

Conferencing Terms and Conditions

INTRODUCTION

Before registering or using the Service please read these Terms and Conditions carefully. By registering or using the Service you agree to these Terms and Conditions. If you do not wish to be bound by these Terms and Conditions, you may not register or use the Service. Diva Telecom may modify this Agreement at any time. Modifications shall be effective immediately and your continued use of the Service shall be deemed your conclusive acceptance of the modified Agreement.

1. DEFINITIONS

In this contract:

“Access charges” or “Call charges” means the cost of the call to access the Service, paid either to the Participant’s Network Provider, or Diva.

“Access Numbers” means telephone numbers provided to Customers in order to access the Service.

“Charges” means the charges for the Service(s) notified to the Customer by Diva from time to time.

“Call Now” means the basic audio conference service provided by Diva where a PIN is provided to You after Registration and the provision of a valid email address.

“Upgraded User” means the audio conference service provided by Diva where additional Registration details are provided by You. Following Registration Diva will provide the Service as well as the Control Panel, with associated additional functionality.

“Pro User” means the advanced audio conference service provided by Diva, following Registration including a satisfactory credit score and set-up of a Credit Account. This option includes all the functionality of ‘Regular User’ with additional configuration options including but not limited to call recording and dedicated access numbers.

“Contract” means, in order of precedence, these Conditions, any applicable Service Schedule and Charges Schedule or Price List, the order form (if any) and Registration Process.

“Control Panel” is the online portal or other software provided for the management of the Service to You by Diva.

“Credit Account” means a mechanism allowing Customers to pay for Services on an invoice basis, following Registration and approval.

“Customer” or “You” means the person so named on any order form, or the person named in the Registration Process. Diva may accept instructions from another person who Diva reasonably believes is acting with the Customer’s authority or knowledge.

“Diva Conferencing” is the audio conference service of Diva Telecom Ltd.

“Diva”, “We” or “Us” means Diva Telecom Ltd of Glendevon House, 4 Hawthorn Park, Coal Road, Leeds LS14 1PQ, registered in England No. 05869006.

“DivaTxt” is the SMS text messaging service of Diva Telecom Ltd.

“Network Provider” means the organization You pay for access and/or calls to the public telephone network.

“Participant” means You and anyone You allow to use the Service.

“Price List” means the published Diva Conferencing Price List or Charges Schedule as applicable, which may change from time to time.

“Registration Process” or “Registration” means the

registration process, completed by You, online or by another means, including but not limited to a telephone call.

“Service” means the audio conference service provided by Diva Telecom.

2. COMMENCEMENT OF THE CONTRACT

This Contract begins on the date the Customer receives acceptance from Diva following completion of the Registration Process or when the Customer starts to use the Service, whichever is the earlier.

3. PROVISION OF THE SERVICE

3.1 Diva will provide the Service to the Customer on the terms of this Contract.

3.2 The provision of the Service is at all times subject to the availability of appropriate facilities and capacity. Diva does not guarantee to provide the Service on each occasion that the Customer requests the Service.

3.3 Diva will provide the Service with the reasonable skill and care of a competent telecommunications service provider. Diva cannot guarantee a fault free Service, and from time to time faults may occur. Diva will repair faults as quickly as reasonably possible.

3.4 The Service is available 24 hours a day, except: (a) In the event of scheduled platform maintenance, Registered Users will be notified of any such planned outage by email and within their Control Panel, at least 48 hours prior to service interruption.

(b) In the event of unplanned service interruption beyond our control, where every effort will be made to restore normal Service within a reasonable time. Planned maintenance information is available upon request.

3.5 Occasionally Diva may, for operational reasons, change the Access Numbers for the Service, PIN information or technical specification of the Service. If this happens we will provide customers with as much notice as we are able to, including an email to all affected Registered Users and notice in their Control Panel.

4. USE OF THE SERVICE

4.1 Unless Diva agrees otherwise in writing the Service is provided solely to the Customer and the Customer will not resell or attempt to resell the Service or any part or facility of it to any third party.

4.2 The Service must not be used:

- (a) to send, knowingly receive, upload, download, use or re-use any information or material which is, abusive, indecent, defamatory, obscene or menacing, or in breach of confidence, copyright, privacy or any other rights;
- (b) to send or provide unsolicited advertising or promotional material, or knowingly to receive responses to any unsolicited advertising or

promotional material sent or provided using the Service by any third party; or

(c) fraudulently or in connection with a criminal offence, and you must take all reasonable precautions to ensure that this does not happen.

4.3 The Customer must indemnify Diva against any claims or legal proceedings which are brought or threatened against Diva by a third party because the Service is used in breach of paragraphs 4.1 or 4.2.

5. ACCESS NUMBERS AND SECURITY PINS

5.1 Diva will provide Customers with telephone Access Numbers and Security PINs to use the Service.

5.2 The Customer:

- (a) is responsible for the security and proper use of the Access Numbers and PINs.
- (b) has no right to sell or agree to transfer PIN information, provided for use with the Service.
- (c) must take all necessary steps to ensure that Security PINs provided are kept secure and confidential and must not disclose the information to unauthorised people.
- (d) must immediately inform Diva if there is any reason to believe that PIN information has or is likely to become known to someone not authorised to use it or is being or is likely to be used in an unauthorised way.

5.3 Call charges to Access Numbers are the responsibility of the Participant or Customer, depending on the Access Number type. Please refer to the Diva Conferencing Price List for full details.

5.4 If a Customer forgets or loses Security PIN information, the Customer must contact Diva and satisfy such security checks as Diva may operate.

5.5 Diva reserves the right to suspend access to the Service and/or change Access Number or Security PIN information if at any time Diva considers that there is or is likely to be a breach of security.

5.6 The Customer must immediately inform Diva of any changes to the information the Customer supplied when registering for the Service.

6. CONFIDENTIALITY

6.1 The parties will keep in confidence any information (whether written or oral) of a confidential nature (including software and manuals) obtained under this Contract and will not, without the written consent of the other party, disclose that information to any person (other than their employees or professional advisers, or in the case of Diva also its suppliers and the employees of Diva Telecom or their suppliers, who need to know the information).

6.2 This paragraph 6 will not apply to:

- (a) any information which has been published other than through a breach of this Contract;
- (b) information lawfully in the possession of the recipient before the disclosure under this Contract

took place;

(c) information obtained from a third party who is free to disclose it; and

(d) information which a party is requested to disclose and, if it did not, could be required to do so by law.

6.3 This paragraph 6 will remain in effect for 2 years after the termination of this Contract.

6.4 Contact and other information provided by You or Participants during the course of Registration or use of the Service will not be sold or otherwise provided to any third party, but may be used by Diva to communicate Service messages and for marketing purposes. To change your marketing preferences email privacy@divaconfereencing.co.uk with any requests.

7. CHARGES

7.1 Charges for the Service will be as specified in the Diva Conferencing Price List or Charges Schedule. Unless otherwise specified in the Price List or Charges Schedule, charging will begin when the Customer starts to use the Service.

7.2 The Customer agrees to pay all Charges for the 'Pro User' Service whether the Service is used by the Customer or someone else, and upon receipt of Diva's invoice.

7.3 All Charges will be invoiced and paid in pounds sterling, by Debit Debit, unless otherwise agreed in writing by Diva. Value Added Tax or any other applicable sales tax or like charge, in a country where the Service is provided which is payable by the Customer, will be added to Diva's invoices as appropriate.

7.4 Diva may, at any time, require the Customer to pay a deposit or provide a guarantee as security for payment of future bills.

8. LIMITATION OF LIABILITY

8.1 Diva is not liable to the Customer, either in contract, tort (including negligence) or otherwise for:

- (a) any direct or indirect loss of profits, business or anticipated savings, nor for any indirect loss or damage or for any destruction of data;
- (b) the acts or omissions of any other providers of service used in connection with the Service or for faults in or failures of equipment; or
- (c) any misuse of the Service as defined in Paragraph 4.

8.2 Each provision of this Contract, excluding or limiting liability, operates separately. If any part is held by a court to be unreasonable or inapplicable, the other parts will continue to apply.

9. MATTERS BEYOND THE REASONABLE CONTROL OF EITHER PARTY

9.1 If either party is unable to perform any obligation under this Contract because of a matter beyond that party's reasonable control such as lightning, flood, exceptionally severe weather, fire, explosion, war, civil disorder, industrial disputes or acts of local or central Government or other competent authorities, or events beyond the reasonable control of that party's suppliers, that party will have no liability to the other for that failure to perform.

9.2 In the event of:

- (a) a refusal or delay by a third party to supply a telecommunications service to Diva Telecom and where there is no alternative service available at reasonable cost; or
- (b) the imposition of restrictions of a legal or

regulatory nature which prevent Diva from supplying the Service then Diva will have no liability to the Customer for failure to supply the Service.

9.3 If any of the events detailed in paragraphs 9.1 or 9.2 continue for more than 3 months either party may serve notice on the other terminating this Contract.

10. TERMINATION

Either party may terminate this Contract or the Service provided on giving 30 days written notice. If the Customer terminates the Contract, Service or part of the Service, the Customer must pay any outstanding Charges as specified in the Price List or Charges Schedule.

11. BREACH OF CONTRACT

11.1 Either party may terminate this Contract or the Service (or both):

- (a) immediately on notice if the other party commits a material breach of this Contract, which is capable of remedy, and fails to remedy the breach within a reasonable time of a written notice to do so; or
- (b) immediately on notice if the other party commits a material breach of this Contract which cannot be remedied; or
- (c) on reasonable notice if the other party is repeatedly in breach of this Contract and fails to remedy the breach within a reasonable time of a written notice to do so; or
- (d) immediately on notice if the other party is the subject of a bankruptcy order, or becomes insolvent, or makes any arrangement or composition with or assignment for the benefit of their creditors.

11.2 If Diva is entitled to terminate this Contract under paragraph 11.1, Diva may, on giving prior notice where practicable, suspend the Service without prejudice to such rights. Where the Service is suspended under this paragraph the Customer must pay the Charges for the Service until this Contract is terminated.

11.3 If either party delays in acting upon a breach of this Contract that delay will not be regarded as a waiver of that breach. If either party waives a breach of this Contract that waiver is limited to that particular breach.

12. VARIATION AND TRANSFER RIGHTS

12.1 If the Customer asks Diva to make any changes to the Service Diva may ask the Customer to confirm the request in writing. If Diva agrees to a change, this Contract will be amended from the date when Diva confirms the change in writing to the Customer.

12.2 Diva can change the Conditions of this Contract including the Charges, unless specified otherwise in the Charges Schedule or Price List, at any time. Diva will give not less than 14 days notice of the changes.

12.3 Neither party may transfer any of its rights or obligations under this Contract, without the written consent of the other.

13. GENERAL

13.1 Subject to paragraph 12.1 this Contract contains the whole agreement between the parties and supersedes all previous written or oral agreements relating to its subject matter.

13.2 The parties acknowledge and agree that:

- (a) they have not been induced to enter into this Contract by any representation, warranty or other

assurance not expressly incorporated into it; and (b) in connection with this Contract their only rights and remedies in relation to any representation, warranty or other assurance are for breach of this Contract and that all other rights and remedies are excluded.

13.3 The provisions of paragraphs 13.1 and 13.2 shall not affect the parties' rights or remedies in relation to any fraud or misrepresentation.

13.4 A person who is not party to this Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

14. NOTICES

14.1 Notices given under this Contract must, except for notice given under paragraph 3.5 be in writing and may be delivered by hand or by courier, or sent by first class post, facsimile or e-mail.

Fax: 0330 333 0331.

Email: support@divaconfereencing.co.uk

14.2 Notices to be sent by first class post are to be addressed:

(a) to Diva at Diva Conferencing, Glendevon House, 4 Hawthorn Park, Coal Road, Leeds LS14 1PQ or any alternative address which Diva notifies to the Customer;

(b) to the Customer at the address to which the Customer asks Diva to send invoices or, if the Customer is a limited company, its registered office. Addresses for notices to be sent by e-mail or facsimile must be agreed in writing by both parties.

23. SEVERABILITY

If any provision of this Contract is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of its provisions will continue in full force and effect as if this Contract had been executed with the invalid, illegal or unenforceable provision omitted.

24. JURISDICTION

This Contract is governed by the law of England and Wales and both parties submit to the exclusive jurisdiction of the English Courts.