

## Terms and Conditions

These terms and conditions were last revised on: **14 September 2012**

### 1. Acceptance of Terms and Conditions

- 1.1 This website, movie on demand service and related apps ("**Entertainment Platform**") is operated and provided to you by both Everything Everywhere Limited and FilmFlex Movies Limited.

References to "**Everything Everywhere**" are references to Everything Everywhere Limited. Everything Everywhere is a company registered in England and Wales, company number 02382161 and its registered address is Hatfield Business Park, Hatfield, Hertfordshire, AL10 9BW. Everything Everywhere's VAT number is 771592016.

References to "**FilmFlex**" are references to FilmFlex Movies Limited. FilmFlex is a company registered in England and Wales, company number 5280342 and its registered address is 1 Stephen Street, London, W1T 1AL, United Kingdom. FilmFlex's VAT number is 853329909.

References to "**we**", "**us**" or "**our**" are references to **both** Everything Everywhere and FilmFlex.

In agreeing to these terms and conditions ("**Terms and Conditions**") you are entering into a legally binding agreement with **both** Everything Everywhere and FilmFlex.

- 1.2 These terms and conditions ("**Terms and Conditions**") are deemed to incorporate the Privacy Policy, which you should read together with these Terms and Conditions.
- 1.3 Your use of this Entertainment Platform and your use or purchase of the products and services offered via this Entertainment Platform (the "**Services**") are at all times subject to these Terms and Conditions. By accessing the Entertainment Platform and using the Services you agree to be bound by the Terms and Conditions.
- 1.4 If you do not agree to any of the Terms and Conditions, then please do not use the Entertainment Platform and do not use the Services.
- 1.5 You should keep a copy of these Terms and Conditions for your future reference. We will not file a copy of these Terms and Conditions in relation to our agreement with you. Please read these Terms and Conditions carefully. **Just to re-iterate, by using this Entertainment Platform or the Services, you agree to be bound by these Terms and Conditions.**

### 2. Privacy

- 2.1 The personal information you provide and we collect through, and in connection with your use of the Entertainment Platform and Services will be used by us to provide you with the movies and any other Services you have requested. Everything Everywhere is the data controller of your personal information and FilmFlex will only request or process your personal information in accordance with Everything Everywhere's instructions. All personal information that is processed about you in this way is subject to the Privacy Policy which is available here: <http://www.ee.film.co.uk/privacy>.
- 2.2 To highlight just some (but not all) of the uses of your personal information in connection with the Services however (which are also set out for you in the Privacy Policy), Everything Everywhere may, amongst others, use your personal information to:
- (a) provide you with the Services (for example, set up and administer your account);
  - (b) send you marketing communications unless you object to this. If you would prefer not to receive marketing communications, simply visit the 'My Account' section of the Entertainment Platform, and then visit the 'My Communications Preferences' section where you can update or change your preferences. Please note that it may take up to 96 hours to process your opt-out request;
  - (c) to track your preferences and provide you with relevant advertising and offers unless you object to this; and

- (d) for research and analytics purposes (for example, to improve the quality of our services).

2.3 In order to provide you with easy-to-use Services, a cookie (a small text file) will be placed on any Device (defined below) you use to access the Entertainment Platform. When you revisit the Entertainment Platform, this cookie will enable us to recognise you as the account holder and provide you with a personalised experience. For further information about other cookies that we use, and your options regarding them, please see the Privacy Policy.

### 3. **Changes to Terms and Conditions**

3.1 Everything Everywhere reserves the right, from time to time, with reasonable notice to you, to change these Terms and Conditions at its sole discretion in the following areas:

- (a) changes in how we accept payment from you;
- (b) to reflect changes in our policies or relevant laws and regulatory requirements;
- (c) to reflect any changes in functionality of the Entertainment Platform;
- (d) to reflect changes imposed on either FilmFlex or Everything Everywhere by the content owners which grant permission to make content available on the Entertainment Platform; and
- (e) to reflect changes imposed on either FilmFlex or Everything Everywhere by any other third party suppliers.

in such circumstances, FilmFlex will keep you informed and give you notice of any change on the Entertainment Platform (and where you are an EE, Orange or T-Mobile mobile or broadband customer Everything Everywhere will also give you notice in writing by either SMS, email or postal notice) informing you by stating that these Terms and Conditions have been amended and when those notified amendments will take effect. Prices for the Services may vary – please check the Entertainment Platform for the latest prices. You can choose to cancel the contract at any time in accordance with clause 7.

3.2 The Terms and Conditions applicable to your access to and use of this Entertainment Platform and your use the Services will be the version that is current and displayed on this Entertainment Platform as at each date you access the Entertainment Platform and the Services (as applicable). Your use of this Entertainment Platform and the Services (as applicable) after changes are made means that you agree to be bound by such changes. It is therefore important that you are familiar with the latest Terms and Conditions and you should make sure you read and comply with the latest Terms and Conditions displayed on this Entertainment Platform every time you access this Entertainment Platform or use the Services.

### 4. **Registration - MINIMUM CRITERIA**

4.1 To register with the Entertainment Platform or to use any Services, as a minimum (the "**Minimum Criteria**"):

- (a) you must be at least 18 years of age. Persons under 18 are not permitted to register and use the Entertainment Platform and Services;
- (b) you must live in the United Kingdom, (or the Channel Islands or the Isle of Man) and access the Entertainment Platform and use the Services from there (due to the restrictions imposed by content owners and/or other third party suppliers, you will be prevented access to and use of the Services when travelling abroad or if our systems determine that you are based or accessing Services outside of the UK, Channel Islands or the Isle of Man); and
- (c) you agree to provide us with personal details (including your name, email address, postal address and valid payment details), that are true, complete and current, and you agree to update us immediately (through the 'My Account' section of this Entertainment Platform) if at any time your personal details change by updating the relevant sections on the Entertainment Platform; and

- (d) you will comply with the restrictions on your use of the Entertainment Platform and the Services as set out in these Terms and Conditions,

and you confirm that you and your use of the Entertainment Platform and the Services (including each order you place for rental through the Entertainment Platform) comply, and will continue to comply, with the Minimum Criteria.

- 4.2 Everything Everywhere and/or FilmFlex (as applicable) reserves the right to refuse any application to register or to use or access the Entertainment Platform or any of the Services, terminate accounts (where Everything Everywhere has serious grounds for doing so), remove or edit content where FilmFlex requests this, or cancel purchases or Services for any reason whatsoever. If Everything Everywhere or FilmFlex cancels a purchase due to no fault of your own, we will not charge you for this.
- 4.3 If you use this Entertainment Platform and the Services, you are responsible to Everything Everywhere for maintaining the confidentiality of your account and password and for restricting access to your computer and any Device (as defined below) to prevent unauthorised access to your account. You agree to accept responsibility for all activities and transactions that occur using your account or password. You should take all necessary steps to ensure that your password is kept confidential and secure and should inform Everything Everywhere immediately if you have any reason to believe that your password has become known to anyone else, or if the password is being, or is likely to be, used in an unauthorised manner.

## 5. **Registration**

- 5.1 Provided that you meet the Minimum Criteria, you may register as a user of this Entertainment Platform free of charge (a "**User**"). To register you need to go to the relevant section of this Entertainment Platform, then submit your email address and create a password to be used in conjunction with that email address.
- 5.2 Some of the content provided on this Entertainment Platform may not be suitable for anyone under 18 years of age. If children are using the Entertainment Platform, their parents or guardians should supervise this use. You understand that the trailers and the movies may contain material that is unsuitable for those under 18 years of age or other content you may consider offensive or otherwise objectionable. We are not liable to you for any content provided as part of the Entertainment Platform or Services which you find offensive or objectionable or where you allow others to view this content using your account. However, if you are an EE, Orange or T-Mobile mobile customer you may be able to use 'Content Lock', 'Safeguard' or other similar features to block certain 18-rated content from being delivered to your mobile Device (as defined below).
- 5.3 After you have registered with the Entertainment Platform, you may use the Services although you will not be entitled to obtain chargeable services unless you agree to the applicable charges. Please note that there are additional terms and conditions below that apply to your use of chargeable Services.
- 5.4 It is your responsibility to pay for all costs and expenses (including but not limited to, all telephone call or internet charges) that you may incur when using this Entertainment Platform.

## 6. **Payment Details**

- 6.1 There are no charges for accessing or browsing the Entertainment Platform but, depending on the means by which you are accessing the Entertainment Platform (for example, over Everything Everywhere's mobile data network), the data consumed during such access or browsing and any downloading of Services will incur charge or form part of you data allowance.
- 6.2 The charges payable for chargeable Services are set out on the Entertainment Platform at the time of purchase (inclusive of VAT) and may vary between Services (including between movies). Everything Everywhere may at any time, in its sole discretion, change the fees and charges, or add new fees and charges, in relation to any Services.
- 6.3 We take all reasonable care to ensure that the prices of the chargeable Services are correct at the time when the relevant pricing information was entered by us onto the Entertainment Platform. It is always possible however that, despite our reasonable care, some of the

chargeable Services on the Entertainment Platform may be incorrectly priced. If you have any queries regarding the prices of the Services please contact us (and see the 'Contacting Us' section below for how to do this).

- 6.4 To order movies for rental you will need to pay using one of the three payment methods referred to in more detail below. The applicable charge(s) for any Service will be deducted using the payment method you have selected. A confirmation email will be sent to your registered email address to confirm the amount of the applicable charge.
- 6.5 You have three payment methods to choose from:
- (a) Payment by Debit/Credit Card – facilitated by FilmFlex: If you use a debit/credit card to order a movie for rental, you will need to confirm that the debit/credit card is yours. All debit/credit card holders are subject to validation checks and authorisation by the card issuer. If the issuer of your card refuses to authorise payment:
    - (A) FilmFlex will not accept your order; and
    - (B) FilmFlex will not be responsible for any delay or non-provision of the relevant Service; and
    - (C) FilmFlex is not obliged to inform you of the reason for the refusal.
  - (ii) FilmFlex is not responsible for your card issuer or bank charging you as a result of its processing of your debit/credit card payment in accordance with your order. Only debit/credit cards registered with a UK address (including the Channel Islands and Isle of Man) will be accepted.
  - (iii) You also agree to comply with the terms and conditions of FilmFlex's payment merchant Netbanx available at <http://www1.netbanx.com>. Further details regarding FilmFlex's payment merchant can be found at [www1.netbanx.com](http://www1.netbanx.com). FilmFlex has the facility for Netbanx to store your debit/credit card details for ease of purchase. Netbanx encrypt payment card data to ensure safety protocols are always applied. The solution deploys the industry standard 128k bit SSL. This prevents anybody seeing your details including FilmFlex staff. Netbanx will store your debit/credit card details for ease of purchase and further information regarding storing your debit/credit card details can be found on the payment page of this Entertainment Platform. How to access and change stored debit/credit card details can be found in 'My Account'.
  - (b) Payment by PayPal – facilitated by FilmFlex: If you wish to use PayPal to order a movie, you need to have already registered for a PayPal account or register for a PayPal account as part of the payment process. Your use of PayPal as a payment method will also be governed by separate terms and conditions that you are required to enter into with PayPal as part of, or following, registration for your PayPal account. Further details regarding PayPal can be found at <https://www.paypal.co.uk/uk>
  - (c) Payment by your EE, Orange or T-Mobile monthly mobile bill or from your 'pay as you go' top up – facilitated by Everything Everywhere: If you are an EE, Orange or T-Mobile mobile customer and wish your payment to be added to your monthly mobile phone bill, or deducted from your 'pay as you go' balance, then you will need a EE, Orange or T-Mobile mobile account (which has not been blocked or reached any monthly content credit limits). Where this is a 'pay as you go' account, you will also need sufficient top up credit on that account (or where applicable available 'Reserve Tank') at the time you make the purchase. The relevant amounts will be added/deducted to/from your bill/balance, and the normal payment terms for your bill will apply – check them out on your mobile network provider's website.
- 6.6 You agree that once you have accepted our offer and selected your payment method to access certain Services, subject to your statutory rights, you will not then be able to cancel your offer to use those Services and you will be charged for the relevant Services provided to you.

## 7. **Terminating Your Account**

- 7.1 You may terminate your Entertainment Platform account with us at any time. But, to be clear, you are not permitted to terminate your mobile, mobile broadband or broadband contract or any other contract with Everything Everywhere except in accordance with your network terms - check them out on your mobile network provider's website. Cancellation requests must be completed online through the 'Close My Account' section of this Entertainment Platform. To terminate your account, you must notify Everything Everywhere by clicking on the relevant section and following the instructions under the heading 'Terminate My Account'. This activity is tracked in your account history. If you terminate your account with us, you will no longer be able to order movies for rental from the Entertainment Platform or redeem any promotional codes or offers. If you choose to use the Services in the future you will need to set up a new account using a different email address.
- 7.2 Everything Everywhere and FilmFlex both reserve the right to suspend, restrict or, where we have serious grounds for doing so, terminate all or some of your access to this Entertainment Platform and the Services at any time without notice if we have reasonable grounds to believe that you have breached any of the restrictions or your obligations set out in these Terms and Conditions. This shall not limit our rights to take any other actions against you that we consider appropriate to defend our rights or those of any other person.
- 7.3 You acknowledge to us that in using the Entertainment Platform and using the Services you will not:
- (a) use the Entertainment Platform or the Services in any way that may lead to the encouragement, procurement or carrying out of any criminal activity or for any other unlawful purpose;
  - (b) use the Entertainment Platform or the Services in any way that interrupts, damages, impairs or renders the Entertainment Platform or the Services less effective;
  - (c) email, transmit or otherwise disseminate any content which is defamatory, obscene, in breach of copyright, vulgar or indecent or may have the effect of being harassing, threatening, abusive or hateful or that otherwise degrades or intimidates an individual or group of individuals on the basis of religion, gender, sexual orientation, race, ethnicity, age or disability, or is otherwise inappropriate;
  - (d) advertise or promote third party or your own products or services including by way of the distribution of spam email;
  - (e) transfer files that contain viruses, trojans or other harmful programs; or
  - (f) access or attempt to access the accounts of other Users or to penetrate or attempt to penetrate the Entertainment Platform security measures.

## 8. **All Movies Remain FilmFlex Property**

- 8.1 All movies, trailers, images and metadata on this Entertainment Platform or forming part of the Services remain FilmFlex's property (or the property of its content suppliers) at all times and you will not copy or distribute any content on this Entertainment Platform or the Services in any way.

## 9. **The Entertainment Platform**

### 9.1 Introduction

This section sets out further terms and conditions that apply to your use of the Entertainment Platform. Some of the Services allow you to stream or download movies to your PC, laptop or other authorised device capable of receiving them (a "**Device**"). FilmFlex may determine in its sole discretion from time to time which Devices are authorised for you to stream or download content to, and watch movies on.

### 9.2 Ways to Watch a Movie

When you choose to playback a movie for rental you must select whether you would like to either:

- (a) view the movie by streaming it to your Device while connected to the internet; or

- (b) download the movie to your Device while connected to the internet. If this option is selected, you can view the movie both while the content is being downloaded (and your Device is connected to the internet) and after the content has been downloaded (regardless of whether your Device is connected to the internet),

in each instance subject to the Viewing Period and Access Period referred to in clause 9.3 below.

Remember, if you stream or download any content from the Services over the internet on a mobile device you may be charged for the data you use. If you're an EE, Orange or T-Mobile customer you can check out the charges on your mobile network provider's website.

When you purchase a movie for rental, you will have a number of days within which to start watching the movie (usually thirty days) (known as an "**Access Period**"). Once you start watching the Movie within that Access Period, the movie may be viewed an unlimited number of times during a certain period (usually forty-eight hours) (known as a "**Viewing Period**"). This Viewing Period will begin from the first time the movie is played. Once this Viewing Period has elapsed, you will not be able to access the movie without paying an additional fee. If the Access Period has elapsed and you have not started to watch the movie, you will not be able to access the movie without paying an additional fee. FilmFlex reserves the right to change the Access Period and Viewing Period between movies and it is your responsibility to check this information here <http://film.ee.co.uk/filmstore/help> or on the relevant part of the Entertainment Platform prior to ordering a movie for rental.

- 9.3 Your use of the Entertainment Platform and Services may involve the use of connectivity services provided by Everything Everywhere, Orange and T-Mobile or another third party and these connectivity services are all provided subject to your mobile, broadband or broadband contract or other contract with Everything Everywhere (or another third party). See clause 7.1 for further detail of where to find these.

#### 9.4 Equipment, Systems and Connectivity

Your ability to stream/download and watch movies will depend on you having the necessary equipment, systems and connectivity. Before you order a movie for rental and watch a movie, you must ensure that you have all necessary equipment, systems and connectivity to stream/download and watch the movie properly. FilmFlex is not able to specify particular requirements (which may vary) and is not responsible in any way for your ability to stream/download and watch movies. However, minimum system requirements are specified in the Help section of this Entertainment Platform. You acknowledge that the availability of the streaming or download of movies may be affected by external issues over which FilmFlex and Everything Everywhere have no control, including degradation, internet traffic congestion) maintenance requirements of Everything Everywhere's mobile or broadband network, your location when using the network (for example, whether you are indoors or outdoors). minimum technical system requirements of the Device you use to access the Entertainment Platform or use the Services or other network, ISP, electronic, computer or other communication problems or failures ("**Fault**") and that neither FilmFlex nor Everything Everywhere are responsible for any failure of any movie to stream or download (or to continue streaming or downloading) due to any Fault.

#### 9.5 Restrictions

You acknowledge all intellectual property and other rights in the movies that you order to rent, stream, download or watch are owned by FilmFlex or its content suppliers. To protect these rights, FilmFlex stream or download movies to you using technology that protects digital information and limits your ability to watch movies in accordance with certain usage rules established by FilmFlex or its content suppliers (whether in these Terms and Conditions or on the relevant pages of this Entertainment Platform). Please therefore be aware of the following restrictions and accordingly, you promise to FilmFlex that:

- (a) you will not, and will not authorise, encourage or assist any other person to, use the Entertainment Platform or Services or stream/download and watch movies and any other content available on the Entertainment Platform, for any purpose other than personal, private use only (and not for any direct or indirect commercial purpose) in accordance with these Terms and Conditions;

- (b) you will not, and will not authorise, encourage or assist any other person to, copy, reproduce, lend, rent, broadcast, distribute or transmit any movie;
- (c) you will not, and will not authorise, encourage or assist any other person to, circumvent, modify, remove, reverse-engineer, decompile, disassemble, alter or otherwise tamper with any security, encryption or other rights management technology or software that is part of any movie of the Entertainment Platform or the Services or part of the means by which we stream or download the movie to you;
- (d) you will not stream or download (or attempt to stream or download) movies using this Entertainment Platform/the Services from anywhere outside the United Kingdom or the Channel Islands or the Isle of Man or to use any technology to obscure or disguise your location. You acknowledge that we may use technologies to verify your location; and
- (e) you will not encourage or engage in activities that infringe intellectual property rights owned or controlled by either us or any third parties, including but not limited to, the unauthorised P2P file-sharing of movies, such as the unauthorised posting, streaming, making available, uploading, downloading or other distribution of movies or alteration of any movies or content. You will not facilitate such activities through hosted Entertainment Platforms and services (including, but not limited to, the operation of eDonkey directory servers and/or BitTorrent trackers).

#### 9.6 Termination and Enforcement

You acknowledge that, in addition to any rights that we or content suppliers have, any breach of these Terms and Conditions will entitle us to terminate your use of the Services immediately and without notice (where we have serious grounds for doing so). You specifically acknowledge that FilmFlex's content suppliers also have the right to directly enforce relevant provisions within these Terms and Conditions against you.

- 9.7 We reserve the right to change, suspend, or cease the Entertainment Platform and the Services, or any part of them at any time and without notice to you. In particular, FilmFlex reserves the right to remove any movie from its catalogue or to cease your streaming/downloading and watching of any movie if necessary to comply with its obligations to its content suppliers. You agree that FilmFlex will not be liable to you if it exercises those rights, except for a reasonable refund or credit, if appropriate, in respect of any movie you have ordered, purchased to watch and not received the benefit of the appropriate Viewing Period and/or Access Period by virtue of any change, suspension or cessation. For further information on the process for applying for a refund or credit in these circumstances please refer to <http://film.ee.co.uk/filmstore/help>.

#### 10. Prohibited Use of This Entertainment Platform

- 10.1 You agree not to upload, post, email or otherwise send or transmit any material that contains software viruses or any other computer code, files or programs designed to interrupt, harm, damage, destroy or limit the functionality of any computer software or hardware or equipment linked directly or indirectly with this Entertainment Platform. You agree not to interfere with the servers or networks underlying or connected to this Entertainment Platform or the Services or to violate any of the procedures, policies or regulations of networks connected to this Entertainment Platform.
- 10.2 You agree not to:
- (a) impersonate any other person while using this Entertainment Platform;
  - (b) conduct yourself in an offensive manner while using this Entertainment Platform; or
  - (c) use this Entertainment Platform for any illegal, immoral or harmful purpose.

#### 11. Material on The Entertainment Platform

##### 11.1 Copyright

- (a) We grant you a limited, revocable, non-exclusive, non-transferable licence to access and make personal use of this Entertainment Platform, and FilmFlex grants you a limited, revocable, non-exclusive, non-transferable licence to view the movies in



accordance with these Terms and Conditions. You may not download (other than page caching) or modify this Entertainment Platform, or any portion of it or any content available on it (except for downloading movies for rental or apps as expressly permitted under these Terms and Conditions), except with our express written consent. The licences granted to you do not include, and these Terms and Conditions prohibit: transfer of any right, title or interest in this Entertainment Platform or its content; any resale or commercial use of this Entertainment Platform or its contents; any collection and use of any product listings (including creation or publication of your own database that features substantial parts of this Entertainment Platform without FilmFlex's express written consent), descriptions or prices; any derivative use of this Entertainment Platform or its contents; any downloading or copying of account information for the benefit of another merchant; or any use of data mining, robots, or similar data gathering and extraction tools (whether once or many times).

- (b) This Entertainment Platform, any portion of this Entertainment Platform, or any content available on it may not be reproduced, duplicated, copied, sold, resold, visited or otherwise exploited for any commercial purpose without our express written consent.
- (c) You may not frame or use framing techniques to enclose any trademark, logo, or other proprietary information (including images, text, page layout, or form) of FilmFlex, Everything Everywhere and their affiliates without express written consent. You may not use any meta tags or any other hidden text utilising FilmFlex or Everything Everywhere's or their affiliates' names or trademarks without their express written consent. Any unauthorised use automatically terminates the relevant permissions or licences granted by FilmFlex and Everything Everywhere under these Terms and Conditions.
- (d) You or any third party may not link to the Entertainment Platform, nor frame it, without our express written permission. We are not responsible for, shall not be liable for, and do not approve or endorse in any way whatsoever, the content of any other sites, including, without limitation, any other sites through which you may have gained access to the Entertainment Platform or to which you may gain access from the Entertainment Platform ("**Other Sites**"). Your access to, and reliance on, any content on any Other Sites is at your own risk.
- (e) All content included on the Entertainment Platform, such as, without limitation, text, graphics, logos, button icons, images, audio clips, digital downloads, data compilations, trailers and software, is the property of FilmFlex and/or Everything Everywhere, their licensors or content suppliers (as applicable) and is protected by English and international copyright and other laws and related rights (including but not limited to database right laws and moral rights). The compilation of all content on this Entertainment Platform is the exclusive property of FilmFlex, Everything Everywhere and their affiliates and is protected by English and international copyright and other laws and related rights (including but not limited to database right laws and moral rights). All software in connection with this Entertainment Platform is the property of FilmFlex, Everything Everywhere, their affiliates or our software suppliers and is protected by English and international copyright and other laws and related rights (including but not limited to database right laws and moral rights).
- (f) You may not systematically extract and/or re-utilise parts of the contents of the Entertainment Platform without our express written consent.

## 11.2 Trade marks

FilmFlex, the FilmFlex logo and all other FilmFlex products or service marks are trademarks of FilmFlex. All other trademarks, logos, images, product and company names displayed or referred to on this Entertainment Platform (including all of those relating to Everything Everywhere) are the property of their respective owners (including Everything Everywhere and its licensors). Nothing on this Entertainment Platform grants you any licence or right to use, alter or remove such material.

## 11.3 Use of Encryption Software



- (a) Microsoft PlayReady™ content access technology ("**Silverlight**") is required to view a movie once it has been ordered for rental from the Entertainment Platform (you will need at least Silverlight, version 3) and is also used to protect content owners' intellectual property rights, including without limitation copyrighted content. FilmFlex requires that you install Silverlight in order to use the Services.
- (b) If you do not have Silverlight already installed on your Device, you will need to download it directly from a Microsoft website. In doing so you will enter into a separate licence with Microsoft granting you rights to use Silverlight. All use of Silverlight is subject to the Microsoft terms and conditions communicated to you when downloading and installing the software. To check whether you have Silverlight installed, or to download it if it does not install automatically, please go to: <http://www.microsoft.com/silverlight/get-started/install/default.aspx>. The data consumed during such access, browsing or downloading will incur charge or form part of your data allowance.
- (c) The Entertainment Platform and the Services use Silverlight to protect certain content. If Silverlight fails to protect the content, content owners may require the Entertainment Platform or the Services to restrict or prevent the delivery of protected content to specified Devices or PC software applications. In certain cases, you may be required to download and upgrade Silverlight to continue to access the content. If you decline such an upgrade, you will not be able to access content that requires the upgrade.
- (d) We assume no liability or responsibility to you (or any third party) for any loss or damage whatsoever, including, without limitation, any direct, indirect or consequential loss (where consequential loss means loss arising as a side effect of the main loss) or damage in any way whatsoever arising from in any way whatsoever your (or any third party's) use of, or reliance on, Silverlight. Any reliance placed by you on Silverlight is strictly at your own risk and subject to the relevant Microsoft terms and conditions communicated to you when downloading, installing or running the software.

## 12. General Terms and Conditions

### 12.1 Promotion Codes

Any promotion code or offer provided on this Entertainment Platform cannot be used in conjunction with any other promotion code or offer, past or present. Where applicable, vouchers will be redeemed by us against the relevant payment mechanism. Any such offers promotions or incentives offered by Everything Everywhere in relation to the Entertainment Platform or use of the Service(s) shall each be subject to additional terms and conditions from Everything Everywhere and/or FilmFlex which shall form part of this Agreement. Everything Everywhere or FilmFlex (as applicable) shall communicate, make available or inform you how you can find out more about such terms and conditions either on the Entertainment Platform, at the time of communication of the promotion or offer and/or in combination with the relevant promotion or offer together with details about how you can find out full details of such terms.

### 12.2 Promises by You

- (a) You agree to compensate and defend fully FilmFlex and Everything Everywhere, our subsidiaries and affiliates, and each of our directors, officers, agents, contractors, partners and employees, hold harmless from and against any loss, liability, claim, demand, damages, costs and expenses, including reasonable legal fees, arising out of or in connection with your breach of these Terms and Conditions or any applicable laws or the rights of any third party in connection with your use of this Entertainment Platform or use of Services.
- (b) You agree to compensate and defend fully FilmFlex and Everything Everywhere against any claims or legal proceedings brought against us by any other person as a result of your breach of these Terms and Conditions or your breach of any applicable law or rights of any third party.
- (c) If we take legal action against you for any breach of these Terms and Conditions and a court makes an award in our favour, you will be responsible for all costs allowable by the courts.

### 12.3 Liability

- (a) We accept liability for death or personal injury caused by our negligence or that of our employees and agents. We do not seek to exclude liability for fraud or fraudulent misrepresentation by us or our employees or agents. Nothing in these Terms and Conditions is intended to affect your statutory rights. (For more information about your statutory rights please contact your local Citizens Advice Bureau or Trading Standards Office.)
- (b) Subject to clause 12.3(a):
  - (i) This Entertainment Platform and its contents are provided on an "as is" and on an "as available" basis and we make no representations or warranties of any kind with respect to it, including as to the accuracy, completeness or currency of this Entertainment Platform or its content.
  - (ii) We assume no liability or responsibility for any errors or omissions in the content of this Entertainment Platform or any failures, for downloading or streaming of content to the extent caused by a Fault or any circumstances beyond our reasonable control.
  - (iii) We disclaim and exclude all representations (except where we, our employees or agents have made fraudulent representations) and warranties, including warranties of merchantability and non-infringement.
  - (iv) To the extent that it is not foreseeable, we disclaim and exclude all liability or responsibility for introduction of viruses to, or loss of data from, Devices. Where applicable, you are responsible for making regular back-ups of the contents and data stored on your Device at regular intervals.
- (c) Subject to clause 12.3(a), in no event shall we, our shareholders, directors, officers, or employees be liable (jointly or severally), to you or any third party for any indirect consequential losses (where consequential loss means loss arising as a side effect of the main loss) and which are not a reasonably foreseeable consequence of such main loss or damage (which means that they could not be contemplated by you or us at the time of entering into these Terms and Conditions) whatsoever including but not limited to:
  - (i) loss of income or revenue;
  - (ii) loss of business;
  - (iii) loss of profits or contracts;
  - (iv) loss of anticipated savings; or
  - (v) loss of data,arising out of or in connection with the use of the Entertainment Platform or the use of the Services.
- (d) Subject to clauses 12.3(a) to (c) our maximum joint liability to you, (whether in contract, tort, (including negligence), breach of statutory duty or otherwise), arising out of or in connection directly or indirectly with your use of this Entertainment Platform, or any Entertainment Platform content or your use of the Services shall not exceed in aggregate the greater of £1 or the total amount paid by you to us in respect of the Services.

### 12.4 Miscellaneous

- (a) We will do our best to resolve any disputes over these Terms and Conditions. If you wish to take court proceedings against either of us you must do so within the courts of England and Wales. English law will apply.
- (b) The Entertainment Platform and Services are only intended to be accessed from the United Kingdom, the Channel Islands and the Isle of Man. We make no representations that the Entertainment Platform or Services are appropriate or available for use at other locations and access from territories where the

Entertainment Platform or Services are illegal are strictly prohibited. If you access the Entertainment Platform outside of the United Kingdom, you are responsible for the compliance with all local laws.

- (c) Everything Everywhere may wish to transfer its rights or obligations or sub-contract its obligations under these Terms and Conditions to another legal entity. You agree that Everything Everywhere may do so provided that: (i) this will not adversely affect the standard of the Services you receive; and (ii) in the case of transfer only, after Everything Everywhere notifies you of the date on which it will transfer its rights and obligations under these Terms and Conditions to another legal entity, your only rights under or in connection with these Terms and Conditions will be against the new legal entity and not against Everything Everywhere. These Terms and Conditions are personal to you. You may not transfer your rights or obligations under these Terms and Conditions to anyone else.
- (d) If we delay exercising or fail to exercise or enforce any right available to us under these Terms and Conditions, such delay or failure does not constitute a waiver of that right or any other rights under these Terms and Conditions. A waiver by us of any default shall not constitute a waiver of any subsequent default. No waiver by us shall be effective unless it is expressly stated to be a waiver and is communicated to you.
- (e) We will not be liable to you for any lack of performance, or the unavailability or failure, of the Entertainment Platform or any of the Services, or for any failure or delay by us to comply with these Terms and Conditions, where such lack, unavailability or failure arises from any cause beyond our reasonable control.
- (f) These Terms and Conditions are not intended to give rights to anyone except you and us apart from where the Terms and Conditions expressly state that FilmFlex's content suppliers have rights. However, (subject to (c) above) we may rescind, waive, assign, release or vary any or all of the provisions in these Terms and Conditions in any way without your consent or the consent of any third party but will notify you in accordance with these Terms and Conditions.
- (g) When you visit the Entertainment Platform or send e-mails to us, you are communicating with us electronically. We may communicate electronically with you by e-mail or SMS. For contractual purposes, you consent to receive communications from us electronically.
- (h) If any part of these Terms and Conditions is disallowed or found to be ineffective by any court or regulator, the other provisions shall continue to apply.

### 13. **Contacting Us**

- 13.1 If you have a technical, billing, content related or general query regarding your use of the Entertainment Platform or your use of Services, please refer to the Help section of this Entertainment Platform and the appropriate section of the FAQs on the Entertainment Platform for further guidance and to direct you to the appropriate query form to contact us.
- 13.2 All correspondence to FilmFlex or Everything Everywhere, including any other queries you may have regarding your use of the Entertainment Platform, your use of Services or the Terms and Conditions, should be sent to the relevant address set out in clause 1.

### 14. **The Association for Television On Demand**

- 14.1 In the UK, the Association for Television On Demand ("**ATVOD**") regulates the editorial content of on demand programme services. Any complaints in relation to the editorial content of the content made available on the Entertainment Platform ought to be directed to:

ATVOD Complaints  
PO Box 561  
Walton on Thames  
KT12 9DA  
complaints@atvod.co.uk