



Standard Terms & Conditions of Service

Last Updated: 10th December 2021

This document governs your usage of any service operated by Dial 9 Communications Limited (regardless of trading name) and represents a legally binding agreement between you (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:

“**Access Charge**” – the charge we levy for connecting a call

“**Act**” – the Communications Act 2003.

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

“**Authorised Terminals**” – any physical telephone or software client, including software and apps provided or made available by us, which has been configured to connect to the Service and is privileged to make calls to and receive calls from External Numbers.

“**Call Bundle**” – a fixed quantity or unlimited number of minutes to a pre-determined set of destination phone numbers which can be purchased for a monthly amount or included with another service.

“**Call Charges**” – the charges incurred by the Customer when making an outgoing call to an External Number (including any Connection Fee or Access Charge (or both)).

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

“**Consumer**” – an individual acting for purposes which are wholly or mainly outside that individual's trade, business, craft or profession;

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

“**Company**”, “**Dial9**”, “**Dial 9 Communications**”, “**we**”, “**us**”, “**our**” – Dial 9 Communications Limited.

“**Emergency Services**” – any service which can be requested by dialling 999 or 112.

“**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 0[38]xx 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.

“Ofcom” – the Office of Communications, Riverside House, 2a Southwark Bridge Road, London SE1 9HA, or any of its successors.

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

“Outbound Trunk” - a connection between a customer’s PBX server, authenticated by the IP address which is sending the SIP traffic to our service.

“Service” – the provision of telecommunications facilities and related services and software (including applications for mobile devices) to the Customer by the Company. The service provided for each Customer is defined by whichever features the Customer has enabled in the Online Management System.

“Status Site” – the website which contains information about known issues and scheduled maintenance. This can be found at <https://status.dial9.co.uk>.

“Subscription Fees” – the charges incurred by the Customer associated with using the Service, other than Call Charges.

“Unauthorised Use” – any use of the Service, Authorised Terminals or the 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 provides outbound calls and/or incoming numbers to their users/customers, including partners (formerly known as resellers).

2. Commencement & Duration of Service

2.1. This Agreement shall commence on the earlier of:

- 2.1.1. the Customer registering an account for the Service;
- 2.1.2. the Customer marking or receiving its first call using the Service; and
- 2.1.3. the Customer signing this Agreement.

2.2. The Agreement shall continue until terminated in accordance with clause 12.

3. Responsibilities & Obligations of Dial 9 Communications Limited

- 3.1. The Company will use reasonable efforts to maintain and operate the Service. However, we make no promises that the Service will always be available or functioning, nor that the Service will be fault-free.
- 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, provided that the Customer is up to date with all payments due under this Agreement
- 3.4. The Company shall provide the Customer with access to call logs for all Extensions & Outbound Trunks 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 Authorised Terminals will be connected; 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, in 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 Service in accordance with this Agreement, and in accordance with our reasonable instructions, guidelines and directions.
- 4.5. The Customer shall not register or attempt to register to an Extension more devices (whether physical or soft) than they have agreed with us that they are permitted to register to that Extension. In the absence of any specific agreement otherwise, this is one device per Extension.
- 4.6. The Customer shall make only reasonable use of the Service. Where all or part of the Service permits making of calls using a Call Bundle, Customer shall:
 - 4.6.1. use the Service only in respect of the designated Extension (where the Call Bundle is associated with an Extension);
 - 4.6.2. make all calls from a regular telephone, softphone, or mobile phone, and shall not configure the Extension for use with any PBX or other mechanism which allows multiple users or devices to make use of an Extension;

- 4.6.3. only make voice calls, and shall not make fax calls, data calls, or use the Service for more than occasional call forwarding;
- 4.6.4. originate each call by a human, and shall not initiate any call automatically;
- 4.6.5. not permit any third party to originate calls using the Service; and
- 4.6.6. only make calls which relate to its own, reasonable, business use, and shall not use make calls as part of call centre operations (including telemarketing) or other high-volume activity (even if those activities form part of the Customer's business).
- 4.7. 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.
- 4.8. 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.
- 4.9. The Customer is responsible for, and agrees to pay in full for, any Call Charges incurred from any Extensions or Outbound Trunks allocated to the Customer, including all calls which originate from or appear to us to originate from the Customer's network or which present to us with the Customer's identifying data (including, but not limited to, the Customer's username and password). This includes all Call Charges irrespective of whether or not they were generated in good faith or authorised by the Customer and including those generated as a result of fraudulent activity by a third party.
- 4.10. The Customer shall present only caller line identification information which:
 - 4.10.1. is assigned to the Customer by us; or
 - 4.10.2. the Customer:
 - 4.10.2.1. has obtained our permission to present;
 - 4.10.2.2. has the right to present; and
 - 4.10.2.3. proves to us, promptly following a request from us (which may occur at any time during the lifetime of this Agreement, and on as many occasions as we see fit), that it has the right to present.
- 4.11. The Customer shall keep Authorised Terminals and access to the Service and the Online Management System safe from Unauthorised Use. If the Customer becomes aware of a compromise, the Customer must immediately change its account password(s) and other security devices and notify us. This does not limit the Customer's responsibility and liability under clause 4.9.
- 4.12. The Customer shall not, and shall ensure that its end users do not, use the Service:
 - 4.12.1. for the transmission of material which is unlawful, abusive, harmful, threatening, defamatory, pornographic or which in any way infringes intellectual property rights, or which may cause offence in any way;
 - 4.12.2. in a way that does not comply with the terms of any legislation, code of practice, regulations, or licence, or which causes us to breach any legislation, code of practice, regulations, or licence;
 - 4.12.3. in a way that is in any way unlawful or fraudulent or has any unlawful or fraudulent purpose or effect;

- 4.12.4. in a way that constitutes artificial inflation of traffic (as set out in Annex E of BT's Network Charge Control Standard Interconnect Agreement);
 - 4.12.5. in a way that could, in our reasonable opinion, materially affect the quality or operation of any networks or services provided by us or any third party;
 - 4.12.6. in a way that causes annoyance to the receiver, is a hoax call, or is of an offensive, spiteful, abusive, indecent, defamatory, obscene, or menacing nature;
 - 4.12.7. in a way which is inconsistent with privacy or data protections laws, or laws relating to direct marketing;
 - 4.12.8. to threaten, harass, stalk, abuse, disrupt or otherwise violate or infringe the rights of others;
 - 4.12.9. to obtain access, through whatever means, to restricted areas of the Network; or
 - 4.12.10. in a way which could, in our reasonable opinion, bring our name, or the name of any third party, into disrepute.
- 4.13. The Customer shall:
- 4.13.1. Behave at all times in a polite and professional manner towards us and our staff;
 - 4.13.2. Maintain such disaster recovery and resiliency plans as it considers appropriate;
 - 4.13.3. Not sell, deal, transfer, or otherwise make available the Service to any third party for any purposes except if appointed a Wholesale Customer and provided that it is in full compliance with clause 23;
 - 4.13.4. Ensure that all equipment, including Authorised Terminals, which is used in conjunction with the Service conforms to all relevant standards or approvals; and
 - 4.13.5. Comply with all applicable law.
- 4.14. We may carry out such investigations, and suspend all or part of the Services or this Agreement, as we deem necessary in the event of:
- 4.14.1. any potential or apparent breach of this Agreement; or
 - 4.14.2. any activity which we consider to be suspicious.
- 4.15. Any breach of this clause 4 shall be a material breach of this Agreement, which entitles us to suspend or terminate all or part of this Agreement.
- 4.16. If we suspend or terminate the Service in accordance with clause 4.14 or 4.15, we shall not be liable for any losses arising from this suspension or termination.

5. We Depend Upon Each Other

If we fail to do something that we ought to do under this Agreement and that directly causes the Customer to fail to do something that it ought to do under this Agreement, we will not treat the Customer's failure as a breach of the Agreement in those circumstances. The Customer shall treat us in the same way.

6. Charges & Payments

- 6.1. The Customer must pay the fees for the Service, including any applicable setup fees, Subscription Fees, Call Charges, and any other sums due under this Agreement, without set off, deduction or counterclaim.
- 6.2. We may increase our fees for any part of or all of the Service, including Call Charges, at any time. We will give the Customer 30 days' notice of any increase in Subscription Fees.
- 6.3. A Customer will be either a credit account 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.
- 6.4. In respect of credit account Customers:
 - 6.4.1. the Company will invoice the Customer on or near the relevant anniversary date for any Call Charges and Subscription Fees incurred during the previous month;
 - 6.4.2. all invoices are payable on receipt and must be paid using one of the Company's approved payment methods;
 - 6.4.3. the Company may revert credit account Customers to pre-pay status who fail to settle invoices from the Company on time;
- 6.5. In respect of payments:
 - 6.5.1. If, for any reason (including our failure to charge your card or take payment), we do not receive the Customer's payment in full within 5 working days of the due date, we may do any or all of the following:
 - 6.5.1.1. Send the Customer reminders by email and post at regular intervals. We may charge the Customer a fee of £5 per reminder to cover a small proportion of the costs we incur in seeking payment of the overdue amount;
 - 6.5.1.2. Suspend the Service;
 - 6.5.1.3. Charge interest and late payment fees on the overdue amount from the due date up to the date of actual payment (whether before or after any court judgement) in accordance with clause 6.7.3; and
 - 6.5.1.4. Charge the Customer our reasonable costs and expenses (including legal costs) for seeking payment of the overdue amount.
 - 6.5.2. In the event of a card chargeback or Direct Debit "bounce", we may do any or all of the following:
 - 6.5.2.1. Suspend the Services; and
 - 6.5.2.2. Charge you a fee of £20 per instance.
 - 6.5.3. If we suspend the Service in accordance with clause 6.5.1.2 or 6.5.2.1, we shall not be liable for any losses arising from this suspension.
- 6.6. In respect of pre-pay Customers:
 - 6.6.1. the Customer shall ensure that their account has sufficient credit to cover any Subscription Fees and Call Charges;

- 6.6.2. the Company will invoice the Customer for the amount they credit to their account on the receipt of funds to the Company's account;
- 6.6.3. unused credit expires automatically after 12 months; and
- 6.6.4. any unused credit or 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.
- 6.7. In addition to any relevant clauses above:
 - 6.7.1. all charges quoted on our website and in marketing materials are exclusive of Value Added Tax unless otherwise specified. We will charge VAT in addition where it applies at the prevailing rate;
 - 6.7.2. no interest shall accrue or be due on any pre-payments received from the Customer by the Company;
 - 6.7.3. If any sums due to the Company under this Agreement are not paid by the due date, the Company may claim interest and fixed compensation under the Late Payment of Commercial Debts (Interest) Act 1998;
 - 6.7.4. 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; and
 - 6.7.5. the Company does not accept cash or cheques for payment, and any payments purportedly made in this manner will be returned to the Customer at the Customer's expense.
- 6.8. 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.

7. Incoming Calls

- 7.1. 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 03 or 08).
- 7.2. At no time does the Customer have any ownership of any allocated Incoming Numbers.
- 7.3. 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. While we will use reasonable efforts to avoid doing so, and to give the Customer such notice as is possible and reasonable in the circumstances if we intend to do so, we may change the phone numbers or other identifiers allocated to the Customer outside this period. We are not responsible for any costs or losses suffered by the Customer if we do so.
- 7.4. The Customer may request new numbers at any time by contacting the Company or using the Online Management System.
- 7.5. The Customer may remove Incoming Numbers from their account at any time using the Online Management System, but the Customer will be charged until either any remaining minimum period expires or the next invoice falls due, whichever is the longer.

- 7.6. By default, we restrict the number of concurrent incoming calls for each Incoming Number. 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.
- 7.7. If the Customer sets up an Incoming Number to forward to an External Number, the Customer will be charged for Call Charges incurred as if this was a standard call to an External Number.

8. Calls to External Numbers

- 8.1. Calls to External Numbers will be charged in accordance with the tariff assigned to your account.
 - 8.1.1. Unless otherwise specified by the Customer's tariff, all calls are charged on a per-second basis, rounded up to the nearest second.
 - 8.1.2. 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.
 - 8.1.3. The call ends on receipt by the Company of a "call clear" message from the Customer's equipment or the terminating operator's equipment.
 - 8.1.4. Some calls incur a Connection Fee which is added to any Call Charges related to the call.
 - 8.1.5. A full tariff rate list can be obtained by contacting the Company or querying the Company's website
 - 8.1.6. All rates provided to Customers exclude Value Added Tax.
 - 8.1.7. We may change the tariff rates and Call Charges at any time and Customers must keep track of rates by looking at the Company's website.
 - 8.1.8. All calls to External Numbers are subject to a 1p minimum call charge.
- 8.2. 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.
- 8.3. During any trial periods, the Company may restrict calls to External Numbers as it, in its sole discretion, sees fit.
- 8.4. Unless instructed otherwise by the Customer, the Company will restrict calls to External Numbers with a per minute calling rate or a connection fee exceeding such charges as the Company may, from time to time, specify. The Company may vary the default threshold without notice.
- 8.5. The Company will provide access to the Emergency Services by dialling 999 or 112 from any Extension.
 - 8.5.1. 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.
 - 8.5.2. The Customer must be aware that the Company provides a VoIP service which does not guarantee access to the Emergency Services. Your access to the Service is dependent on your connection to a suitable data network and the operation of that data network. If you do not

have a connection to a suitable data network, or your data network is not functioning correctly, you will not be able to use the Service, including for the purposes of making calls to the Emergency Services. The Customer must ensure adequate provision is in place to contact the Emergency Services in the case of power failure, network issues or service affecting maintenance.

8.5.3. When speaking with the Emergency Services, the caller may be required to verbally provide their physical location to the emergency operator.

8.5.4. 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.

9. Network & Service Maintenance

9.1. We reserve the right to modify our Network and/or system configurations whenever required, in order to provide the Service.

9.2. 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.

9.3. We may, without prior notice, suspend all or part of the Service if, in our reasonable opinion, it is necessary to do so to stop or mitigate any problem or attack affecting our Network, equipment, or services (including any network, equipment, or services provided to another customer), or to deal with behaviour which, in our reasonable opinion, amounts to misuse of the Service..

9.4. Any details of any scheduled maintenance will be published on the Status Site. We encourage Customers to subscribe to the Status Site to receive these updates by e-mail.

10. Provision of Equipment

10.1. The Company may supply Equipment to the Customer on their request.

10.2. 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.

10.3. The Customer may order Equipment through any of the approved channels listed below:

10.3.1. through the Company's website;

10.3.2. by e-mailing the Company at accounts@dial9.co.uk; or

10.3.3. by calling the Company's sales team.

10.4. If any Equipment arrives in a state where it is not operational ("dead on arrival") the Customer must follow the procedure set out in clause 10.6 to return the faulty equipment to the Company and the Company will replace the unit with the same or a technically equivalent replacement.

10.5. 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.

10.6. Customers must seek approval from the Company before returning any Equipment. If we provide the Customer with an RMA code, the Customer must put this RMA code in a prominent place on the outer packaging of the relevant item. The Customer is responsible for the costs associated with returning the item to us, and must pack the item and send it appropriately, so that we receive it in pristine condition. If the Customer does not comply with this clause 10.6, the Customer's item will not be treated as returned. We will assess your returned item promptly after receiving it, and we will notify the Customer if it is eligible for a refund.

11. Cooling-off period / right to cancel

11.1. Subject to clause 11.2, if you are a Consumer, you have a cooling-off period in which you can cancel certain Services. The cooling-off period begins on the date this Agreement and lasts for 14 days.

11.2. The cooling-off period does not apply:

11.2.1. If you are not a Consumer; or

11.2.2. If you are a Consumer, and you have made an express request for us to provide the Services immediately.

11.3. If you wish to exercise your rights under this clause 11, you must inform us of your decision by sending an email accounts@dial9.co.uk. You must send this email before the end of the period set out in clause 11.1. You can find our model cancellation document at <http://www.dial9.co.uk/legal/consumer-cancellation-form>

11.4. We will reimburse all payments received from you within 14 days of receiving your email.

12. Termination & Cancellation

12.1. 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. We shall not be liable for any losses to the Customer arising from this suspension.

12.2. The Company may terminate this Agreement:

12.2.1. if we suspend or have suspended the Service, termination will take effect at least 15 days (as notified to you by us) from the day on which we notify you of termination and, in our sole discretion, the Service may remain suspended for some or all of that period;

12.2.2. effective either immediately or at a future point notified to you by us, by giving notice if

12.2.2.1. we are entitled to do so under this Agreement;

12.2.2.2. the Customer commits a material breach of an obligation under this Agreement which is not capable of remedy, including any breach of clause 4;

- 12.2.2.3. 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;
- 12.2.2.4. any step is taken to wind up or dissolve the Customer, a receiver, and/or a 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
- 12.2.2.5. the Company is required to do so by Ofcom, the Phone-paid Services Authority or any judicial, regulatory or governmental body.
- 12.3. The Company may terminate this Agreement, without cause, on 90 days' notice to you.
- 12.4. The Customer may terminate this Agreement at any time 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 must settle the full amount due and then terminate this Agreement. To terminate the Agreement, the Customer must contact the Company. Termination is not effective until the Company sends confirmation of receipt to the Customer.
- 12.5. If the Service includes any element which is subject to a minimum term, if the Customer wishes to terminate the Agreement or that element of the Service within the minimum term, the Customer shall pay any applicable early termination fee, in addition to any other sums due.
- 12.6. In the event of termination of this Agreement for any reason, other than where covered by clause 12.7, the Customer is not entitled to a refund of any fees paid, including any credit, and the Customer will automatically, immediately, and irrevocably, lose access to any phone numbers relating to the Service.
- 12.7. We may, from time to time, offer a guarantee period. As an exception to clause 12.6, if the Customer terminates this Agreement within a notified guarantee period, we will refund the Customer any Subscription Fees paid by the Customer relating to that trial period. The Customer remains liable for, and we shall not refund, Call Charges, charges for call bundles with more than what we consider to be insignificant usage, or charges for any Equipment purchased. This clause does not apply to Wholesale Customers or in respect of SIP trunking.
- 12.8. Any termination of this Agreement shall be without prejudice to the accrued rights of the parties on the date of such termination, and to the continuation in force of all provisions of this Agreement which expressly or implicitly survive such termination, including clauses 1, 4.9, 4.13.1, 5, 6.1, 12-16, and 18-23.

13. Limitation of Liability

- 13.1. Save as expressly set out in this Agreement, all other conditions, warranties or other terms which might have effect between the Customer and us or be implied or incorporated into this Agreement, whether by statute, common law or otherwise, are hereby excluded to the extent permitted by law, including the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care.

- 13.2. Except where otherwise expressly stipulated in this Agreement, this clause 13 sets out the entire liability of the Company (including liability for the acts and omissions of its employees, agents, consultants and subcontractors) to the Customer.
- 13.3. Neither party limits or excludes its liability to the other for personal injury or death caused by its negligence, for fraud or fraudulent misrepresentation, or for any matter for which, at law, a party cannot limit or exclude its liability
- 13.4. Subject to Clause 13.3, the Company shall not be liable for special, indirect, or consequential losses, nor for the following types of loss, whether direct, indirect, special or consequential, in each case however caused:
- 13.4.1. Financial loss, including loss of profits, earnings, business, goodwill, business interruption;
 - 13.4.2. Expected or incidental losses; loss of expected savings; loss of sales; failure to reduce bad debt; reduction in the value of an asset;
 - 13.4.3. Loss of, or corruption to, data;
 - 13.4.4. Interrupted communication; or
 - 13.4.5. Any delay in the provision of the Service or in rectifying a fault with the Service.
- 13.5. The Company shall have no liability to the Customer in respect of any demand or claim where:
- 13.5.1. the demand or claim arises as a result of the Customer's negligence, misconduct or breach of this Agreement.
 - 13.5.2. the Customer does not immediately notify the Company of any claim or loss;
 - 13.5.3. 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.
- 13.6. Subject to clauses 13.3, 13.4 and 13.5, 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 in respect of the 30 day period immediately preceding the date on which the liability was incurred, but in no event shall exceed £1,000 for any one event or series of events.
- 13.7. Except as otherwise stated, the Customer's only remedies for any breach of this Agreement shall, at the Company's sole discretion, be:
- 13.7.1. correction in a reasonable timescale of any fault; or
 - 13.7.2. replacement or re-performance of the Service supplied.
- 13.8. The Customer does not limit or exclude its liability for the indemnities set out in clause 14, or for sums due under this Agreement.
- 13.9. The Customer agrees that the provisions of this clause 13 are fair and reasonable.

14. Indemnity

- 14.1. The Customer indemnifies 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 or misuse of the Services and all costs relating thereto.
- 14.2. The Customer indemnifies 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:
- 14.2.1. a breach or allegation of breach of the terms of the Agreement;
 - 14.2.2. negligence, misconduct or any allegation of negligence or misconduct on the part of the Customer or any third party;
 - 14.2.3. the operation or break down of any equipment or software owned or used by the Customer;
 - 14.2.4. any fraud, or artificial inflation of traffic (as set out in Annex E of BT's Network Charge Control Standard Interconnect Agreement);
 - 14.2.5. any claim brought against us by any third party alleging that its intellectual property rights are infringed by the use by you of the Service;
 - 14.2.6. marketing or promotional activities undertaken by or on behalf of the Customer; and
 - 14.2.7. the service content provided or marketed on the behalf of the Customer.

15. Data protection

- 15.1. References in this clause 15 to a Regulation are to regulation 2016/679/EC. References to an Article are to an Article of the Regulation. Capitalised terms in this clause have the meaning defined by the Regulation unless otherwise defined in this Agreement.
- 15.2. If, in the course of providing the Service, the Customer is a Controller and we are the Customer's Processor in respect of any Personal Data, we will:
- 15.2.1. Process Personal Data in accordance with all applicable law;
 - 15.2.2. Process the Personal Data only on the Customer's documented instructions as set out in this Agreement and as dictated by the Customer in its configuration of the Service through the Online Management System, including with regard to transfers of Personal Data to a third country or an international organisation;
 - 15.2.3. Unless prohibited by law, notify the Customer if we are required by any law of the European Union or the law of one of the Member States of the European Union to act other than in accordance with the Customer's instructions or if, in our opinion, any of the Customer's instructions infringes the Regulation or other Union or Member State data protection provisions;
 - 15.2.4. Have the Customer's general authorisation to obtain other Processors and shall respect the conditions referred to in paragraphs 2 and 4 of Article 28 for any such engagement. Subject to clause 13, we shall be liable for the acts and omissions of our Sub-processors, and we shall ensure that the Sub-processor contract (as it relates to the Processing of Personal Data) is on terms which are substantially the same as, and in any case no less onerous than, this clause 15;

- 15.2.5. Ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
 - 15.2.6. Take all measures required pursuant to Article 32;
 - 15.2.7. Taking into account the nature of the Processing, assist the Customer, at the Customer's cost, by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Customer's obligation to respond to requests for exercising the Data Subject's rights laid down in Chapter III of the Regulation;
 - 15.2.8. Provide, at the Customer's cost, reasonable assistance on written request by the Customer in ensuring compliance with the Customer's obligations pursuant to Articles 32 to 36, taking into account the nature of Processing and the information available to us;
 - 15.2.9. At the Customer's choice and cost, delete or return all the Personal Data to the Customer after the end of the provision of the Services relating to the Processing, and delete existing copies unless Union or Member State law requires storage of the Personal Data;
 - 15.2.10. At the Customer's cost and following written agreement as to the details, make available to the Customer all information necessary to demonstrate compliance with the obligations laid down in Article 28, and allow for and contribute to audits, including inspections, conducted by the Customer or another auditor mandated by the Customer; and
 - 15.2.11. Notify the Customer without undue delay if we become aware of a Personal Data Breach for which we are responsible.
- 15.3. Notwithstanding this clause 15, the Customer is responsible for ensuring that its configuration and use of the Service, and any services that it provides (whether to itself or others) comply with its obligations under data protection law.

16. Severability

- 16.1. 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.

17. Modification of Agreement

- 17.1. The Company reserves the right to modify this Agreement from time to time.
- 17.2. The Company will provide the Customer with fifteen (15) days' notice of any changes.
- 17.3. If the Customer does not agree with any modifications, they will be able to terminate this Agreement immediately without penalty.
- 17.4. Changes to the Subscription Fees or the Call Charges, or to the limits specified in clause 8.4, shall not be "modifications" for the purpose of this clause 17.

18. Assignment

18.1. Neither we nor the Customer may assign, novate, or otherwise transfer, our respective rights or obligations (or both) under this Agreement without prior written consent of the other party, with the exception of the following:

18.1.1. The Company may freely assign, novate, or otherwise transfer, our rights or obligations (or both) under this Agreement to any other company controlled by, in common ownership with, or controlling, Dial 9 Communications Limited.

19. Dispute Resolution

19.1. This Agreement is subject to the laws of England.

19.2. Our Customer Complaints Code is available at <https://www.dial9.co.uk/legal/complaints>

19.3. The Customer agrees that we shall deal with any disputes or claims arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims) as follows:

19.3.1. The issue in dispute shall be referred for discussion to, in the case of the Customer, the name of the main account holder, and in our case, our accounts team (accounts@dial9.co.uk);

19.3.2. If the dispute is not resolved, the managing directors (or equivalent) of each of us shall discuss the dispute;

19.3.3. If the dispute is not resolved:

19.3.3.1. if the Customer is entitled to refer the dispute to alternative dispute resolution, the Customer may do so. Details of alternative dispute resolution are available at <https://www.dial9.co.uk/legal/complaints>; and

19.3.3.2. if the Customer is ineligible to use alternative dispute resolution or do not do so, or if we wish to bring proceedings, the Customer agrees that the English courts have exclusive jurisdiction to settle the dispute.

19.4. We shall both bear our own costs for elements of the dispute resolution procedure up to the involvement of the courts under clause 19.3.3.2.

20. Force Majeure

20.1. The Company shall not be liable for any interruption, delay or failure in service resulting 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.

21. Notices

21.1. All notices from the Company to the Customer will be sent by electronic email (“e-mail”) to the last known address of the Customer.

21.2. All notices from the Customer to the Company other than the service of court proceedings must be sent by electronic email (“e-mail”) to accounts@dial9.co.uk or by postal mail to:

Dial 9 Communications Limited,
Kemp House,
152-160 City Road,
London.
EC1V 2NX.

21.3. Notice for the service of court proceedings from the Customer to the Company shall be by a signed-for postal service which provides proof of delivery, or by courier, and such notice shall be addressed to the Company’s address in clause 21.2.

21.4. Notices provided by e-mail will be considered to have been served:

21.4.1. In the case of us notifying the Customer, one day after the day on which we send the email;
and

21.4.2. In the case of the Customer notifying us, one business day after the Customer receives confirmation from us that we received such notification.

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

21.6. Notices provided by any other means other than those specified above shall have no effect.

22. General

22.1. This Agreement set out all the terms agreed between us about the subject matter of this Agreement.

This Agreement supersedes all previous negotiations, understandings and representations.

22.2. A person who is not a party to this Agreement shall have no rights under this Agreement.

22.3. 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. A waiver of any breach or provision of this Agreement shall only be effective if made by email or in writing.

22.4. Each Party shall

22.4.1. comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010; and

22.4.2. not engage in any activity, practice or conduct which constitutes an offence under the Bribery Act 2010, or would do so if such activity, practice or conduct had been carried out in the UK.

22.5. Nothing in this Agreement establishes any partnership (even if you are a reseller, which we call a “partner”), joint venture, or agency.

23. Additional Responsibilities & Obligations of Wholesale Customers

23.1. This clause 23 applies to any Customer which acts as a Wholesale Customer, even if not accepted or otherwise recognised by us as a Wholesale Customer.

23.2. We may, in our sole discretion, choose to accept a Customer as a Wholesale Customer.

23.3. Where we communicate a requirement to meet certain targets, such as minimum turnover or throughput, the Wholesale Customer must meet such targets. If the Wholesale Customer fails to meet such targets, we may, in our sole discretion, charge the Wholesale Customer up to that target or minimum figure, or stop the Customer from remaining a Wholesale Customer, or both.

23.4. The Wholesale Customer shall:

23.4.1. comply with all applicable laws and regulations, including Ofcom's General Conditions of Entitlement and any guidelines for the provision of customer line identification facilities and other related services published by Ofcom;

23.4.2. follow any reasonable instructions issued by us in relation to the Service;

23.4.3. have in place appropriate technical and organizational security measures, including in respect of passwords and access levels;

23.4.4. act at all times in accordance with good industry practice;

23.4.5. ensure that all location information about any numbers allocated to their users is submitted to the Company as soon as is practicable, for use in meeting emergency services location obligations. In addition to our other rights and remedies under this Agreement, if you breach this clause, we may charge you (and you are obliged to pay) an additional charge for each breach;

23.4.6. not do anything that will, or will be likely to, cause loss or damage to us or our reputation; and

23.4.7. permit us to audit its compliance with its obligations under this Agreement.

23.5. The Wholesale Customer shall:

23.5.1. use only up to date information and materials concerning the Service in its dealings with customers or potential customers, as downloaded from our website or made available by us;

23.5.2. not make any statements as to the Service which have not been approved beforehand by us in writing;

23.5.3. keep up to date with developments concerning Dial9 and our Services by regularly checking our website and shall ensure that any staff or representatives who may engage in activities covered by this Agreement are kept up to date with such developments; and

23.5.4. upon request, provide us with full data, information and materials regarding the Wholesale Customer's services.

23.6. Notwithstanding the generality of clause 23.4.1, the Wholesale Customer agrees to take measures to protect the security & resilience of its network and services in compliance with Sections 105A and 105D of the Act. Such measures shall include but not necessarily be limited to the following:

23.6.1. implementing access control and authentication mechanisms for network & information systems;

- 23.6.2. ensuring software is not tampered with or alerted without authorisation;
 - 23.6.3. ensuring that data critical to network security (such as passwords) are not disclosed or tampered with and are changed regularly; and
 - 23.6.4. regularly checking for viruses and malware.
- 23.7. The Wholesale Customer shall:
- 23.7.1. enter into contracts with its users on terms which are the same as, or substantially similar to, the terms of this Agreement; and
 - 23.7.2. diligently and properly enforce its contract with its customers (including if appropriate by suspending or terminating the provision of its services to the customer) where the Wholesale Customer knows or reasonably suspects that a customer is in breach of contract.
- 23.8. The Wholesale Customer shall not allocate any Number to a customer or end user or to a potential customer or end user who appears at the date of the request for allocation on any of the lists that may at any time in the future be compiled and published by Ofcom of companies and individuals that have caused serious or repeated harm to consumers (“Number Refusal List”) or of companies and individuals that are under assessment (“Under Assessment List”).
- 23.9. The Wholesale Customer is responsible for all aspects of support to its customers in respect of the Service, including sales, billing, marketing, and customer service activities.
- 23.10. Provided that the Wholesale Customer is up to date with all payments due under this Agreement, we shall provide Wholesale Customer (but not its customers or end users) with reasonable technical support for the Service.
- 23.11. We shall use reasonable efforts to provide a facility to enable the Wholesale Customer to comply with its legal obligations in respect of the porting of telephone numbers on the request of its customers. We will not charge the Wholesale Customer for requests for number portability from us to another communications provider within the ordinary course of business, where the Wholesale Customer’s customer has requested to transfer their service from the Wholesale Customer to another communications provider. The Wholesale Customer shall not use, or attempt to use, these number portability facilities other than on the specific request of the relevant customer; or to move telephone numbers to another communications provider, where the Wholesale Customer remains part of the supply chain to the customer.
- 23.12. The Wholesale Customer is fully liable to us for all actions relating to its account, including action or inaction by its customer, end users or other third parties, and including all charges incurred, irrespective of whether the Wholesale Customer authorised or was aware of such action or inaction.
- 23.13. For the avoidance of doubt, the Wholesale Customer is responsible for, and agrees to pay in full for, any charges incurred by it and its customers and end users. All sums due to us under this Agreement shall be paid in full by the Wholesale Customer by the due date, notwithstanding that the Wholesale Customer may not have received payment from its customers or end users and any dispute between the Wholesale Customer and its customers or end users regarding billing is the sole responsibility of the Wholesale Customer.

Signed for and on behalf of the Customer

Signature

Print Name

Position

Date of Signature

Company Name

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 21.2 or e-mailed to accounts@dial9.co.uk.