

Terms and Conditions



The SpeakServe Services you may use (the Services) are as set out in your Order Form. The terms of that form and of these Terms and Conditions govern your use of the Services and constitute a legally binding contract (the Contract) between you and SpeakServe Limited (SpeakServe or we or us) on such terms accordingly.

1. Duration

Your Contract shall begin on the **7th December 2016** specified in your Order Form and shall continue in force until terminated in accordance with these Conditions.

2. Use of the Services

- 2.1. All Participants must make their own arrangements for internet and / or telephone line connections as appropriate and are solely responsible for all related costs and/or charges which may become due in relation to their accessing and/or using the Services.
- 2.2. All Participants are responsible for providing a suitable device (**Device**) to access and use the Services.
- 2.3. In order to access the Services, SpeakServe will provide you with a PIN code or other password. You shall not acquire any rights in relation to any such PIN code or password allocated to you by SpeakServe in connection with the Services.
- 2.4. You are solely responsible for the security, safe keeping and proper use of the PIN code (and any other passwords) received from SpeakServe and should keep them confidential and not disclose them to any third party. You are liable for all charges and other fees payable through the use of your PIN and password, whether such use was authorised by you or not.

3. Provision of Services

- 3.1. If you experience any issue with the Services, you should contact our customer services department (support@speaksolve.com; 0800 980 5155). We will endeavour to fix all issues which are our responsibility and under our control as soon as reasonably practicable. We may monitor and/or record calls made to our customer services departments to improve the quality of our service and or for training and verification purposes.
- 3.2. While we try to deliver a flawless service, it is technically impossible to provide the Services free of all faults across the many networks that we have aggregated to provide the Services. The quality of the Services depends amongst other things on the quality and availability of the network to which call participants (**Participants**) connect to the Services and the quality of computer or mobile devices used to access the Services.
- 3.3. We may at any time and without liability modify, expand, improve, maintain or repair the Services, including suspension of the same in whole or in part. We shall use our reasonable endeavours to notify you in advance (either by email or by notice on our website) of any such event and to minimise disruption to the Services. Routine maintenance of the Services will be carried out during non-business hours in the UK.

4. Security

- 4.1. Without prejudice to clause 2.4 above, you should inform us immediately (by contacting our customer services department as above) if you suspect that your PIN or password has become known to someone who is not authorised to use it. We will put a stop on any such PIN or password if you so require and issue you with new ones (without prejudice to your liability for all such use of the original PIN and or password prior to the time of such request).

- 4.2. SpeakServe may (i) change all Service phone numbers at any time for operational reasons; or (ii) give you instructions that we believe are necessary for security or for the quality of the Services.

5. Charges

- 5.1. Charges will be calculated by reference to the list of prices set out in your Order Form and your usage of the Services as recorded by SpeakServe. You must pay:
 - 5.1.1. in advance for any recurring charges (for example subscription or rental charges); and
 - 5.1.2. in arrears for usage and non-recurring charges (for example calls or connection charges).
- 5.2. All listed charges are subject to VAT which will be charged separately on all relevant invoices.
- 5.3. All listed charges are subject to change by SpeakServe giving not less than 30 days prior written notice.

6. Payment

- 6.1. Invoices will be issued in accordance with your Order Form.
- 6.2. You must pay all invoices issued to you by direct debit (without deduction or set off) or as otherwise agreed in your Order Form.
- 6.3. You must make all payments within the credit period set out in your Order Form. Late payment will incur interest at 5% per annum from the due date of payment up to and including the day preceding the actual date of payment, such interest shall accrue daily and shall be calculated on the basis of a 365 day year.

7. Intellectual Property Rights

- 7.1. You will not acquire any rights in or to any intellectual property rights belonging or licensed to SpeakServe through your usage of the Services (save for an implied licence to use the same through your enjoyment of the Services in accordance with the terms hereof).
- 7.2. Without prejudice to clause 7.1, you shall not and shall not permit anyone else to copy, modify, reverse engineer, decompile or otherwise endeavour to obtain the source code of any software, relating to the Services or any part thereof.

8. Liability

- 8.1. SpeakServe's total aggregate liability to you in connection with the Services whether in contract, tort (including, without limitation, as a result of our negligence), breach of statutory duty or otherwise shall be capped at an amount equal to all charges paid by you in the 3 month period immediately preceding the date on which we are notified of a relevant claim.
- 8.2. Without prejudice to clause 8.1 above, SpeakServe will only be liable for claims made in writing within 6 months of the date on which you become aware (or ought reasonably to have become aware) of the grounds of such claim.
- 8.3. SpeakServe will not be liable for any third party interference to our systems, including but not limited to any such caused by hacking or dial through toll fraud.
- 8.4. SpeakServe shall not, without limitation, be liable for indirect or consequential loss including without limitation loss of profit, revenue, time, business, anticipated savings, opportunity, use or for wasted expenditure and or for loss of or damage to physical property, in all such cases whether or not SpeakServe was advised or aware of the possibility of such damages, losses or expenses.
- 8.5. In the event of any failure of a Service for any reason, SpeakServe shall not be liable should you temporarily or permanently divert your traffic to another service provider.
- 8.6. All warranties, terms and conditions, whether implied by statute or otherwise, are hereby excluded to the maximum amount permitted by law.
- 8.7. Nothing herein shall exclude or limit our liability for personal injury or death caused by our negligence or for fraudulent misrepresentation or to any other extent not permitted by law.

9. Indemnity

- 9.1. You hereby indemnify SpeakServe against any claims or legal proceedings (including damages, loss, costs and expenses) which are brought or threatened against SpeakServe or against any of our sub-contractors by any third party as a result of your use of the Services otherwise than in accordance with the Contract terms.

10. Confidentiality

- 10.1. We each agree to keep in confidence any information of a confidential nature about the other obtained under or in relation to the Contract (whether written or oral) including, in your case, details about the charges levied by us under the Contract, and will not disclose, without the prior written consent of the other party, any such information to any person (other than those of our respective employees and professional advisers who need to know the same for the purpose of the Contract and who are under a duty of confidentiality at least equivalent to this clause 10).
- 10.2. This clause 10 will not apply to any information which has been published (other than through a breach of the Contract); information lawfully in the possession of the recipient before disclosure under the Contract took place; information which is obtained through a third party who is free to disclose it; and information which either of us is required to disclose by law.
- 10.3. SpeakServe shall only discuss your account with you (and, where you are a business, only with those of your employees with the requisite authority).

11. Compliance

- 11.1. We each agree to comply with all applicable laws and regulations relating to the supply and use of the Services, including the Data Protection Act 1998 and any other data protection, privacy or similar laws. We shall each provide the other with such help and co-operation as is reasonably necessary or requested by the other to enable compliance with this clause.
- 11.2. SpeakServe may disclose your personal data to our sub-contractors and service providers in order to supply the Services.
- 11.3. Details of SpeakServe's data protection practices are contained in the Privacy Policy which is available through our website (www.SpeakServe.com) (the **Website**).
- 11.4. You agree that you shall not use or permit the Services to be used in any way which is unlawful or in any other way which could cause annoyance, inconvenience nuisance or needless anxiety (including the making of hoax calls) to any person; or to send, knowingly receive or use any material, message or communication which is offensive, abusive, indecent, defamatory, discriminatory, obscene or menacing; or to spam, send or provide unsolicited advertising or promotional material, or knowingly to receive responses to spam, unsolicited advertising or promotional material sent or provided by a third party; or in contravention of any licence, code of practice, instructions or guidelines issued by any regulatory authority or in contravention of a third party's rights (including SpeakServe's rights); or in a way which SpeakServe, acting reasonably, considers is, or may be, detrimental to the provision of the Services or in a way which could materially affect the quality of any electronic communications service over a public communications network including the Services.

12. Assignment

- 12.1. SpeakServe may assign all or any of the benefit of the Contract at any time without your prior consent.
- 12.2. SpeakServe may delegate the performance of all or any of its obligations under the Contract without your consent provided that SpeakServe will remain liable for such performance.
- 12.3. You shall not assign all or any of your rights or obligations under the Contract to any other person or entity without the prior written consent of SpeakServe.

Suspension

- 12.4. SpeakServe may at its sole discretion (without liability and without losing or reducing any other right or remedy it has under these Conditions) temporarily suspend the Services either in whole or in part until further notice in the event that: you fail to pay any sums due under the Contract on their due date; you breach the Contract; there is an emergency or SpeakServe is obliged to do so by an emergency service organisation; we are required to do so by a public telecommunications network, the government or any other body with competent jurisdiction or by any of our suppliers; we have reasonable grounds to believe that a Service is being used illegally or for a criminal or fraudulent purpose.

13. Termination

- 13.1. Subject as provided below, each Contract shall commence on its Start Date and shall continue for an initial period of 12 months. Each Contract shall continue automatically thereafter for successive periods of 12 months unless either party gives not less than 90 days prior written notice to the other, such notice to expire on the termination date of the then current Contract term.
- 13.2. Either party may terminate the Contract with immediate effect on written notice to the other if the other party: commits a material or persistent breach of the Contract and, where such breach (not including the late payment of any Charges) is capable of remedy, has failed to do so within 30 days of receipt of written notice specifying the breach and requiring its remedy; or is subject to bankruptcy or insolvency proceedings, becomes insolvent, makes or commences negotiations to make any composition or arrangement with or assignment for the benefit of its creditors or any of them, or goes into liquidation (otherwise than for a solvent reconstruction or amalgamation), or a receiver or administrator is appointed over any of its assets.
- 13.3. SpeakServe may terminate the Contract with immediate effect on written notice in order to comply with a decision or action of a competent regulatory authority; or if any contract upon which SpeakServe relies for the provision of the Services is terminated (for whatever reason).
- 13.4. On termination of the Contract for any reason, all monies then owing to SpeakServe shall be duly paid.
- 13.5. Termination of the Contract shall be without prejudice to any claims or remedies that either party may have against the other accrued up to the date of termination.
- 13.6. Termination shall be without prejudice to any provision hereof which is capable of surviving termination including without limitation, the parties' respective obligations under clause 10.

14. General Provisions

- 14.1. The Contract shall be governed by and construed in accordance with English Law and each of the parties irrevocably submits for all purposes in connection with the Contract to the exclusive jurisdiction of the courts of England.
- 14.2. The Contract supersedes all prior agreements, arrangements and undertakings between the parties and constitutes the entire agreement between the parties relating to the Services. The parties each confirm that they have not entered into the Contract on the basis of any representation that is not expressly incorporated into the Contract.
- 14.3. Neither party shall be deemed to be in breach of the Contract or otherwise liable by reason of any delay in performance or non-performance of any of its obligations (other than the obligation to make payments due under it) to the extent that such delay or non-performance is caused by a matter beyond its reasonable control, including but not limited to any act of God, extreme weather conditions, failure or shortage of power supplies, fire, strike, lock-out, trade dispute, the act or omission of government, telecommunications operators or other authority, war, riot, failure or, in the case of SpeakServe, any delay caused by any supplier.

- 14.4. No delay, neglect or forbearance in enforcing any term of the Contract shall prejudice any right of the relevant party. No right, power or remedy conferred upon or reserved for either party is exclusive of any other right, power or remedy available to that party.
- 14.5. No term of the Contract is enforceable pursuant to the Contract (Rights of Third Parties) Act 1999 by any person who is not a party to the Contract.
- 14.6. If any provision of the Contract is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Contract without prejudice to the validity or enforcement of the remaining provisions thereof.
- 14.7. All notices under the Contract shall be in writing (including fax and email) and shall be deemed to have been duly given, if addressed to the most recent address, email address or facsimile number which either party has for the other:
 - 14.7.1. when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or
 - 14.7.2. when sent, if transmitted by fax or email and a successful transmission report or return receipt is generated.
- 14.8. SpeakServe reserves the right to vary the Terms and Conditions at any time provided that any change shall not materially affect the Services or the performance thereof except insofar as it is reasonable to do so. SpeakServe will post the current version of the Terms and Conditions on the Website and you are responsible for reviewing these at regular intervals. Your continued use of the Services after a new version of these Terms and Conditions have been issued by SpeakServe shall be deemed to constitute your acceptance of the same and your agreement to any variation to the Contract terms occasioned thereby.