

## GENERAL CONDITIONS TELEPHONY SERVICE

*Version dated 15/04/2011*

**Please note that the following terms and conditions govern your use of the telephony service. Please read them carefully as, by using the telephony service, you will be taken to have accepted the following conditions. Please note in particular Clauses 5 and 6 (Customer's duties) and Clauses 7 and 8 (OVH's responsibilities and liability).**

**If you are a consumer using the SMS Service you may have additional rights to those set out in these conditions – please visit the Office of Fair Trading's website for more information. Nothing in these terms and conditions overrides any rights you may have as a consumer. Certain of these rights are expressed to apply to Business Customers only and therefore do not apply to consumers.**

### **DEFINITIONS:**

**ADSL:** A technology allowing the use of a telephone network to access a Broadband Internet network.

**OFCOM:** An independent regulator and competition authority for the communication industries in the United Kingdom.

**Customer:** The person or company, domiciled in the United Kingdom, a signatory of the general and specific OVH terms and conditions for any service subscribed with OVH.

**Contract:** The contract consists of the electronic order form completed by the Customer through the OVH interface and complying with the general and eventual specific terms and conditions.

**Security Deposit:** Amount paid by the Customer to OVH as a guarantee of an increase to a customer's consumption limit (pay as you go or if not already included in the package), or in return of material provided and chosen by the Customer as part of a plug and phone offer.

**Package:** Service subscribed to by the Customer at OVH corresponding to a specific telephony offer whose technical characteristics is likely to vary according to the chosen offer.

**Costs of commissioning:** Fees charged to the Customer by OVH when connecting a telephone number to a billing account and corresponding to the routing charges made by OVH for the number selected by the Customer.

**Group:** All pay as you go or monthly tariff lines that the customer decides to group together.

Only one bill will be raised for all shared lines connected to their group. The security deposit as defined in Condition 13 hereof is also common to all combined lines.

Customer Login: Customer Account for any services contracted with OVH and allows access to the management interface.

Management Interface: "Manager" accessible from OVH website by the Customer after identification with the entry of their customer ID and a correct password.

IP Centrex: Technology allowing the outsourcing of an electronic telephone exchange directly on the Internet network.

MGCP: Media Gateway Control Protocol. Telephony Protocol on IP used at OVH. Their protocol is a Customer-server type which means that the server hosted at OVH controls and manages the phones installed for the customers. Their protocol is the basis of IP Centrex services.

Alias number: An additional number subscribed by the Customer which allows automatic call redirection to another number previously assigned by OVH when purchasing a package.

Portability: Operation allowing the Customer to keep their phone number which was previously assigned by another telecommunications operator when subscribing to a telephony service with OVH.

Answering Machine: phone messaging service.

S.I.P.: Session Initiation Protocol, or SIP software, is a voice over IP protocol of a peer-to-peer type. The SIP also supports video telephony services.

Service: Refers to all services provided by OVH in accordance with contracts subscribed to by the Customer.

OVH Website: Accessible from the internet at <http://www.ovh.co.uk> from an internet access.

Fax: An OVH number that can be used as a terminal to receive faxes. They are then converted to PDF format and sent by email directly to the Customer's email address which has been previously supplied to OVH by the Customer.

VoIP: Technique also known as "voice over IP" used to carry voice through standard IP packets.

## 1: PURPOSE

These specific conditions are intended to define OVH's technical and financial telephony offers. Any use of the Service is subject to compliance with these contracted terms by the Customer.

## 2: PROVISION OF SERVICE

### 2.1: Description of Service

The service consists of routing local, national or international telephone calls, from or towards an OVH telephone service.

Use of the Service submitted depends upon the creation of a customer ID.

The Service may also be used for additional functionality, such as receiving faxes, answering machine service etc. as the customer may choose.

The Service allows the customer to make calls to a predetermined list of countries. OVH reserves the right to modify all or part of their list to add new destinations. In the event of suspension of a destination, OVH will inform its customers by communicating on the website <http://www.ovh.co.uk> and/or by sending an email to the email address provided by the Customer at the creation of their Customer ID.

The Customer should choose the offer which best meets their needs from the OVH offer list.

The fee for all destinations accessible from the OVH network is available from the OVH website.

The service provides access to emergency calls. The information of the service holder and the billing address are then transmitted to the emergency services to enable the geolocation of the call.

However, OVH reminds the Customer that the call will be forwarded to the call centre in the appropriate geographical zone, corresponding to the address specified by the Customer in their management interface.

Calls to OVH numbers are only subject to the caller's operator fee.

### 2.2 Phone number

The Customer can choose one or more telephone numbers to use the Service.

The UK telephone numbers are exclusively for UK residents and evidence of their residency will need to be provided.

The Customer's telephone number cannot be transferred or sold by the Customer, nor shall the Customer have any intellectual property or other rights in the phone number.

Their number cannot be considered as definitively assigned to the Customer as OVH may be forced to change the number particularly following a decision made by OFCOM in the framework of managing the numbering plan.

The Customer may lose their phone number when moving out of an area.

For outgoing calls, the Customer's number is displayed, by default on the receiver's terminal.

The Customer has the option to hide the display of their phone number when making calls.

The Customer can choose the functionality they wish to attach to their telephone numbers from the management interface.

A number can be used for the following purposes:

- Incoming / outgoing calls.
- Answering machine: the voice messages are then converted to WMV format and transmitted to the Customer by email directly to the email address already provided.
- Facsimile: the number is then a terminal capable of receiving faxes, which are converted to a PDF format and sent by mail directly to the Customer's email address already provided.

The Customer may, if they wish, purchase an Alias number that they can attach to a line that is already activated subject to payment of the cost of commissioning their service and a monthly fee.

### 3: CONDITIONS OF ACCESS

Prior to subscription to the Service, the Customer shall verify that they have the technical means to allow normal use of the Service including an ADSL connection.

#### OVH Recommendations

OVH recommends an ADSL connection with a minimum capacity of 512 Kbit/s download and 128 Kbit/s upload speed, which allows five calls to be made simultaneously.

It is up to the Customer to make arrangements to facilitate voice traffic which will limit the risk of impaired phone service quality when using their connection (whether for surfing the Internet, consulting sites and downloading files).

The Customer must make sure not to use applications requiring intensive bandwidth, for example downloads or Peer-to-Peer software.

### 4: TERMS OF SUBSCRIPTION

To subscribe to the Service, it is up to the Customer to connect to the telephony category at <http://www.ovh.co.uk>.

The Customer must then create an account when ordering or log in from their existing account. The Customer must ensure that the information submitted is accurate.

For any purchase of a telephony service and in order to open a line OVH requests that the customer send by post a list of documents proving their identity, place of residence and bank details. Failing receipt of these documents, the service will be strictly limited to only receiving calls and making calls within the OVH network.

## 5: CUSTOMER'S DUTIES

The Customer shall have the power, authority and capacity necessary for the completion and implementation of the obligations set forth herein.

The Customer agrees to notify and prove to OVH their address, place of residence and accurate billing information plus to update their information regularly.

It is up to the Customer to provide sufficient documentation to enable their identity to be confirmed.

The Customer agrees to provide up-to-date documents whenever necessary (e.g. where the Customer moves home, changes bank details etc...).

The Customer undertakes to use the Service in accordance with all applicable laws and regulations.

The Customer is solely responsible for calls made from the Service. Any call made from the Service shall be billed accordingly.

The Customer acknowledges that OVH may submit technical recommendations to improve the quality and/or safety of service and as such is committed to regularly connect to their management interface and email service.

The Customer acknowledges that OVH may, in order to improve the quality of service, perform maintenance on infrastructure likely to impair the good functioning of the Service or suspend it for a limited time. OVH will where permissible notify the Customer of the procedures for the discontinuance of the Service and its estimated duration.

The Customer undertakes to use telecommunications equipment in accordance with the regulations and use the Service in accordance with the provisions of their Contract.

The Customer specifically agrees not to use the Service for attempted telephone fraud, abusive prospecting methods, or any use that is detrimental to public order or morality. The Customer will comply with all applicable laws in force relating to the use of the Service.

The use of robots of any kind is strictly prohibited and will result in immediate suspension of the subscribed service and without notice to the Customer.

The Customer agrees to use the service in accordance with all applicable law and OVH's reasonable instructions and guidance from time to time. OVH will limit or suspend all or part of the Service in the event of any unreasonable use.

In the event where use is considered as abusive, OVH reserves the right to suspend the Service. Whenever possible, OVH will warn that use of the Service is subject to non-compliant or unreasonable use. OVH will inform the Customer of the situation and will invite, where appropriate, to verify that the service to which the customer subscribed is adequate to their needs.

Generally, OVH may suspend the Service due to non compliance with these terms.

The Customer shall refrain from any "spoofing" operation, which is to transmit a different phone number as a caller instead of the actual phone number used for achieving communication.

The Customer acknowledges the right of OVH to limit all or part of the Service when they do not respect these conditions, or when they reach the maximum communication reserve as described in Condition 13.

The Customer undertakes to take all necessary measures to not disclose or use illegally, passwords provided confidentially by OVH or allow access to their management interface.

## 6: CUSTOMER'S LIABILITY

The Customer alone bears the consequences of a Service malfunction after any use, by themselves, their staff or by any person to whom the service has been granted access by the Customer. The Customer alone bears the consequences of loss or theft of the password(s) sent by OVH. Usage of a Service by anyone using shall be treated as use by the Customer to whom the password is provided.

The customer is responsible for any configuration changes as defined by OVH and any consequences thereof.

It is up to the Customer to notify OVH about any technical incidents encountered when using the Service in accordance with the provisions of Condition 10 hereof.

All intellectual property rights in the software used to provide the Service shall remain vested in OVH.

## 7: OVH's OBLIGATIONS

The responsibilities and obligations subscribed by OVH are standard obligations.

OVH is committed to implementing the technical means necessary for the proper functioning of the Service but cannot be responsible for fees charged by, or faults caused by other operators. The Customer is aware and acknowledges the involvement of other operators in the call process.

## 8: OVH's LIABILITY

OVH shall be liable for personal injury or death arising as direct result of OVH's negligence or for fraud.

OVH shall not be liable for the following:

- Customer error, negligence, omission, failure or non compliance with advices given
- Unforeseen and insurmountable facts from third party contracts or arrangements
- Events or incidents beyond OVH's reasonable control
- Deterioration of the application
- Misuse of the terminals by the Customer or their employees
- Intervention by unauthorised third parties by the Customer
- Difficulties with the Customer's ISP or contractual relations between the Customer and the ISP supplier.
- Communication routing related to other telecommunications operators
- Weather disturbances.

OVH is not responsible for the nature or content of messages or information sent over the network, or for any third party intervention, or even any incident related to non-compliance of the customer's electrical installation, cabling or wireless network.

OVH does not guarantee that the Service will operate without interruption. In case of Service failure, OVH will notify the Customer about the fault in question, inform them of the nature of the fault and make its best efforts to remedy the failure.

In the case of service failure, repairs that have to be made by OVH which have resulted from a fault already established are expressly excluded from any consequential damages.

Due to the complex technicalities in converting voice messages to an electronic format and subsequently sending them by email, OVH shall not be responsible with routing messages other than to the Customer's mailbox.

In no event shall OVH be liable for losses that are unforeseeable.

For Business Customers (excluding those likely to be considered as consumers) OVH shall in no event be liable for commercial loss, loss of orders, adverse effects on brand image, any problems, loss of profits or customers (e.g. inappropriate disclosure of confidential information concerning the result of defects or hacking howsoever arising and whether pursuant of this Agreement or as a result of OVH's negligence or otherwise. For these types of loss the Customer shall obtain appropriate insurance.

Any action against the Customer by a third party shall be treated as indirect loss and therefore is not recoverable or foreseeable.

In any event, OVH's total liability will be limited to the amount actually paid by the Customer to OVH for the period or charged by OVH to the Customer, or to the price of Service for which OVH is liable, whichever is the lesser.

For reasons relating to network security and quality of service, OVH informs the Customer that they may have to monitor the Service. OVH commits itself, when necessary, to comply with and respect the privacy rights of those involved.

## 9: FORCE MAJEURE

OVH will not be responsible for any failure to provide the service as a result of events outside its control, including (without termination) of the contract or any OVH's obligations hereunder are prevented, restricted or disrupted due to fire, explosion, network transmission failure, facilities collapse, epidemic, earthquake, flood, power outage, war, embargo, law, summons, request or demand of any government, strike, boycott, or other circumstances beyond the reasonable control of OVH (a "Force Majeure" Event"). In such event OVH will be excused from performance of its obligations and the Customer will be equally excused from the performance of their obligations to the extent that their obligations are relating to the execution and are prevented, restricted or impaired, provided that the party makes its best efforts to avoid or alleviate such causes of failure and that both parties shall act promptly when such causes have ceased or been removed.

The party affected by such an event shall inform the other party regularly by email about forecasts of the end of the Force Majeure Event.

If the effects of a Force Majeure Event exceed 30 days, the contract may be terminated at the request of either party, without right to compensation from either side.

## 10: SUPPORT

OVH provides the Customer with technical support at the following contract points:

- Website: <http://www.ovh.co.uk/customerspace/>
- or by telephone listed here <http://www.ovh.co.uk>

The Customer can report any technical incident through the incident submission procedure from their management interface or through technical support.

## 11: BILLING

### 11.1 Commissioning cost

The subscription of a telephone service requires the payment of set up fees corresponding to the activation of a line and telephone number.

### 11.2 Billing method

The pay as you go offer corresponds to use per second; only calls made are charged to the Customer based on rates available in the price list.

A monthly contract is a fixed payment amount corresponding to a predefined monthly use expressed in hours. Any additional call made after fixed consumption contract, and/or calls to special numbers, and/or to countries not included in the package will be charged extra.

In the case of the pay as you go offer or monthly contract, the deduction is made per second.

### 11.3 Additional Options

Customer may choose to purchase additional options that may be associated with subscribed offers. These will be invoiced at the installation or on a monthly basis depending on the case.

## 12: SECURITY DEPOSIT FOR ANY USE NOT INCLUDED IN THE FLAT RATE OR PAY AS YOU GO OFFERS

OVH determines in advance for any billing account subscriptions, a fixed sum corresponding to the total amount to which the Customer is able to make calls that are not included in their flat rate package or pay as you go.

When the Customer reaches the predefined usage limit, all lines attached to their billing account are limited to only receiving incoming calls for pay as you go offers and/or only to destinations included in the contract agreed by the Customer.

The extra charge and/or pay as you go usage limit can be increased by the Customer. They may place one or more order(s) through their management interface that they will have to pay by bank transfer to make a deposit. However, it is not considered an advance payment and does not exempt the Customer from prompt payment of the outstanding amounts.

The deposit cannot be returned to the Customer, even partially, during the term of the contract. The payment remains blocked until termination by either party or if not automatically renewed.

It is up to the Customer to strictly follow the OVH recommendations before making a bank transfer, because if you do not provide the required identification, OVH will not be able to change the Customer's usage limit or edit the invoice for the bank transfer made.

OVH reminds the Customer that it may take three business days from the date of transfer before the money arrives in the OVH account.

The Customer will receive the invoice which corresponds to the deposit payment within 72 hours after the actual transfer receipt by OVH.

Otherwise, it is up to the Customer to contact OVH customer service for any further information.

Notwithstanding the Terms of Service, the Customer may not claim the right to cancel any security deposit transfer or change their consumption threshold immediately after the transfer validation.

The use limit is applicable to all lines connected to the Group determined by the Customer. The total amount for a fixed package or pay as you go for each line associated with the Group cannot exceed the amount determined by OVH or by the Customer where applicable.

In case of cancellation or non-automatic renewal of contract, OVH will proceed with the refund of the deposit paid by the Customer within ten (10) days following the expiration or termination date of their contract. OVH reserves the right to deduct from the security deposit any outstanding payments.

## 13: RATES, PAYMENT, DELAYED PAYMENT AND RENEWALS

### 13.1 Rates

The prices for services provided by OVH related to the OVH terms and conditions of services have several rates depending on the nature of the services provided. The current rates are available on-line at [www.ovh.co.uk](http://www.ovh.co.uk) and upon request at OVH LTD 3 Southwark Street LONDON SE1 1RQ.

Subscriptions and services offered are listed in the order. All taxes are included and are payable in pounds, in advance when placing the order or upon receipt via e-mail of the pro-forma invoice URL.

OVH reserves the right to change prices at any time, subject to informing the Customer by email or by a notice posted at [www.ovh.co.uk](http://www.ovh.co.uk) one month in advance if the new rates are less favourable to the Customer. Following this information the Customer is free to terminate the contract under the conditions specified in Condition 16 hereof.

Otherwise, the Customer shall be deemed to have accepted the new price. Tariff changes will apply to all contracts including current agreed contracts already in place.

OVH reserves the right to pass, without delay, any new tax, administrative or legal regulations or any increase in rates of existing taxes.

Any purchase of service (except in special circumstances) requires an advanced set-up fee payment in addition to the possible cost of the offer chosen.

The fee for geographical destinations is not included in the fixed packages or pay as you go offers and may be changed at any time and are subject to the pricing of third party operators.

OVH recommends that the Customer regularly checks the pricing page that is accessible on the OVH website to learn about the latest charges.

### 13.2 Payment Terms

The subscriptions paid in advance are guaranteed for the related period.

Payments must be made:

- By credit card (Visa®, MasterCard®, Delta® or Eurocard®)
- By bank transfer (subject to funds being available in a bank account located in UK).

Customer Service is strictly limited to fixed packages and mobiles subscribed to the corresponding destinations at time of ordering.

No payment will be accepted or validated other than those listed above.

### 13.3. Renewal

The Customer may apply to cancel their telephone subscription through their management interface. The selected service will not be renewed after the current subscription period when requested by the Customer.

### 13.4 Consequences of late payment

Any default or overdue payments (cancellation of card payment, failure to supply and / or rejected by our bank following a payment by bank transfer or cheque ...) will be considered as a late payment.

Express agreement and unless requested at time of deferral and granted by OVH in writing, or lack of full or partial payment, will automatically cause and without prior notice:

- the immediate repayment of all sums due from the Customer under the contract, whatever method of payment provided.
- receipt of the deposit paid by the Customer in connection with the increase of their consumption limit and the immediate termination of the current contract.
- the ability to suspend or terminate, as OVH wants, the performance of any current order until full payment of amounts due is received from the Customer.

- in respect of Business Customers, a failure to pay on time shall result in interest being payable at a rate of 8% above the official dealing rate of the Bank of England.
- the suspension of all current services, whatever their nature, without prejudice by OVH to use their power of termination set forth in the TERMINATION article.

Any disagreement concerning the billing and/or the nature of the service will be expressed by electronic mail to OVH within one month after issuance of the purchase order. OVH shall inform the Customer if there will be any cost and will give the corresponding documents and invoice. The Customer can then pay the outstanding amount by cheque in Pound Sterling.

### 13.5 LIMITATION PERIOD

In no event shall OVH be liable to the Business Customers unless a claim is made by the Customer within 1 year of the circumstances leading to that claim arising or, in respect of consumers, within three years of termination of the relevant service.

### 13.6 Information on bills

OVH keeps for a period of 12 months from the establishment of the invoice, a record of communications and information on the services invoiced. The information is available to the Customer.

## 14: DURATION OF CONTRACT

The contract is for an undetermined period, with no minimum commitment. Save as otherwise agreed, this agreement shall continue indefinitely unless and until terminated in accordance with the provisions of Condition 16 or 17 hereof.

## 15: TERMINATION, RESTRICTION AND SUSPENSION OF SERVICE

15.1. The Customer may cancel the contract by registered mail sent to OVH LTD 3 Southwark Street LONDON SE1 1RQ. Any termination request by the Customer will be effective from the day after the reception by OVH, provided that the Customer has specified all the information required in which to identify them. The Customer may request that the termination takes effect more than ten days after the reception of their termination request by OVH.

In the event of an early termination, the month running will not be refunded to the Customer.

15.2 If the Customer does not respect these conditions, OVH will have the right to immediately suspend and without prior notice, the Customer's Service and immediately and automatically terminate the contract, without prejudice or right to any damages that OVH may claim. If OVH terminates the contract as provided above, the Customer shall not be entitled to any refund from OVH corresponding to the services already provided by OVH and OVH will not be indebted for any compensation with respect to the Customer. However, if non-compliance of the customer obligations would cause damage to OVH, OVH reserves the right to prosecute the

Customer to get the full compensation of the damage including reimbursement of damages, interest, penalties, costs, fees incurred by OVH.

15.3. OVH reserves the right not to renew the Service. OVH will then notify the suspension of the Service by electronic communication to the Customer. The contracts outstanding at the date of notification will continue until their expiry date without possibility of renewal.

15.4. In the case of violation by either party of their obligations to the other under the contract, non remedied within 7 days after either a registered mail by the complainant notifying the failure in question, or any other form of authentic notification addressed by such party, the contract will automatically be terminated, without prejudice or right to any possible damages that might be claimed by the defaulting party.

15.5. The date of the notification letter containing the violations will be the postmark date at the first presentation of the letter.

15.6. The Customer may request the termination of their contract under the condition 16.2 with regard to the cancellation of a destination covered by the Telephony service and with said list available on the OVH website.

15.7. The Service may be restricted, limited, suspended or terminated by OVH if full payment is not received in full by the due date.

15.8. The Customer agrees in advance that OVH restricts, limits or suspends the Service if, OVH receives a notice to that effect by an administrative, judicial or arbitration competent authority in accordance with applicable relevant laws.

15.9. Any Customer notification(s) under this section shall be addressed to OVH by recorded delivery.

15.10 OVH reserves the right to immediately suspend the Service in compliance with any court or administrative order or third party request or to comply with the law or to avoid damage on/to the network.

## 16: RIGHT TO CANCEL

The Customer has under The Consumer Protection (Distance Selling) Regulations 2000, the possibility of invoking the right to cancel the relevant service. This may be subject to specific terms in respect of the relevant services (for instance some services require the return of Equipment). The Customer has to contact the OVH commercial service within 7 working days after the implementation of the service.

However, please note that if the customer chooses to use the service before the expiry of that period, he acknowledges and accepts that he will lose his right to cancel, in accordance with the provisions of the Distance Selling Regulations.

## 17: PERSONAL DATA

Data is electronically processed for Service and Directory management. The data controller is OVH. In accordance with the Data Protection Act 1998 individually you have a right to access and rectify information about themselves. If you wish to exercise this right and obtain communication information about you, please send your request to: OVH LIMITED 3 Southwark Street LONDON SE1 1RQ.

## ANNEX 1: Terms of FAX Service

The Customer can subscribe to the Fax service subject to payment of commissioning costs.

### Billing:

The Customer is charged for each page sent from the Fax service. The rate may vary depending on the country to which the fax is sent.

Rates are available on the OVH website in the part relating to the Fax service.

Sending faxes is subject to billing as a fixed package. The same conditions apply if the fixed consumption limit is exceeded as defined in Article 3 in the “General Terms for Telephony Services”.

### Customer's Obligations and Liability

The Customer undertakes to:

- not circulate through the OVH fax service, content which infringes the intellectual property or other rights or any person or which is obscene, offensive or defamatory.
- not use the fax service for illegal purposes including: sending out unwanted or unsolicited faxes for operations of harassment, identity theft etc....

Any abuse will result in immediate suspension and without fore-warning from OVH of the Fax service subscribed by the Customer.

The Customer is solely responsible for the use of fax service and content sent over it.

### OVH's responsibility:

OVH cannot be held liable for failures encountered on telecommunication networks where outside OVH's control.

Given the technical characteristics of the fax service, OVH cannot guarantee the integrity of the document sent or undetected or unidentified dysfunctions that may occur. This means the Customer acknowledges these potential risks.

OVH is committed to implementing all the methods at its disposal to ensure the best quality of service as possible.

These conditions are subject to the Laws of England and Wales and the Customer agrees to be bound by their non-exclusive jurisdiction of the Courts of England and Wales, or (if the Customer is consumer based in another part of the UK) to the courts of the part of the UK Where the consumer is based.