



## Standard Terms & Conditions of Service

Last Updated: 3<sup>rd</sup> September 2011

This document governs your usage of the Dial 9 service and represents a legally binding agreement between the customer and Dial 9 Communications Limited.

### 1. Definitions & Interpretations

- 1.1. Any headings in this document will not affect the interpretation of this agreement.
- 1.2. Words in the singular shall include the plural and vice-versa.
- 1.3. In this agreement terms & expressions have the following meanings unless the context otherwise requires:

**“Agreement”** – this agreement which incorporates the terms & conditions of service.

**“Authorised Terminals”** – any physical telephone which has been configured to connect to the Customer’s Service and is privileged to make and receive calls to External Numbers.

**“Call Charges”** – the cost incurred to the Customer when making an outgoing call to a public telephone network (including any Connection Fee where appropriate)

**“Connection Fee”** – the one-time and fixed cost incurred to the Customer when making some calls to External Numbers.

**“Customer”** – any person or company which requests services from Dial 9 Communications.

**“Company”, “Dial9” or “Dial 9 Communications”** – refers to Dial 9 Communications Limited.

**“Emergency Services”** – any service which can be requested by dialling 999.

**“Equipment”** – telecommunications hardware such as telephones, analogue telephone adaptors or any networking hardware.

**“Extension”** – an individual account setup to make and receive calls using the Service

**“External Numbers”** – any number which is routed outside of your PBX system (for example, calls to normal PSTN networks or other VoIP providers).

**“Incoming Number”** – any telephone number which has been provisioned to receive calls made from a standard external phone network. It usually will take the form of *0[12]xxx xxxxxx* for geographic numbers or *08xx xxx xxxxx* for non-geographic numbers.

**“Internet Service Provider”** – a company which provides internet services and bandwidth used to connect to the Network.

**“Network”** – means the telecommunications and data network(s) used by the Company to provide services for carriage of your traffic, including any required server hardware.

**“Online Management System”** – our authenticated area for Customers to manage or extend the services they take from the Company.

**“Service”** – the provision of telecommunications facilities to the Customer by the Company. The service provided for each Customer is defined by whichever features the user has enabled in the Online Management System.



**“Subscription Fees”** – the costs incurred by the Customer associated with using the Service.

**“Unauthorised Use”** – any use of the Authorised Terms or Online Management System by any person not permitted to do so by the Customer.

**“Value Added Tax”** or **“VAT”** – sales tax which we are required to add to all sales at the prevailing rate, which is currently 20%.

**“VoIP”** – voice over IP (internet protocol)

**“Wholesale Customer”** – a customer who has been given access to our service in order to provide outbound calls and/or incoming numbers to their users/customers.

## **2. Commencement & Duration of Service**

2.1. The Service shall be considered to be live as soon as the customer has made or received their first call using the Service.

2.2. The Services will continue in perpetuity until terminated as defined in Clause 9 of this Agreement.

## **3. Responsibilities & Obligations of the Dial 9 Communications Limited**

3.1. The Company will provide the Services as outlined to the Customer when the Service was setup.

3.2. The Company shall maintain equipment suitable for providing the Service. The volume & type of such equipment shall be decided solely by the Company.

3.3. The Company shall provide the Customer with reasonable technical support which the Company shall in its sole discretion consider necessary and appropriate.

3.4. The Company shall provide the Customer with access to call logs for all Extensions registered to their account through the Online Management Interface.

## **4. Responsibilities & Obligations of the Customer**

4.1. The Customer shall provide the Company with any information it requires to operate the service including, but not limited to:

4.1.1. physical address information for any Incoming Number allocated to the customer;

4.1.2. details of the network which the Customer’s telephone units will reside; and

4.1.3. all information required to port numbers from other providers (if requested).

4.2. The Customer shall, at its own expense, provide any equipment required to connect to the Service. The Company may offer to supply such equipment, at the Customer’s expense, if requested to do so by the Customer.

4.3. The Customer agrees to participate, as requested by the Company, with any testing procedures and to provide a secure and safe environment for any of our employees, agents or subcontractors working on your premises for installation, testing or maintenance of the Service.

4.4. The Customer shall only use the Services in accordance with this Agreement.



- 4.5. The Customer agrees to take reasonable steps to ensure that they do not disrupt or interfere with other users of our Services or of our Network.
- 4.6. The Customer shall obtain and manage any required licences related to the use of the Services, including by not limited to, any licences required for audio files which are uploaded to the system for music on hold or any other purpose.
- 4.7. The Customer is responsible for any Call Charges incurred from any Extensions allocated to the Customer and should endeavour to keep Authorised Terminals & access to their Online Management System safe from Unauthorised Use.
- 4.8. The Customer shall ensure the service is not used for any unlawful purpose including the transmission or offering of any information or service or other material which is unlawful, harmful, threatening, defamatory, pornographic or which in any way infringes Intellectual Property Rights of the Company or any third party or which may cause offence in any way.

## **5. Charges & Payments**

- 5.1. A Customer will be either be a post-pay customer or a pre-pay customer. The status of a Customer will be determined by the Company based on information provided by the Customer and the Customer's credit status.
- 5.2. In respect of post-pay customers:
  - 5.2.1. the Company will invoice the Customer at the start of each month for any Call Charges and Subscription Fees incurred during the previous month.
  - 5.2.2. all invoices are payable on receipt and should be paid using one of the Company's approved payment methods.
  - 5.2.3. the Company may revert post-pay customers to pre-pay status who consistently fail to settle any invoices from the Company on time.
- 5.3. In respect of pre-pay customers:
  - 5.3.1. the Customer will be responsible for ensuring their account has sufficient credit to cover any Subscription Fees and Call Charges.
  - 5.3.2. the Company will invoice the Customer for the amount they credit to their account on the receipt of funds to the Company's account.
  - 5.3.3. any sums remaining in pre-paid accounts after termination shall remain the property of the Company and shall not be refundable by the Company to the Customer.
- 5.4. In respect of all customers, in addition to any relevant clauses above:
  - 5.4.1. all charges quoted on our website and in marketing materials are exclusive of Value Added Tax unless otherwise specified.
  - 5.4.2. No interest shall accrue or be due on any pre-payments received from the Customer to the Company.



- 5.4.3. In the event that any sums due to the Company under this agreement are not paid by the due date then the Company may claim interest & admin fees under the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.4.4. the Customer will remain responsible for any charges incurred by the Company in processing of any payments, unless otherwise stated when making the payment. Customers will be able to make payments using electronic bank transfer free of charge.
- 5.4.5. the Company does not accept cash or cheques as payment, any payments made in this manner will be returned to the Customer at the Customer's expense.
- 5.5. The Services provided by the Company will pass over the network provided by the Customer's Internet Service Provider, who may charge for network bandwidth, for which the Company is not responsible.

## **6. Incoming Calls**

- 6.1. The Company shall allocate Incoming Numbers to the Customer on their request. These numbers may be geographic (commencing with 01 or 02) or non-geographic (commencing 0845, 0870 or 0871).
- 6.2. At no time does the Customer have any ownership of any allocated Incoming Numbers.
- 6.3. The Company may change or re-allocate any Incoming Number, for any reason, during the first seven (7) business days after they have been allocated to a customer.
- 6.4. The Customer may request new numbers at any time by contacting the Company or using the Online Management System.
- 6.5. The Customer may remove Incoming Numbers from their account at any time using the Online Management System however will be charged the Subscription Fee for the remainder of the month in which it was cancelled.
- 6.6. By default, the Customer is restricted to receiving 10 incoming calls concurrently for each of their Incoming Numbers. The Customer may opt to pay additional charges to increase the concurrent calls limit for any of their numbers and should contact the Company to arrange this.
- 6.7. If the Customer sets up an Incoming Number to forward to an External Number, the Customer will be charged for any Call Charges incurred as if this was a standard call to an External Number.

## **7. External Calls**

- 7.1. Calls to External Numbers will be charged in accordance with the tariff assigned to your account.
  - 7.1.1. Unless otherwise specified by the Customer's tariff, all calls are charged on a per-second basis, rounded up to the nearest second.
  - 7.1.2. The cost of a call depends on the destination and duration. The timed duration of a call begins on receipt of an answer signal from the terminating operator. The Company will not be held responsible for any situation where this is generated in error.



- 7.1.3. The duration of a call ends on receipt by the Company of a “call clear” message from the Customer’s equipment or the terminating operator’s equipment.
- 7.1.4. Some calls incur a Connection Fee which is a fixed, one-time charge which is added to any Call Charges related to the call.
- 7.1.5. A full tariff rate list can be obtained by contacting the Company or querying the Company’s website
- 7.1.6. All rates provided to Customers exclude Value Added Tax.
- 7.1.7. Tariff rates can change on a regular basis and Customers are advised to keep track of rates by looking at the Company’s website.
- 7.1.8. All calls to External Numbers are subject to a 1p minimum call charge.
- 7.2. The Company may impose a daily call charge limit which will restrict the value of calls which can be initiated by the Customer in a 24 hour period. This limit is designed to protect your account and can be increased or decreased by contacting the Company.
- 7.3. During any trial periods, the Company will restrict calls to External Numbers to destinations with a per minute calling rate of less than or equal to £0.005/minute.
- 7.4. Unless instructed otherwise by the Customer, the Company will restrict calls to External Numbers with a per minute calling rate greater than £0.20/minute or a connection fee greater than £0.10.
- 7.5. The Customer will, at all times, be responsible for any calls made from any of their Extensions. In the case of Wholesale Customers, the Wholesale Customer will be responsible for all calls made by their users and/or customers.
- 7.6. The Company will provide access to the Emergency Services by dialling 999 from any Extension.
  - 7.6.1. It is the Customer’s responsibility to ensure the Company has been provided with the accurate, physical location of any Incoming Numbers which are allocated to them. The Company will provide this information to the Emergency Services in order to assist with the management of emergency calls and dispatch of the appropriate services to your location.
  - 7.6.2. The Customer must be aware that the Company provides a VoIP service which does not guarantee access to the Emergency Services. The Customer should ensure adequate provision is in place to contact the Emergency Services in the case of power failure, network issues or service affecting maintenance.
  - 7.6.3. When dialling the Emergency Services, the caller will be required to verbally provide their physical location to the emergency operator.
  - 7.6.4. Emergency calls made using the Service will pass over the public internet where they will not receive the same network priority or quality assurance as an emergency call made on a mobile network or on a circuit-switched fixed line.
  - 7.6.5. In the case of Wholesale Customers, it is the Customer’s responsibility to ensure that all location information about any numbers allocated to their users is submitted to the Company as soon as is practicable.



## **8. Network & Service Maintenance**

- 8.1. We reserve the right to modify our Network and/or system configurations whenever required, in order to provide the Service.
- 8.2. We may need to perform scheduled or emergency maintenance in order to maintain or modify the Network in order to provide the Service. Notice will be provided as reasonably practicable under the circumstances. Such maintenance may require temporary suspension of Service.
- 8.3. If your traffic is negatively impacting our Network, we may temporarily stop your Service to determine what is causing the impact. The Company reserve the right to suspend service without prior notification.

## **9. Provision of Equipment**

- 9.1. The Company may supply Equipment to the Customer on their request.
- 9.2. The Company will raise an invoice to the Customer in respect of any Equipment which has been ordered. This invoice must be settled in full before the Equipment will be dispatched by the customer.
- 9.3. The Customer may order equipment through any of the approved channels listed below:
  - 9.3.1. through the Company's website;
  - 9.3.2. by e-mailing the Company at sales@dial9.co.uk; or
  - 9.3.3. by calling the Company's sales team.
- 9.4. If any Equipment arrives in a state where it is not operational ("dead on arrival") the Customer must return the faulty equipment to the Company and the Company will replace the unit with the same or a technically equivalent replacement.
- 9.5. Once an order has been dispatched by the Company to the Customer, the order cannot be cancelled, however the Company, at its sole discretion, may allow the Customer to return the original packaged Equipment, at the Customer's expense.
- 9.6. Customers must seek approval from the Company before returning any Equipment.

## **10. Termination & Cancellation**

- 10.1. If the Customer is in any breach of this agreement (including payment of any sums due) the Company may suspend the Service provided to the Customer.
- 10.2. The Company may terminate this agreement by giving written notice:
  - 10.2.1. upon the expiration of fifteen (15) days' written notice following any suspensions;
  - 10.2.2. if the Customer ceases trading, convenes a meeting of, or comes to an agreement with, its creditors, has distress or other seizure levied over any of its assets or does not satisfy any demand for payment from any legal person;



- 10.2.3. if any step is taken to wind up or dissolve the Customer, a receiver, and/or manager or administrator is appointed over any of the Customer's assets or if the Customer is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1987; or
  - 10.2.4. if the Company is required to do so by Ofcom, PhonepayPlus or any of regulatory or governmental body.
- 10.3. The Customer may terminate this agreement at any time through our Online Management System providing that they do not owe any sums to the Company. Should the Customer owe any sum to the Company and wishes to terminate their Services, they should settle any amount due and then cancel their account as described above.

## **11. Limitation of Liability**

- 11.1. Except where otherwise expressly stipulated in this agreement the following provisions set out the entire liability of the Company (including liability for the acts and omissions of its employees, agents, consultants and subcontractors) to the Customer in respect of:
- 11.1.1. any delay or default in the provision of Services;
  - 11.1.2. any use made by the Customer of the Services; and
  - 11.1.3. any representation, statement or tortious act or omission (including negligence) arising under or in connection therewith.
- 11.2. Nothing in this Agreement limits or excludes the liability of the Company:
- 11.2.1. for death or personal injury resulting from negligence; or
  - 11.2.2. for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by the Company.
- 11.3. Subject to Clause 10.2 above, the Company shall not be liable for:
- 11.3.1. any indirect, incidental, special, consequential or pure economic loss, costs, damages, charges or expenses; or
  - 11.3.2. interrupted communication; or
  - 11.3.3. loss or corruption of data or information; or
  - 11.3.4. any delay in the provision of the Service or in rectifying a fault with the Service.
- 11.4. Subject to Clause 10.2 above, the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of this agreement shall be limited to the amount of revenue received by the Company from the Customer in the month previous to the month in which the liability was incurred, but in no event shall exceed £1,000 for any one event or series of events.
- 11.5. The provisions of this condition shall apply notwithstanding termination or expiry of this agreement.
- 11.6. Except as otherwise stated, the Customer's only remedies for any breach of this agreement shall, at the Company's sole discretion, be:
- 11.6.1. correction in a reasonable timescale of any fault; or



11.6.2. replacement of the Service supplied.

11.7. The Company shall have no liability to the Customer in respect of any demand or claim where:

11.7.1. the demand or claim arises as a result of the Customer's negligence, misconduct or breach of this agreement.

11.7.2. the Customer does not immediately notify the Company of any claim or loss;

11.7.3. the Customer does not give the Company full authority to deal with the claim, or does not provide all the information requested by the Company.

## **12. Indemnity**

12.1. Without prejudice to any other indemnity referred to in this or any other agreement, the Customer will indemnify the Company and its associated companies, directors, officers and employees against any claim or demand, including any made by a third party, arising out of the Customer's use of the Services and all costs relating thereto.

12.2. The Customer agrees to indemnify the Company, and its associated companies, directors, officers and employees against any claim or demand arising from any act of the Customer or third party including but not limited to any claim in relation to:

12.2.1. a breach of allegation of breach of the terms of agreement;

12.2.2. negligence, misconduct or any allegation of negligence or misconduct on the part of the Customer or any third party;

12.2.3. marketing or promotional activities undertaken by or on behalf of the Customer;

12.2.4. the service content provided or marketed on the behalf of the Customer.

## **13. Severability**

13.1. In the event that any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of this Agreement.

## **14. Modification of Agreement**

14.1. The Company reserves the right to modify this agreement from time to time.

14.2. The Company will provide the Customer with fifteen (15) days notice of any changes.

14.3. If the Customer does not agree with any modifications, they will be able to terminate this agreement immediately without penalty.

## **15. Assignment**

15.1. Neither we nor you may assign our respective rights under this Agreement without prior written consent of the other party, with the exception of the following:



15.1.1. The Company may freely assign our rights under this Agreement to one any other company controlled or controlling Dial 9 Communications Limited.

**16. Governing Law**

16.1. These conditions and all Agreements are subject to the laws of England.

**17. Force Majeure**

17.1. The Company shall not be liable for any interruption, delay or failure in service resilient from any matter or event outside of its control including, but not limited to any act of God, inclement weather, storm, flood, drought, lightning, fire, act of terrorism, war, military operations or riot, power failure, shortage of power, disturbance to power supplies, disconnection damage or disturbance to telecommunications connections and cable, trade dispute, government action, embargoes, damage to or loss of equipment or interruption, disruption, cease, failure or delay in any service provided to the Company by any third party, including governmental or regulatory authority or any provider of electronic communications networks or services.

**18. General**

18.1. This agreement shall be operated in conjunction with the list of Services provided by the Online Management System and supersedes any previous Agreement.

18.2. The Company's rights and powers under this agreement are not affected if it fails to or not chooses to enforce any of them at any time.

18.3. All notices from the Company to the Customer will be sent by electronic email ("e-mail") to the latest known address received from the Customer.

18.4. All notices from the Customer to the Company should be sent by electronic email ("e-mail") to [legal@dial9.co.uk](mailto:legal@dial9.co.uk) or by postal mail to:

Dial 9 Communications Limited,  
Floor 8 County Gates House,  
300 Poole Road,  
Bournemouth,  
Dorset.  
BH12 1AZ.

18.5. Notices provided by e-mail will be considered to have been served one (1) business day from the date specified on the e-mail envelope.

18.6. Notices provided by postal mail will considered to have been severed three (3) business days from the date sent.

18.7. Notices provided by any other means other than those specified above are not enforceable.



**Signed for and on behalf of  
Dial 9 Communications Limited**

**Signature**

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**Name**

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**Position**

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**Date**

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**Signed for and on behalf of  
the Customer**

**Signature**

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**Name**

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**Position**

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**Date**

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**Company Name**

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*In addition to signing this page, please initial the footer of each page of this document.*

*This document should be returned to Dial 9 Communications Limited at the address listed in Clause 17.4 or e-mailed to your account manager*