

# SIPhony Terms of Service Agreement

This SIPhony Terms of Service Agreement (the "Agreement, also defined as Terms and Conditions in Order Form") is entered into by and between REDtone Telecommunications Sdn Bhd ("REDtone") and the entity agreeing to these terms ("Customer"). REDtone and Customer is hereinafter referred to individually as a "Party" and collectively as the "Parties". This Agreement is effective as of the date that the SIPhony Account is made available to Customer (the "Effective Date").

## 1. Definitions

(a) "Admin Account(s)" means the administrative account(s) provided to the Customer by REDtone for the purpose of administering the SIPhony Services.

(b) "Admin Console" means the online tool provided by REDtone to the Customer for use in reporting and certain other administration functions.

(c) "Administrators (also defined as Owner in Admin Console)" mean the Customer-designated personnel who administer the SIPhony Services to End Users on Customer's behalf.

(d) "Brand Assets" means the trade names, trademarks, service marks, logos, domain names, and other distinctive brand features of each party, respectively, as secured by such party from time to time.

(e) "Customer Data" means data provided, generated, transmitted, or displayed via the SIPhony Services by Customer or End Users.

(f) "End Users" means the individual users whom Customer permits to use the SIPhony Services.

(g) "SIPhony Services" means the software and services provided by REDtone on [siphony.redtone.com](https://siphony.redtone.com) and other designated websites, including associated offline and mobile components.

(h) "Order Form" means the REDtone provided order form or page that Customer completes in signing up for the SIPhony Services.

(i) "Data Policy" means the REDtone Data Protection Policy located at <https://www.redtone.com/pdpa/> or such other URL as REDtone may provide.

(j) "Selling Rate" means the actual prices for the subscription and usages of the SIPhony Services paid for by the Customer.

(k) "SLA" means the SIPhony Service Level Agreement located at <https://www.redtone.com> or such other URL as REDtone may provide.

## 2. Use of Service

(a) **Data Transfer.** As part of providing the SIPhony Services, REDtone may transfer, store and process Customer Data within REDtone facilities in Malaysia, and outside Malaysia. By using the SIPhony Services, Customer consents to this transfer, processing and storage of Customer Data.

(b) **Revising Rates.** REDtone may make commercially reasonable changes to the SIPhony Services Selling Rate by providing the Customer with written notice at least fifteen (15) working days prior to the start of the new rates.

(c) **SIPhony Credit.** The SIPhony credit is used to pay for the subscriptions and usages of SIPhony Services. The SIPhony credit that Customer purchases will be credited to the Customer Account at the time of purchase and may be shared with multiple End User Accounts.

(d) **Inactive Customer Account.** Customer Account with no active subscription and no active usage of the SIPhony Services over 180 days is considered an Inactive Customer Account. Unused SIPhony credit balance in an Inactive Customer Account will expire and is not refundable.

(e) **Subscription.** Customer may have to purchase subscriptions to use certain SIPhony Services. Subject to availability, the subscription can be purchased with either a monthly or annual renewal option.

(f) **Refund Policy.** All purchases are final and non-refundable. If you believe that REDtone has charged you in error, you must contact us within 30 days of such charge. No refunds will be given for any charges more than 30 days old. We reserve the right to issue refunds or credits at our sole discretion. An administrative fee will be levied on each refund to recover the processing cost and bank charges.

(g) **Modifications To Terms of Service.** We are entitled at our sole discretion, from time to time, to vary, add to, remove or otherwise amend the terms and conditions of the Agreement or any part thereof. The prevailing terms and conditions of the Agreement and the Service(s) will be updated on our official website, whereby the terms and conditions on the official website will apply and supersede all previous versions. Any variations, additions or amendments will take effect on the date the variations, additions or amendments is posted on our official website, also termed as the "Last Modified Date". Your continued use of the SIPhony Service(s), fifteen (15) days after the Last Modified Date of any changes to the terms and conditions of SIPhony Service(s) and/or Agreement will constitute unconditional acceptance by you of such variations, additions or amendments and you will be bound by the same.. In the event that you disagree with the changes made and wish to terminate our Service(s), you must serve us a written notice within five (5) working days from the Last Modified Date, failing which you will be deemed to have accepted the changes without condition. It is your responsibility to check the redtone.com website regularly for modifications to this Agreement.

### 3. REDtone's Obligations

(a) **Provision of SIPhony Services.** SIPhony Services will be made available to paying Customer with the SLA, Data Policy, and standard support provided at no additional charge and/or premium support if purchased.

(b) **Facilities.** All facilities used to store and process Customer Data will adhere to reasonable security standards no less protective than the security standards at facilities where SIPhony stores and processes its own information of a similar type. REDtone has implemented industry standard systems and procedures to ensure the security and confidentiality of Customer Data, protect against anticipated threats or hazards to the security or integrity of Customer Data and protect against unauthorized access to or use of Customer Data.

#### 4. Customer Obligations

(a) **Acceptable Use of Service.** You are required to:

(i) comply with all applicable laws of Malaysia, including but not limited to the Communications and Multimedia Act 1998 (inclusive of any subsequent and/or prospective amendments), its subsidiary legislation, standards, codes (including Content Code of the Communications and Multimedia Content Forum, which can be found at <http://www.cmcf.my>), notices, guidelines and/or restrictions issued by the government, regulatory agencies and/or REDtone or other Service Providers on the use of the Service(s) or any telecommunication system and equipment;

(ii) comply with all notices or directions issued by us from time to time for the effective implementation, delivery and/or provision of the Service(s); and

(iii) provide REDtone with accurate, complete and updated information in writing immediately of any changes to such information provided, including but not limited to any changes to changes in your address, business and/or contact particulars

(b) Customer agrees not to use the SIPhony Services:

(i) to violate, or encourage the violation of, the legal rights of others;

(ii) for any unlawful, invasive, infringing, defamatory or fraudulent purpose;

(iii) to intentionally distribute viruses, worms, Trojan horses, corrupted files, hoaxes or other items of a destructive or deceptive nature;

(iv) to alter, interfere with or circumvent any aspect of the SIPhony Services;

(v) to test or reverse-engineer the SIPhony Services in order to find limitations, vulnerabilities or evade filtering capabilities;

(vi) to use the SIPhony Services in a manner not authorised by REDtone

(c) **Customer Administration.** Customer agrees that REDtone's responsibilities do not extend to the administration of the SIPhony Services for the Customer and that REDtone is merely a data-processor. Customer may specify one or more Administrators through the Admin Console who will have the rights to access Admin Account(s) and to administer the End User Accounts. Customer is responsible for:

(i) maintaining the confidentiality of the password and Admin Account(s);

(ii) designating those individuals who are authorized to access the Admin Account(s);

(iii) ensuring that all activities that occur in connection with the Admin Account(s) comply with the Agreement.

(d) **End User Consent.** Customer's Administrators may have the ability to access, monitor, use, or disclose data available to End Users within the End User Accounts. Customer will obtain and maintain all required consents from End Users to allow Customer's access, monitoring, use and disclosure of this data.

(e) **Customer's Equipment.** Customer is solely responsible for the purchase, setup, use and operation of any equipment not provided by REDtone that may be used in association with the SIPhony Services.

(f) **Unauthorized Use.** Customer will use commercially reasonable efforts to prevent unauthorized use of the SIPhony Services and agree to notify REDtone immediately of any unauthorized use. REDtone cannot and will not be liable for any loss or damage arising from the Customer's failure to comply with this requirement. Customer will be solely responsible for any and all amounts charged to Customer's account regardless of prompt notification of unauthorized use or fraudulent use, except to the extent such unauthorized use is caused by REDtone's gross negligence.

(g) **Emergency Service.** Customer agrees that REDtone will provide the details that are furnished at the point of registration to the respective body under emergency services.

(h) **Special Needs.** As a special needs subscriber, should you need to register an authorized person to represent you in all your interaction with us, please do walk-in to our headquarters in Puchong Selangor, to register your authorized person with us. You will need to attend in person with the authorized person for verification. REDtone may require additional verification that we deem necessary in the event that we discover any inconsistencies or irregularities during the verification process.

## 5. Billing and Payment

(a) **Account Type.** By default, all Customers are on prepaid account. Payment must be made prior to usage of SIPhony Services.

(b) **Payment.** Customer may make payment via FPX or manual banking upon acceptance of online sign up. REDtone can provide the invoice upon request.

(c) **Auto-Renewal.** By default, all subscriptions of SIPhony Services are on auto renewal provided sufficient credit in Customer's SIPhony Account. Credit balance will be auto deducted for renewal of subscriptions 7 days before the expiry date.

(d) **Unclaimed Payment.** For payments received by REDtone with no identifiable Customer information, REDtone will distribute this information to the sale and support team for purpose of tracing the customer. If the payment remains unclaimed after 180 days, it will be converted into expired SIPhony credit. Expired SIPhony credit is not refundable.

(e) **Billing Dispute.** Customer will waive the rights to dispute any billed amount if the billing dispute is not submitted to REDtone in writing within 90 days from the billing date. REDtone will review the billing dispute and a written response with the final decision together with any required corrective measure will be provided to Customer within 30 days from the receipt of the billing dispute.

## 6. Account Suspension

(a) **Suspension of Customer's SIPhony Account.** If an Administrator or/and an End User is in violation of the Agreement, REDtone reserves the right to suspend Customer's SIPhony Account. The duration of any suspension by REDtone will be until Customer has cured the breach which caused the suspension.

(b) **Security Issues.** Notwithstanding the foregoing, if there is a security issue, REDtone reserves the right to suspend the offending Customer's SIPhony Account. If the suspension of the Customer's SIPhony Account for any reason without prior notice to Customer due to confidentiality, at Customer's request, REDtone may provide information that does not contravene to the law.

## 7. Representations, Warranties and Disclaimers

(a) **Representations and Warranties.** Each party represents that it has full power and authority to enter into the Agreement. Each party warrants that it will comply with all laws and regulations applicable to its provision, or use, of the SIPhony Services, as applicable. REDtone warrants that it will provide SIPhony Services in accordance with the applicable SLA and Data Policy.

(b) **Disclaimers.** To the fullest extent permitted by applicable law, except as expressly provided for herein, neither party makes any other warranty of any kind, whether express, implied, statutory or otherwise, including without limitation warranties of merchantability, fitness for a particular use and non-infringement. REDtone makes no representations about any content or information made accessible by or through the SIPhony Services.

## 8. Term and Termination

(a) **Agreement Term.** This Agreement will commence on the Effective Date and continue until Customer Account is terminated.

(b) **Account Termination.** Customer may terminate our Service(s) by giving us notice in writing within five (5) working days. Upon termination of the Agreement, unused SIPhony credit balance is not refundable.

(c) **Termination for Breach.** Either party may terminate this Agreement if:

(i) the other party is in material breach of the Agreement;

(ii) the other party ceases its business operations or becomes subject to insolvency proceedings and the proceedings are not dismissed within ninety days.

(d) **Effects of Termination.** If this Agreement terminates, then:

(i) the rights granted by one party to the other will cease immediately (except as set forth in this Section);

(ii) REDtone may provide Customer access to, and the ability to export the data stored at Admin Console for a commercially reasonable period of time at REDtone discretion;

(iii) thereafter a commercially reasonable period of time, REDtone will delete the data stored; and

(iv) upon request each party will promptly use commercially reasonable efforts to return or destroy all other Confidential Information of the other party.

(e) **Credit Balance.** Upon termination, any credit balance on the date of termination will be used to defray administrative charges and will not be refunded.



## 9. Confidentiality

(a) **Obligations.** Each party will protect the other party's confidential information with the same standard of care it uses to protect its own confidential information; and not disclose the confidential information, except to affiliates, employees and agents who need to know it and who have agreed in writing to keep it confidential. Each party (and any affiliates' employees and agents to whom it has disclosed confidential information) may use confidential information only to exercise rights and fulfill its obligations under this Agreement, while using reasonable care to protect it. Each party is responsible for any actions of its affiliates' employees and agents in violation of this Section.

(b) **Exceptions.** Confidential Information does not include information that:

(i) the recipient of the Confidential Information already knew;

(ii) becomes public through no fault of the recipient;

(iii) was independently developed by the recipient;

(iv) was rightfully given to the recipient by another party.

(c) **Required Disclosure.** Each party may disclose the other party's Confidential Information when required by law but only after it, if legally permissible: uses commercially reasonable efforts to notify the other party; and gives the other party the chance to challenge the disclosure.

## 10. Intellectual Property Rights; Brand Assets

(a) **Intellectual Property Rights.** "Intellectual Property Rights" means current and future worldwide rights under patent law, copyright law, trade secret law, trademark law, moral rights law, and other similar rights. Except as expressly set forth herein, this Agreement does not grant either party any rights, implied or otherwise, to the other's content or any of the other's intellectual property. As between the parties, Customer owns all Intellectual Property Rights in Customer Data, and REDtone owns all Intellectual Property Rights in the SIPhony Services.

(b) **Display of Brand Assets.** REDtone may display those Customer Brand Assets authorized by Customer (such authorization is provided by Customer uploading its Brand Assets into the SIPhony Services) within designated areas of the Service Pages. Neither party may display or use the other party's Brand Assets beyond what is allowed in this Agreement without the other party's prior written consent.

(c) **Brand Assets Limitation.** Any use of a party's Brand Assets will inure to the benefit of the party holding Intellectual Property Rights in those Brand Assets. A party may revoke the other party's right to use its Brand Assets pursuant to this Agreement with written notice to the other party and a reasonable period to stop the use.

(d) **Publicity.** Subject to Section 10(c), Customer agrees that REDtone may include Customer's name or Brand Assets in a list of REDtone customers, online or in promotional materials. Customer also agrees that REDtone may verbally reference Customer as a customer of the SIPhony Services that are the subject of this Agreement.

(e) **Suggestions.** Partner agrees that REDtone shall have a royalty-free, worldwide, perpetual license to use or incorporate into the Service any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Partner relating to the Service.

## 11. Indemnity and Limitation of Liability

(a) **Indemnity By Customer.** The Customer agrees to indemnify, defend, and hold harmless REDtone from and against all liabilities, damages, and costs (including settlement costs and reasonable attorneys' fees) arising out of a third-party claim regarding Customer Data or regarding Customer's use of the SIPhony Services in violation of this Agreement.

(b) **Equity Relief.** Customer acknowledges that any breach of its obligations with respect to REDtone's Intellectual Property rights may cause REDtone irreparable injury for which there are no adequate remedies at law, in which case REDtone shall be entitled to equitable relief in addition to all other remedies available to it.

(c) **Exclusion of Consequential and Related Damages.** Neither party shall be liable to the other party hereunder for any consequential, incidental, indirect, special, punitive or exemplary damages of any kind, including any damages for loss of use, loss of business, or loss of profits or revenue, under any theory of law and whether or not the other party has been advised of the possibility or such damage.

(d) **Limitation on Amount of Liability.** Neither party's liability with respect to any single incident arising out of or related to this Agreement will exceed the amount paid by Customer hereunder in the 12 months preceding the incident, provided that in no event will either party's aggregate liability arising out of or related to this Agreement exceed the total amount paid by Customer hereunder. The above limitations will apply whether an action is in contract or tort and regardless of the theory of liability. However, the above limitations will not limit the customer's payment obligations under section 5.

## 12. Personal Information/Personal Data

(i) Customer confirm and agree that they are aware and give consent to REDtone to process Customer and End User Personal Data as defined under the Personal Data Protection Act 2010 in accordance with the REDtone Privacy Notice at <https://www.redtone.com/pdpa/> which may be updated from time to time

(ii) Where Customers are disclosing personal data of individual(s) to REDtone for the purposes of the Agreement, Customer warrant and undertake that you have obtained the necessary consent of the individual(s) to disclose his/her personal data to REDtone and for REDtone to process the same in accordance with the REDtone Privacy Notice at <https://www.redtone.com/pdpa/> as may be updated from time to time. The customer also agrees to take such further action or step as may be requested by REDtone arising from this clause including procuring a written consent from the aforementioned individuals.

(iii) REDtone may be required or need to disclose Customer and End User Personal Data/Information when necessary, including but not limited to:

- (a) law enforcement agencies
- (b) government agencies
- (c) companies and/ or organisations that act as REDtone's contractors, service providers and/ or professional advisers.
- (d) companies and/or organisations that assist REDtone in processing and/or otherwise fulfilling transactions and providing Customer with Products and/or Services that Customer has requested or subscribed for
- (e) REDtone's business associates and other parties for purposes that are related to the purpose of collecting and using Customer and End User personal information
- (f) other parties in respect of which Customer has given or express or implied consent

(iv) Subject at all times to any laws (including regulations, guidelines and/or obligations) applicable to the REDtone Group.

(a) While REDtone company discloses Customer and End User Personal Information to third parties, company will ensure that third parties are bound to abide by company, or equivalent, personal practices and policies relating to the collection, use, processing and retention of Customer and End User Personal Information.

### 13. General

(a) **Force Majeure.** If the performance of this Agreement or any obligation (other than payment obligations), is prevented or restricted by any condition beyond the reasonable control of the affected party, the party so affected, upon giving prompt notice to the other party, will be excused from such performance to the extent of such condition.

(b) **Governing Law.** This Agreement will be governed by and construed according to the law of Malaysia.

(c) **No Agency.** The parties are independent contractors, and this Agreement does not create an agency, partnership or joint venture.

(d) **Notices.** Unless specified otherwise herein, all notices given by REDtone to Customer will be deemed to have been served once published in our website, upon the date of publication or such other date as may be stipulated in the website notification

(e) **Severability.** If any provision of this Agreement is adjudged invalid or unenforceable, the remaining provisions will continue in full force and effect, and the parties agree to replace the affected provision with a valid provision that most closely approximates its intent and economic effect.

(f) **No Waiver.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

(g) **Entire Agreement.** This Agreement, and all documents referenced herein, is the parties' entire agreement relating to its subject and supersedes any prior or contemporaneous agreements on that subject.

(h) **Interpretation of Conflicting Terms.** If there is a conflict between the documents that make up this Agreement, the order of precedence shall be: (1) the Order Form, (2) the Agreement, and (3) the terms located at any URL.

(i) **Counterparts.** The parties may enter into this Agreement in counterparts, including facsimile, PDF or other electronic copies, which taken together will constitute one instrument.