii) not to sell, transfer or part with possession or control of any Service Provisioning Equipment; (iii) to keep the Service Provisioning Equipment in good and clean condition; (iv) not to alter or remove any labels or other markings which are on any Service Provisioning Equipment when delivered; (v) not to tamper with remove any integrated circuit, component, anti-copying device or protection facility contained in any Service Provisioning Equipment; (vi) not to permit anyone other than us to carry out any repairs or maintenance to any Service Provisioning Equipment; (vii) that we and/or our suppliers retain the intellectual property rights in all the Service Provisioning Equipment and the right to modify any Service Provisioning Equipment without prior notice; (viii) not to reverse engineer, decompile or disassemble any Service Provisioning Equipment, reproduce any of the technology included in any Service Provisioning Equipment or authorize any third party to do so; (ix) to ensure that the Service Provisioning Equipment is kept at the Installation Address; and (x) not to connect any Service Provisioning Equipment to more than the number of screens specified in the Application Form.

5.2 In the event that you require us to install any Service Provisioning Equipment or we wish to collect any Service Provisioning Equipment pursuant to this Agreement, you will provide us, our employees and contractors safe access to your premises for such installation or collection. You represent that you have obtained all necessary permission to allow us, our employees and our contractors to provide such installation and/or collection.

5.3 If any Decoder or Modem provided to you by us proves to be defective under normal use due to defective materials, design and/or workmanship, we shall provide you with free repair or replacement services. Notwithstanding the aforesaid, we shall only repair or replace any Service Provisioning Equipment damaged by you, your employees, agents or contractors at the then prevailing charges as notified to you by us.

### 6. Installation Services

You agree (i) to authorize us or our authorized agents to install the Service Provisioning Equipment; (ii) that we reserve the right not to install any Service Provisioning Equipment as we deem appropriate and at our discretion; (iii) that only one single standalone connection per Modem will be set up by us to NOW TV; (iv) that you will not use any other hardware in place of the Service Provisioning Equipment to access NOW TV without our written consent; and (v) that we will not be liable for any loss or damage suffered by you or any other person arising directly or indirectly out of our installation activities under this clause 6.

### 7. Marketing

Any marketing or other promotional materials (whether or not written) prepared or used by you in connection with the Content or NOW TV must first be approved by us in writing.

### 8. Warranties & Liability

8.1 Each party represents and warrants to the other party that it has all corporate and legal power and authority to enter into and perform this Agreement.

8.2 To the extent permitted by law, we disclaim any representation or warranty whether express or implied, as to the title, fitness for a particular purpose, merchantability, accuracy, continuing availability, standard or quality of NOW TV, the Services, all Content, any Service Provisioning Equipment, that NOW TV, any Content or any Services will be uninterrupted or error free, any obligation to maintain the confidentiality of information (although our current practice is to maintain such confidentiality), the results to be obtained from use of NOW TV, the Services, any Content, any Service Provisioning Equipment, unless specifically mentioned in this Agreement. The selection, scheduling, substitution and withdrawal of any Content shall remain under our or our licensors' control.

8.3 In the absence of our negligence or deliberate act, we expressly disclaim any liability for (i) any damage to or loss of data suffered by you or any User arising from your or any User's use of NOW TV, any Service Provisioning Equipment, the Services and/or any Content; (ii) 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; (iii) any claim relating to any Service and/or Content supplied, provided, sold or made available by or through NOW TV (or any failure or delay to so supply, provide, sell or make available); (iv) any disruption or suspension of NOW TV or any part thereof which is attributable to an event or circumstance beyond our reasonable control; (v) any damage suffered by any third party arising from any installation, de-installation or reconnection of any Service Provisioning Equipment carried out by you or with your kNOWledge and/or consent; and (vi) any injury, disease, seizure or loss of consciousness suffered by you or any person (a) who accesses NOW TV; or (b) arising directly or indirectly from using NOW TV or any of the Services.

8.4 You warrant that you will comply with all laws and regulations affecting your distribution of the Content in Hong Kong shall be responsible for:

- maintaining all relevant approvals, consents and registrations including, but not limited to, any licence or approval required by the relevant telecommunications, broadcasting or other authority from time to time;
- paying all charges, levies and duties imposed on or charged to you under any applicable law or regulation; and
- obtaining the performing rights licenses from the owners and composers of any music contained in any Content that is required in connection with your reception, retransmission and exhibition of the Content in the Installation Address and your performance under this Agreement.

8.5 You agree that our liability under this Agreement shall in any event not exceed the total Fees paid by you to us for the twelve months immediately preceding any incident giving rise to a claim.

### 9. Term and Termination

9.1 This Agreement shall be in force for the duration of the Term specified in the Application Form unless terminated in accordance with the provisions of this Agreement.

9.2 We may terminate your subscription to any Content and/or this Agreement at any time without any liability to you and for any reason on the giving of at least 30 days' prior notice to you or immediately by notice to you if (i) you breach any term of this Agreement; (ii) such Content is withdrawn from distribution on NOW TV for whatever reason; (iii) PCCW MEDIA Limited no longer holds the right to distribute such Content on NOW TV; (iv) PCCW MEDIA Limited fails to obtain, hold, retain or renew any relevant regulatory approvals or if any relevant regulatory approvals are revoked or if it is required by a relevant authority to cease transmission of any such Content or NOW TV; or (v) such Content fails to comply with any regulatory standards, relevant laws or any requirements or orders issued from time to time by a relevant authority.

9.3 You may terminate this Agreement at any time by giving at least 30 days' prior notice to us. You shall only give such notice to us by completing our termination form or such other means as required by us from time to time. Your termination of NOW TV shall only be effective upon our confirmation to you of such termination.

9.4 The Agreement is automatically terminated if the installation of any Service Provisioning Equipment does not occur for any reason.

9.5 In the event of termination of this Agreement for any reason, we will not be providing any refund of any amount pre-paid by you in advance.

### 10. Effect of Termination

Upon the date of termination of this Agreement (i) you will promptly return all Service Provisioning Equipment to us in good and clean condition whereupon we shall refund any security deposit to you (after deducting any outstanding Fees, any loss or damage (if any) suffered by us in connection with your use of any Service Provisioning Equipment and exercising our rights pursuant to clause 4.4) but under no circumstances will you be entitled to a refund of any Fees, interest on any security deposit or any pro rata monthly subscription fee; and (ii) all licences, rights and privileges granted to you herein shall cease.

### 11. General

11.1 We may appoint agents and we may (but you shall not) assign or sub-contract the whole or any part of the rights and/or obligations contained in this Agreement to any party at any time.

11.2 These NOW TV General Terms and Conditions (Retail Solution) together with the terms and conditions on the Application Form shall constitute the entire agreement between you and us as to the matters contained herein and supercedes any prior agreement, arrangement or understanding between the parties concerning the same subject matter. In the event of any inconsistency between the Application Form and these NOW TV General Terms and Conditions (Retail Solution), the Application Form shall prevail to the extent of such inconsistency. The English version of these terms and conditions shall prevail over any Chinese version.

11.3 You agree to keep the terms of this Agreement and our business affairs and those of our Affiliates and licensors confidential and not to disclose such information to any third party or make any announcement in relation to them without our prior written consent.

11.4 If any term or condition of this Agreement becomes or is declared illegal, invalid or unenforceable for any reason, such term or condition shall be divisible from this Agreement and shall be deemed to be deleted from this Agreement.

11.5 This Agreement shall be governed by Hong Kong laws, and you hereby submit to the exclusive jurisdiction of the Hong Kong courts.