

Terms and Conditions for number allocation and use of this site

These standard terms and conditions apply between Liquid11 and you the "Customer" for the provision of the online switchboard product we provide directly and through our partners and associated access numbers. You the Customer thereby agree to become bound by them.

Definitions

In these Terms and Conditions the following words shall have the following meanings:

"access number" is the 0870, 0871, 0872, 0844, 0845, 0800, 070 number or any other number issued by Liquid 11 and used by the customer to utilize the switchboard product

"Customer" means you, a person or entity who may use the switchboard product by agreeing to these license terms and conditions.

"switchboard product" means the Service licensed to the Customer pursuant to these terms and conditions, whereby the Customer is able to utilize an access number to route, queue and otherwise manipulate and redirect telephone calls via the web interface and or SMS by complying with these terms and conditions.

"Know-how" means knowledge, experience, data, technology, designs, techniques, drawings, software, and other information and knowledge.

"Software" means any software that Liquid11 licenses to you in accordance with these terms and conditions for the provision of the switchboard products or services.

"Territory" means all areas to which the switchboard product can be used

"Act" the Communications Act 2003

"Agreement" any agreement to which these Terms and Conditions are annexed or by which they are incorporated by reference (including any quote or relevant pricing supplied by Liquid11 to the Service Provider) as amended from time to time, whether evidenced in writing, by email or fax or executed by the Service Provider on-line from Liquid11's web site; any reference to the "Agreement" shall include a reference to these terms and conditions

"Billing Carrier" the monopoly, or former monopoly operator in each country, state, region or geographic location or any other fixed local carrier with whom Liquid11 and/or the Interconnect Carrier contract for the payment and receipt of interconnect fees

"Bureau Services" off the shelf services supplied and managed by Liquid11 for inclusion in a Premium Rate service, whether or not content is also provided by the Service Provider

"Call Conveyance" the transmission path between a Caller and a Termination Number

"Caller" a distant end user that makes a call to the access numbers or who sends a message to the SMS Short Code(s) to access the Service Provider's services

"Code" any code of practice issued by PayphonePlus or any other Regulator or other such body that shall replace them in relation to the Service

"Equipment" the transmission; Call Conveyance; number translation and various other telecommunications systems and resources employed by Liquid11 and the Interconnect Carrier to allow the Call Conveyance from time to time

"Intellectual Property Rights" copyright, database right, patents, registered and unregistered trade and service marks, registered and unregistered design rights and any and all other industrial or intellectual property rights, trade secrets existing or future and all other rights in relation or supplementary thereto from time to time

"Interconnect Carrier" any licensed carrier or operator of telecommunications systems with whom Liquid11 contracts for the provision or management of interconnection pursuant to the Telecommunications (Interconnection) Regulations Act 1997 No. 2931

"Minutes" call duration to the access numbers by a Caller

"Personal Number" a number commencing "070", otherwise termed a "follow me" number allowing a customer of that number to be called using a single access number and used in accordance with Ofcom regulations

"Regulator" PayphonePlus or any statutory or non statutory regulatory body which may replace it or assume its powers and/or functions of regulation of Telephone Information Services or the corresponding regulatory authority or body in country, state, region or geographic location,

"Site" a location operated by the Service Provider where services are provided

"SMS Short Codes" the shared telephone short code numbers non-exclusively allocated by Liquid11 to the Service Provider

"Termination Number" the telephone numbers to which calls to the access numbers are translated to (and delivered to) from time to time

"Units" number of billable items generated, as defined in the quote or relevant pricing supplied to the Service Provider prior to the Agreement

1. Prior agreement, representations and formation of contract

1.1. The Agreement replaces any previous agreements of whatever nature in relation to the Services.

1.2. The Agreement shall constitute the entire agreement between the parties in relation to the Services, and any former representations (of any kind, written, verbal or otherwise) shall be superseded by the Agreement.

1.3. No warranties or statements made by Liquid11 prior to execution of the Agreement forms any part of the Agreement.

1.4. The Service Provider acknowledges that:

1.4.1. The Services are not specifically designed for the customer, or customers use; and

1.4.2. Liquid11 is dependent on the Billing Carrier; any Interconnect Carrier and other third parties from time to time as to the provision of the Services in respect of which Liquid11 offers no assurances; warranties or guarantees.

1.5. Reference in the Agreement to any party include references to its successors in title and its assigns and reference to legislation shall be deemed to refer to such legislation as amended, replaces or substituted (whether in whole or in part) from time to time

1.6. Liquid11 shall be entitled to amend any provision or clause of the Agreement at any time whatsoever and without the prior consent of the Service Provider where such amendment is required for regulatory, insurance, safety or statutory reasons or to comply with any such requirement upon the Billing Carrier or the Interconnect Carrier or other third party upon whom Liquid11 relies for the provision of the Services.

2. Duration

2.1. The Agreement shall be in place until terminated by either party

2.2. The Initial Term is from when the customer clicks on the acceptance link on the sign up web page.

3. Termination

3.1. Liquid11 may terminate the Agreement with immediate effect in the event that:

3.1.1. Liquid11 or the customer receives an instruction, complaint or objection from a Billing Carrier, Interconnect Carrier, Regulator, Governmental or other official body or from any other carrier or third party with whom Liquid11 contracts in relation to the Information Services; or

3.1.2. Liquid11 believes that the Customer is, has been or is about to allow the Services to be used for any unlawful purpose, to encourage any behaviour or conduct which is carried out would be unlawful or for any other purpose prohibited under the Agreement; or

3.1.3. The Customer threatens or appears to be about to fail to adhere to the terms of the Agreement or the Code; or

3.1.4. The Customer ceases or threatens to cease business or is no longer able to pay its debts or is otherwise insolvent within the meaning of the Insolvency Act 1986 or otherwise convenes a meeting of, or comes to an arrangement with its creditors, has distress or other seizure or attachment order levied over any of its assets or fails to satisfy any demand for payment from any lawful person, firm or body corporate or appoints a Receiver, Administrator or Administrative Receiver.

3.2. Either party may terminate the Agreement in the event that:

3.2.1. The other party has committed a breach of the Agreement, and fails to remedy said breach within 30 days of a notice requiring it to do so; or

3.3. The other party takes any steps to wind up, dissolve or appoint a Receiver, Administrative Receiver

3.4. Termination of the Agreement shall be without prejudice to the rights and obligations accruing up to and including the date of termination

3.7 Provision of services by Liquid11

3.5. Liquid11 shall use its reasonable endeavors to ensure that the Services are ready and available at the Service Live Date or as soon as practical thereafter.

3.6. Liquid11 may further allocate additional access numbers to the customer as requested from time to time (at Liquid11's sole discretion).

3.7. The customer acknowledges that:

3.7.1. it shall have no ownership in the access Numbers or SMS Short Codes;

3.7.2. allocation of the access numbers does not constitute transfer thereof to customer, nor transfer thereof any other rights, benefits, goodwill or property in the Premium Rate Numbers or access number whatsoever;

3.7.3. SMS Short Codes are non-portable and used by other customers of Liquid11;

3.8. The customer acknowledges that Liquid11 may at its absolute discretion withdraw or re-allocate numbers or codes if it is reasonable to do so, or where:

3.8.1. There are less than ten calls per month to the access number for three or more consecutive months or when used with the switchboard free product there is no traffic for 60 consecutive days; or

3.8.2 There is less than £35 revenue generated on the access numbers

3.8.3. The customer is in breach of the Agreement; or

3.8.4. The Agreement is terminated (for any reason whatsoever); or

3.8.5. Such action is necessary to comply with any legal requirement or re-numbering plan or as directed by the Regulator or other official or Governmental body; or

3.8.6. Such action is necessary to optimize switch capacity or usage provided at all times Liquid11 takes all reasonable steps so as to minimize interruption to Service Providers business

3.8.7. If a purchased number fails to bill correctly on reoccurring billing cycles

3.9. In the event of withdrawal or re-allocation of any access number. Liquid11 shall use its best endeavors to give the customer as much notice as is reasonably possible.

3.10. Liquid11 shall use its best endeavors to provide the Services and the equipment suitable for providing the Services. The customer acknowledges that:

3.10.1. Liquid11 cannot provide a fault free service; and

3.10.2. No capacity is guaranteed by Liquid11

3.10.3. Liquid11 gives no warranty that the Services or any Equipment used to provide the Services will be fault or error free; and

3.10.4. Liquid11 gives no warranty that the Services, Equipment or its network, or that of the Interconnect Carrier will be continuous or fit for the customer's purpose;

3.10.5. The customer bears sole responsible for ascertaining the suitability of the Services for its application.

3.10.6. Liquid11 shall notify the customer of any necessary technical changes in its service, Equipment or network affecting Services offered to the customer as soon as is reasonably practicable by means of email or a notice at either web site.

3.10.7. The use of Personal Numbers is regulated by OFCOM and the customer hereby agrees to be bound by any guidance issued by OFCOM or the Regulator from time to time;

3.10.8. For the avoidance of any doubt, a breach by the customer of any OFCOM guidance, code of practice or regulation shall be a breach of this Agreement.

3.11. Liquid11 may in its absolute discretion and without penalty to it:

3.11.1. suspend the Services at any time for the purpose of system maintenance giving the customer such notice as is practical under the circumstances

3.11.2. from time to time modify its Equipment or network and change its service providers and Interconnect Carrier without notice to and without consulting with customer.

3.11.3. suspend, bar or restrict access to the Services if at any time the number of calls or attempted calls to the access number causes or is liable to cause congestion or other disruption within any part of Liquid11's system.

3.11.4. from time to time impose traffic restrictions on particular access numbers to protect service quality.

4. Customers use of the services

4.1. The customer undertakes any agreement with its distributors and agents staff or associated of the Services shall contain conditions imposing upon them:

4.2. an obligation to comply with the Code, with any OFCOM or PAYPHONEPLUS guidance, code of practice or regulation and with any code issued by any Mobile Network Operator.

4.3. On request the customer shall immediately provide Liquid11 or the Regulator with such information or material as they may request relating to the Information Services.

4.4. The customer shall immediately notify Liquid11 of any change in its name, constitution, address, telephone numbers.

4.5. The customer acknowledges that if Liquid11 or the Interconnect Carrier is requested, directed or

recommended to do so by the Regulator or any other governmental or agency it may:

4.5.1. cease providing the Services without incurring any liability to the customer whatsoever; or

4.5.2. it shall have no claim (of whatever nature) against Liquid11 for any action taken.

4.6. The customer acknowledges that Liquid11 has the absolute right to monitor all Services and record any calls made to the Premium Rate Numbers or access number

4.7. Notwithstanding any other provision in the Agreement, the customer irrevocably authorises Liquid11 to share information relating to the Services, its use of the Services and the conduct of its affairs with Liquid11 with the Regulator, the Billing Carrier or Interconnect Carrier or other such person,

4.8. The CUSTOMER shall notify Liquid11 of any television or radio based advertising campaigns or other promotions that are likely to result in sudden peaks in Calls traffic in order that the parties can ascertain whether the anticipated number of Calls is likely to result in a failure of the Service. The customer acknowledges that a large number of calls to the Premium Rate Numbers or access numbers in a short period of time may cause some or all of such calls to fail, or cause a general failure in the Service.

4.9. The customer agrees to only connect a premium rate number or access number to a UK geographic number.

4.10. The customer will not without prior permission of a duly appointed office of Liquid11 connect a premium rate number or access number to the following:

In international number

A non geographical number

A directory enquiry short number

A mobile phone number

5. Limitation of liability & indemnity

5.1. Save in the event of death or personal injury or as set out in the Agreement neither party shall be liable to the other or to any third party for any direct, indirect or consequential losses or damages whatsoever whether in contract, tort or otherwise (including negligence). Reference in this clause to "direct, indirect or consequential losses or damages" shall include any economic loss including (but without this list being exhaustive) without limitation any direct or indirect loss of profits, anticipated profits or savings, business, contacts, revenue, time or goodwill or any loss or damages of whatever nature including (but without this list being exhaustive) loss of data or equipment other than intentional damage by Liquid11 whilst on the customers property.

5.2. Save as expressly set out in the Agreement, all warranties whether express or implied are specifically excluded from the Agreement.

5.3. The customer holds harmless, indemnifies and keeps indemnified Liquid11 and Liquid11's parents, subsidiaries, affiliates, officers, shareholders and employees in respect of all liabilities, regulatory fines or penalties, costs (including legal costs and disbursements), losses and expenses arising (directly or indirectly) out of:

5.3.1. the use or misuse of the Services by the customer or any third party;

5.3.2. Any claim or demand (including any made by a third party) arising out of use of the Services by a third party;

5.3.3. Any action, investigation, adjudication or oral hearing or appeal arising from any complaint made to the Regulator against Liquid11 in respect of any breach of the Code by the customer or agents;

5.3.4. A breach or allegation of breach of the Agreement by the customer or a third party;

5.3.5. Any negligence, misconduct, or any allegation of negligence or misconduct by customer or a third

party;

5.3.6. Any unlawful action, criminal act, libelous or slanderous statement, breach of Intellectual Property of Liquid11 or a third party whatsoever;

5.3.7. Any other act committed by customer causing loss or damages (including damage to reputation) sustained by Liquid11.

5.4. In the event of a breach of the Agreement by Liquid11, Liquid11 shall have 30 days in which to remedy such breach.

5.5. Each of the provisions of the Agreement are constructed and shall be construed independently of one another and applying and surviving even if one or more of the other provisions or clauses is held incapable, unreasonable or void.

6. General

6.1. Each of Liquid11's rights under the Agreement shall not be affected or waived should Liquid11 choose not to enforce any such right at any time, nor shall it affect Liquid11's right to later enforce any such right previously waived or not enforced.

6.2. All notices sent by either party to the other must be in writing and sent by Recorded Delivery post, or by courier to the other parties registered office or last known address and shall be considered served as follows:

6.2.1. First class post - the second day after posting;

6.2.2. Courier - when delivery is signed for;

6.3. Nothing in paragraph 9.2 shall prevent the parties from selecting by agreement from time to time another means of giving or receiving notices under the Agreement and any notice acknowledged by the other party or proved to have been received at their address shall be deemed to have been validly given under the Agreement.

6.4. The parties agree that the Agreement does not constitute a joint venture or partnership of any kind whatsoever.

6.5. Neither party shall bind or attempt to bind the other party or represent the services of the other.

6.6. The customer authorizes Liquid11 to use the customers logo for the purpose of Liquid11 identifying the customer as a customer of Liquid11.

6.7. The customer shall advise Liquid11 of any potential faults in the Services or the Equipment as soon as is practicable.

6.8. Nothing in the Agreement shall be deemed to confer any assignment or license of the parties respective Intellectual Property Rights.

6.9. In the case of any conflict between these Terms and Condition and terms, whether expressed to be by way of variation or not, any set out in the Agreement signed by the parties those terms shall prevail.

6.10. The parties to the Agreement do not intend that any provision of its terms will be enforceable by virtue of the Contract (Rights Of Third Parties) Act 1999 by any person, firm or body corporate not a party to it.

7. Confidentiality

7.1. Each party, and each of its directors, offices, shareholders and employees shall (both during and after the termination of the Agreement) keep secret and confidential and shall not disclose the same to any other party without the other parties previous written consent, or as set out in the Agreement, any

information of whatever nature relating to any matter in relation to the other parties business, products, services, or Payment, with the exception of information:

7.1.1. that was already previously known to either party;

7.1.2. which is ordered to be disclosed by competent court of jurisdiction or by the Regulator or other Governmental authority or recognized law enforcement agency; and

7.1.3. disclosed to the disclosing party by a third party lawfully entitled to disclose it.

7.1.4. Each of the parties may disclose to its officers and employees information required by them to perform their

8. Assignment

8.1 ASSIGNMENT & NOVATION – PayphonePlus and the Contracts (Rights of 3rd Parties) Act 1999

8.1 The customer shall not assign the rights and obligations of this Agreement to any other party without the express permission in writing of Liquid11 which Liquid11 may or may not grant at its sole discretion.

8.2 Liquid 11 may assign the rights and obligation of this Agreement (including for the purpose set out in clause 8.3 hereof) to any third party without the prior consent of the customer.

8.3 In conformity with the requirement set out in paragraph 2.3.2b of the Eleventh Edition of the PayphonePlus Code of Practice the parties hereby agree that for the purpose of Section 1 of the Contracts (Rights of Third Parties) Act 1999 PayphonePlus may in its own right enforce any term of this Agreement.

9. Capacity warranty

Each of the signatories to the Agreement below hereby personally warrants that they are duly empowered to enter into the Agreement and have, where applicable, sought board or other such approval.

10. General

10.1 This Agreement represents the entire understanding between the two shall have any validity.

10.2.1 Liquid11's rights and powers under this Agreement are not affected if it fails to or chooses not to enforce any of them at any time. If any part of this Agreement is not enforceable it will not affect the remainder.

10.2.2 The parties must notify each other in writing of any change of address. All notices sent by first class post to the registered office of either party, or any address detailed in this Agreement, are deemed to have been properly served on the third day after posting.

10.2.3 Neither party shall be deemed to be in breach of this Agreement for any failure in performance (except performance of the obligation to pay any sum) caused by any matter or event outside of their reasonable control, to include, but not limited to any act of god, inclement weather, storm, flood, drought, lightning, fire, power failure, shortage of power, disturbance to power supplies, disconnection damage or disturbance to telecommunications connections and cables, trade dispute, government action, embargoes, termination of or refusal to grant a licence, damage to or loss of equipment or interruption, failure or delay in any service provided to us by any third

party including governmental or regulatory authority or telecommunications Operator, war, military Operations, or riots.

10.4.1 English Law applies to this agreement. Both parties hereby submit to the exclusive jurisdiction of the English Courts.

10.4.2 Both parties agree that they have no joint venture, partnership, or agency relationship as a result of this Agreement. Neither party shall make any offer, guarantee, or warranty to any third party, in regard to the services, that purports to bind the other party.