

TERMS & CONDITIONS

This page (together with the documents referred to on it) tells you the terms of use (Terms) on which you may make use of our website www.vodalmighty.com (the Site) and the services offered through it, whether as a guest or a registered member. Please read these Terms carefully before you start to use the Site. By using the Site, you indicate that you accept these Terms and that you agree to abide by them. If you do not agree to these Terms, please refrain from using the Site.

1. INFORMATION ABOUT US

www.vodalmighty.com is a website operated by VOD Media International Limited (VMIL). We are registered in England and Wales under company number 06321858 and have our registered office at Manfield House, 2nd Floor, 1 Southampton St, London WC2R 0LR. Our trading address in the UK is 101 Wardour Street, London W1F 0UG. Our VAT number is 926754005. We are a limited company.

2. ACCESSING THE SITE

Access to the Site is permitted on a temporary basis, and VMIL reserves the right to withdraw or amend the services we provide without notice. We will not be liable if for any reason the Site is unavailable at any time or for any period.

You are responsible for making all arrangements necessary for you to have access to the Site and the services provided on or via the Site. In particular, your ability to use the Streaming Service (as defined below) and the quality of that service will depend on the speed and availability of bandwidth of your internet access and computer and computer processor. We are not able to specify particular requirements (which may vary) and are not responsible in any way for your ability to access or use the Site.

You are also responsible for ensuring that all persons who access the Site through your internet connection are aware of these Terms, and that they comply with them.

From time to time, VMIL may restrict access to some parts of the Site, or the entire Site, to users who have registered and subscribed as VODAlmighty members (**Members**).

If you choose, or you are provided with, a user identification code and password (**User ID**) or any other piece of information as part of our subsecurity procedures, you must treat such information as confidential, and you must not disclose it to any third party. You accept responsibility for all activities that occur under your User ID. We have the right to disable any User ID, 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.

3. THE STREAMING SERVICE

Through the Site, VMIL operates a pay-per-view video on demand service which allows you to place orders to stream feature length films, short films and other audiovisual content (**Content**) via the internet and view them for a limited period (the **Streaming Service**).

In order to use the Streaming Service, you must submit an order form stating your name, country of residence, email address and payment details (and any other details which VMIL may require from time to time). Payment for the Streaming Service must be made by credit or debit card.

By placing an order through the Streaming Service, you confirm and warrant that:

- you are legally capable of entering into binding contracts;
- you are at least 18 years old;
- all information submitted by you on the order form is true; and
- you are accessing the Site from the country identified by you on the order form as your country of residence.

Your order constitutes an offer to pay us the relevant charge to stream Content. All orders are subject to acceptance by us, and VMIL will confirm such acceptance to you by sending you an e-mail that confirms that you are authorised to stream the Content. The contract between us will be formed when VMIL sends you the confirmation email. We will not charge your credit or debit card until VMIL have confirmed acceptance of your order. Your order will be fulfilled immediately, unless there are exceptional circumstances.

The price of streaming any Content will be as quoted on the Site from time to time, except in cases of obvious error. Discounted prices may apply for Members. All prices include VAT (or the local equivalent). Prices are liable to change at any time at our sole discretion, but changes will not affect orders in respect of which VMIL have already sent you a confirmation email.

You agree that VMIL may charge you any fees and charges that you may incur in connection with your use of the Streaming Service (and, in the case of Members only, the subscription fees in accordance with [Section 4](#) below) using your specified credit or debit card. All fees and charges are non-refundable other than as set out below. We are not responsible for any banking charges incurred due to payments on your account.

If you encounter any problems with the Streaming Service please let us know. If Content you have paid for in accordance with these Terms is of unsatisfactory technical quality or fails in whole or in part to stream at all due to a technical failure or fault of VMIL we will provide a refund of the actual price paid for the affected Content or may alternatively, if you are a Member, provide you with a credit to stream replacement Content of the same

value. Any refunds will be made using the same method originally used by you to pay for your purchase.

4. MEMBERSHIP

You may apply to become a Member by completing and submitting the registration form at when available (expected February 2010). By submitting the registration form you warrant and agree that:

- you are legally capable of entering into binding contracts;
- you are at least 18 years old;
- you are resident in one of the Serviced Countries and you are accessing the Site from that country;
- you will provide us with true and current personal details (including your name, email address, postal address and valid payment details) and will update any details which change by visiting your account page and editing the details.

We may refuse your application to become a Member for any reason whatsoever.

If VMIL accepts your application to become a Member, you agree that VMIL is permitted to charge you a monthly subscription fee at the rate published on the Site. We may, in our sole discretion, change the subscription fee at any time. We agree to notify you of any change via email at least 30 days in advance of such change taking effect.

The subscription fee does not include any costs incurred in accessing the Site or using the Streaming Service or other services made available on the Site, such as internet connection costs, WAP or operators' expenses, which remain your responsibility.

The subscription fee will be automatically charged using your specified credit or debit card on the first day you subscribe and monthly thereafter on or after the calendar day corresponding to the commencement of your subscription unless and until you cancel your subscription, and regardless of how much you use the Streaming Service or other services made available on the Site. We will not refund subscription fees for cancellations made part-way through the month.

You can find and amend your subscription and credit or debit card details and/or cancel your subscription with immediate effect at any time by visiting your personal details page.

Communications regarding your subscription will be sent to you by email or posted on the Site.

5. REVIEWS AND POSTS

If you subscribe as a Member you will be granted access to such additional features of the Site as VMIL in its discretion makes available to Members from time to time. These may

include interactive services such as chat rooms and bulletin boards, which allow you to upload material including text, files, images, photos, video, sounds and musical or literary works (**Member Material**) to the Site or to make contact with other users of the Site (**Interactive Services**). Member Material does not include the information which you provide when you subscribe as a Member.

Any Member Material you upload to the Site will be considered non-confidential. You grant to us a worldwide, irrevocable, non-exclusive, royalty-free licence to use, copy, adapt, distribute and disclose to third parties all such Member Material in any media for any purpose, together with the right to sub-licence such rights. We also have the right to disclose your identity to any third party who is claiming that any Member Material posted or uploaded by you constitutes a violation of their intellectual property rights or of their right to privacy.

Whenever you make use of Interactive Services, you must comply with the **Content Standards**. You warrant that any Member Material you contribute to the Site complies with the **Content Standards**, and you indemnify us for any breach of that warranty.

We have the right to edit or remove any Member Material on the Site if, in our opinion, such Member Material does not comply with the **Content Standards**. We may take such other action as we deem appropriate to deal with the posting of unsuitable material in accordance with **Section 10** of these Terms.

Where VMIL does provide any Interactive Services, VMIL will provide clear information to you about the kind of service offered, if it is moderated and what form of moderation is used (including whether it is human or technical).

We will do our best to assess any possible risks for Members from third parties when they use any Interactive Services, and VMIL will decide in each case whether it is appropriate to use moderation of the relevant service (including what kind of moderation to use) in the light of those risks. However, VMIL is under no obligation to oversee, monitor or moderate any Interactive Services, and we expressly exclude our liability to you or to any third party, for the content or accuracy of any Member Materials posted by you or any other user of the Site and for any loss or damage arising from the use of any Interactive Services by a user in contravention of our **Content Standards**, whether the service is moderated or not.

Where VMIL does moderate an Interactive Service, we will normally provide you with a means of contacting the moderator, should a concern or difficulty arise. Where we do so, we encourage you to use this facility to report any Member Material you come across which is in breach of the **Content Standards**.

The Interactive Services are intended for the use of Members only, and in no circumstances should you allow any other person to use the Interactive Services using your User ID.

6. ACCEPTABLE USE POLICY

You may use the Site only for lawful and non-commercial purposes. You may not use any part of the Site:

- in any way that breaches any applicable local, national or international law or regulation;
- in any way that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect;
- for the purpose of harming or attempting to harm minors in any way;
- to send, knowingly receive, upload, download, use or re-use any material which does not comply with the Content Standards;
- to transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation (spam); or
- 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.

You also agree not to reproduce, duplicate, copy or re-sell any part of the Site in contravention of the provisions of these Terms and not to access without authority, interfere with, damage or disrupt any part of the Site, any equipment or network on which the Site is stored, any software used in the provision of the Site or any equipment or network or software owned or used by any third party.

In particular you will not attempt to remove, bypass or otherwise interfere with any Digital Rights Management (DRM) tools or other measures put in place to control the use and sharing of the Content and protect the intellectual property rights in the Content.

7. CONTENT STANDARDS

These content standards apply to any and all Member Material which you contribute to the Site and to any Interactive Services.

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

Member Materials must:

- be accurate (where they state facts);
- be genuinely held (where they state opinions); and
- comply with applicable law in the UK and in any country from which they are posted.

Member Materials must not:

- contain any material which is defamatory of any person;
- contain any material which is obscene, offensive, hateful or inflammatory;
- promote sexually explicit material;
- promote violence;
- promote discrimination based on race, sex, religion, nationality, disability, sexual orientation or age;
- infringe any intellectual property right (including copyright, database right or trade mark) of any other person;
- be likely to deceive any person;
- be made in breach of any legal duty owed to a third party, such as a contractual duty or a duty of confidence;
- promote any illegal activity;
- be threatening, abuse or invade another's privacy, or cause annoyance, inconvenience or needless anxiety;
- be likely to harass, upset, embarrass, alarm or annoy any other person;
- be used to impersonate any person, or to misrepresent your identity or affiliation with any person;
- identify any individual (whether by name, address or a still picture or video) under the age of 18;
- identify any individual over the age of 18 who has not given their consent to being identified in exactly that way in your Member Material;
- give the impression that they emanate from us, if this is not the case; or
- advocate, promote or assist any unlawful act such as (by way of example only) copyright infringement or computer misuse.

8. INTELLECTUAL PROPERTY RIGHTS

We are the owner or the licensee of all copyright, trade marks, patents and other intellectual property rights in the Site, in all software used in the Site and in the data, images, content, sound and other material published on or made available to you through the Site, including but not limited to the films and other content available via the Streaming Service (**Rights**). The Rights are protected by copyright laws and treaties around the world. Except as set out in [Section 9](#), all Rights are reserved.

You acknowledge and agree that certain Rights are the property of our third party licensors. Without prejudice to any and all other rights and remedies available to us, each such licensor has the right to directly enforce relevant provisions of these Terms against you.

9. LICENCE

In relation to each item of Content made available to you via the Streaming Service, you are granted a limited licence to store, copy and view such content once for your own personal use only. Such licence shall commence on our acceptance of your order and terminate once the Content has been viewed once.

When you place an order to stream Content we will supply you with a downloadable copy of software (**Software**) supplied by Vividas Asia Pacific Ltd (**Vividas**). In return for Vividas allowing you to use the Software to view the Content you agree to be bound by the terms of the [Vividas End User Licence Agreement](#) and indemnify VMIL against any breach by you of its terms.

In relation to other materials published on the Site, you may print off one copy, and may download extracts, of any page(s) from the Site for your personal reference. 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. Our status (and that of any identified contributors) as the authors of material on the Site must always be acknowledged.

You must not use the Streaming Service, any Content or other materials published on the Site for commercial purposes without obtaining a licence to do so from us or our licensors.

If you print off, copy or download any part of the Site in breach of these Terms, your right to use the Site (and in the case of Members, your subscription) will cease immediately and you must, at our option, return or destroy any copies of the materials you have made.

10. SUSPENSION AND TERMINATION

We will determine, in our discretion, whether there has been a breach of these Terms through your use of the Site. When a breach of these Terms has occurred, VMIL may take such action as we deem appropriate. Failure to adhere to the terms of the Licence and/or of the Content Standards constitutes a material breach of these Terms, and may result in our taking all or any of the following actions:

- immediate, temporary or permanent withdrawal of your right to use the Site;
- suspension or termination of your membership subscription without liability;
- immediate, temporary or permanent removal of any Member Materials uploaded by you to the Site;
- issue of a warning to you;
- legal proceedings against you for reimbursement of all costs on an indemnity basis (including, but not limited to, reasonable administrative and legal costs) resulting from the breach;
- further legal action against you; and/or

- disclosure of such information to law enforcement authorities as VMIL reasonably feels is necessary.

We exclude liability for actions taken in response to breaches of these Terms. The responses described in this Section 10 are not limited, and VMIL may take any other action VMIL reasonably deems appropriate.

11. RELIANCE ON INFORMATION POSTED

Commentary and other materials posted on the Site are not intended to amount to advice on which reliance should be placed. We therefore disclaim all liability and responsibility arising from any reliance placed on such materials by any visitor to the Site, or by anyone who may be informed of any of its contents.

12. OUR SITE CHANGES REGULARLY

We aim to update the Site regularly, and may change the content at any time. If the need arises, VMIL may suspend access to the Site, or close it indefinitely. Any of the material on the Site may be out of date at any given time, and VMIL are under no obligation to update such material.

13. OUR LIABILITY

The material displayed on the Site is provided without any guarantees, conditions or warranties as to its accuracy. To the extent permitted by law, VMIL, other members of our group of companies and third parties connected to us hereby expressly exclude:

- all conditions, warranties and other terms which might otherwise be implied by statute, common law or the law of equity; and
- any liability for any direct, indirect or consequential loss or damage incurred by any user in connection with the Site or in connection with the use, inability to use, or results of the use of the Site, any websites linked to it and any materials posted on it, including, without limitation any liability for loss of income or revenue, loss of business, loss of profits or contracts, loss of anticipated savings, loss of data, loss of goodwill, wasted management or office time and for any other loss or damage of any kind, however arising and whether caused by tort (including negligence), breach of contract or otherwise, even if foreseeable.

This does not affect our liability for death or personal injury arising from our negligence, nor our liability for fraudulent misrepresentation or misrepresentation as to a fundamental matter, nor any other liability which cannot be excluded or limited under applicable law.

14. EVENTS OUTSIDE OUR CONTROL

We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under these Terms that is caused by events outside our reasonable control (a **Force Majeure Event**). A Force Majeure Event includes any act, event, non-happening, omission or accident beyond our reasonable control and includes in particular (without limitation): strikes, lock-outs or other industrial action, 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, impossibility of the use of public or private transport, impossibility of the use of public or private telecommunications networks and the acts, decrees, legislation, regulations or restrictions of any government.

Our performance under these Terms is deemed to be suspended for the period that the Force Majeure Event continues, and VMIL will have an extension of time for performance for the duration of that period. We will use our reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which our obligations under these Terms may be performed despite the Force Majeure Event.

15. INFORMATION ABOUT YOU AND YOUR VISITS TO THE SITE

We process information about you in accordance with our [Privacy Policy](#). By using the Site, you consent to such processing and you warrant that all data provided by you is accurate.

16. MINORS AND THE SITE

We take the online safety of minors seriously and aim to do everything possible to ensure that minors are not able to access Content or Member Material without the supervision of a responsible adult and that Content is clearly labelled with a description of its subject matter and, where appropriate, certification, to enable you to judge its suitability for viewing by minors.

You are responsible for ensuring that minors in your care do not access or use the Streaming Service or any other services offered on the Site unsupervised. You allow minors to view Content streamed by you via the Site at your own risk and shall act responsibly in ensuring that minors are not exposed to inappropriate Content. Allowing minors to access areas of the Site made available exclusively to Members using your User ID is strictly prohibited and shall constitute a breach of these Terms.

17. VIRUSES, HACKING AND OTHER OFFENCES

You must not misuse the 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 the Site, the server on which the Site is stored or any server, computer or database connected to the Site. You must not attack the Site via a denial-of-service attack or a distributed denial-of service attack.

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 VMIL will co-operate with those authorities by disclosing your identity to them. In the event of such a breach, your right to use the Site will cease immediately.

We will not be liable for any loss or damage caused by a distributed denial-of-service attack, viruses or other technologically harmful material that may infect your computer equipment, computer programs, data or other proprietary material due to your use of the Site or to your downloading of any material posted on it, or on any website linked to it.

18. LINKING TO OUR SITE

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.

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

Our site must not be framed on any other site, nor may you create a link to any part of the 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 set out in our Acceptable Use Policy.

If you wish to make any use of material on the Site other than that set out above, please address your request to info@vodalmighty.com.

19. LINKS FROM OUR SITE

Where the Site contains links to other sites and resources provided by third parties, these links are provided for your information only. We have no control over the contents of those sites or resources, and accept no responsibility for them or for any loss or damage that may arise from your use of them.

20. WAIVER

If VMIL fails, at any time during the duration of these Terms, to insist upon strict performance of any of your obligations under these Terms, or fails to exercise any of the rights or remedies to which we are entitled under these Terms, this shall not constitute a waiver of such rights or remedies and shall not relieve you from compliance with such obligations. A waiver by us of any default shall not constitute a waiver of any subsequent default. No waiver by us of any of these Terms shall be effective unless it is expressly stated to be a waiver and is communicated to you.

21. LAW AND JURISDICTION

The English courts will have non-exclusive jurisdiction over any claim arising from, or related to, your visit to the Site, although VMIL retains the right to bring proceedings against you for breach of these conditions in your country of residence or any other relevant country. These Terms are governed by English law.

22. VARIATIONS TO THESE TERMS

We may revise these Terms at any time by amending this page. You are expected to check this page from time to time to take notice of any changes, as they are binding on you. Some of the provisions contained in these Terms may also be superseded by provisions or notices published elsewhere on the Site.

23. YOUR CONCERNS

If you have any concerns about material which appears on the Site, please contact info@vodalmighty.com.

Thank you for visiting www.vodalmighty.com.

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VIVIDAS END USER LICENCE AGREEMENT

The terms of this Vividas End User Licence Agreement (the EULA) apply to your use of a downloadable copy of software (Software) belonging to or licensed by Vividas Europe Ltd (Vividas) and provided to you by VMIL when you place an order to stream Content.

In return for Vividas allowing you to use the Software to view the Content you agree to enter into this EULA with Vividas and be bound by its terms. If you do not accept these terms and conditions you must not use the Software.

Vividas grants you a revocable, non-exclusive, nontransferable, non-sublicensable licence to use the Software for the sole purpose of viewing audiovisual material via the Streaming Service offered by VMIL.

You must not: (i) copy, sell, sublicense, assign or redistribute the Software; (ii) port, reverse engineer, reverse assemble or reverse compile the Software, or otherwise attempt to derive source code from the Software; or (iii) alter, modify or change the Software or the source code underlying the Software in any respect.

You acknowledge (i) that all intellectual property of Vividas including, without limitation, in relation to the Software belongs to, or has been licensed to, Vividas; and (ii) nothing in this EULA is intended to give you any right, title or interest in the Software or any intellectual property of Vividas.

You indemnify Vividas against all liability, loss, damage, cost or expense directly or indirectly incurred or suffered by Vividas and caused or contributed to by any of the following: (i) your failure to comply with any laws; (ii) any breach of this EULA by you; or (iii) any negligence or breach of duty by you.

The license granted to you will terminate immediately if you breach any of the terms of this EULA. In the event of termination, you must immediately stop using the Software and destroy all copies of the Software in your possession.

Vividas does not accept responsibility for any loss or damage, however caused, which you may directly or indirectly suffer in connection with or arising from your use of the Software. All conditions and warranties expressed or implied by statute, common law, equity, trade, custom, usage or otherwise are expressly excluded to the maximum extent permitted by law. So far as the law permits, the liability of Vividas for a breach of a condition or warranty that cannot be excluded is limited, at the option of Vividas, to re-supplying the Software or payment to you of the cost of re-supplying the Software.

This Agreement is governed by and will be construed in accordance with the laws of England.