

GATEWAY GLOBAL COMMUNICATIONS LIMITED MEMBERSHIP AGREEMENT

1. INTRODUCTION

1.1 Welcome to the Trading Floor, an online service offered by Gateway Global Communications Limited (a company incorporated in England and Wales (registered number: 04229171) whose office is 6th Floor Exchequer Court, 33 St Mary Axe, London EC3 8AA, England with Company registration Number 04229171 and VAT Number GB 165 1327 22 United Kingdom ("**we**", "**us**" or "**Gateway**") to persons who agree become bound by the terms of this Membership agreement ("**Agreement**") as more particularly set out below.

1.2 By clicking "I Agree", you (being the corporate entity whose details have been entered as part of the sign-up process) agree to be bound by this Agreement, which covers your Membership of the Trading Floor, the set up and testing of your virtual interconnection link to us, your buying Routes on the Trading Floor, your use of the pre-payment Trust arrangements and the fulfilment of Routes.

1.3 In this Agreement the following terms shall have the following meanings:

Defined term

Meaning

"Dispute Manager"

A third party, which may be the Platform Manager, and which maintains call data records, that are generated independently of Gateway's call data records.

"Member"

A member of the Trading Floor, and "**Membership**" shall be interpreted accordingly.

"Minimum Deposit"

The minimum amount you must send to the Trust Agent for us to route your traffic.

"Platform Manager"

the independent third party which operates and/or maintains the Trading Floor from time to time.

"Route"

The routing of:

(i) a specified number of voice minutes;

(ii) to specified dial strings;

(iii) at a specified time of day, e.g. peak (n.b. all times of day will be quoted in Greenwich Mean Time);

(iv) at a specified price;

(v) within a specified period (e.g. 1-30

September); and

(vi) as otherwise described in a relevant Route advertisement on the Trading Floor (e.g. ASR %, PDD, etc.).

"Trading Floor"

The online trading community available at <https://evs.pccwglobal.com>.

2. MEMBERSHIP OF THE TRADING FLOOR

2.1 As a continuing condition of your Membership of the Trading Floor and your activities undertaken pursuant to that Membership you promise us on a continuing basis that you:

- (a) are a corporate entity;
- (b) are resident for tax purposes in the jurisdiction you have told us about during your sign-up process;
- (c) are, if resident in the European Economic Area, validly registered for VAT (or its equivalent) and have provided full details of your VAT, or equivalent, registration to us;
- (d) will not use your Trading Floor Membership for any unlawful or fraudulent purposes or to receive or send messages which are offensive, indecent, obscene, menacing, defamatory, or which infringe any intellectual property right (including, without limitation, trade marks, copyright, or rights relating to domain names), nor allow others to do so;
- (e) will comply with our acceptable use policy and privacy policy available on our web-site from time to time;
- (f) will not knowingly or recklessly send any message or virus which causes or is likely to cause harm, in any degree, to us or any other Member of the Trading Floor;
- (g) will comply with all applicable legal and regulatory requirements, including (without limitation) telecommunications, electronic communications, data protection and anti-money laundering laws, regulations and guidelines;
- (h) will keep confidential and not disclose any information relating to the Trading Floor;
- (i) will comply with any reasonable instructions we give you relating to your use of the Trading Floor;

- (j) will comply with all reasonable instructions we may give you which are required to achieve the same effect as these English law terms and conditions in any country other than England; and
- (k) will indemnify us against all third party claims and any losses, liabilities, costs (including legal costs) and expenses which we may incur as a result of your (or your customers') use or misuse of the Trading Floor or breach of this Agreement always provided that:
 - (i) we promptly notify you of such claim;
 - (ii) you have conduct of such claim;
 - (iii) we give you (at your expense) reasonable assistance in defending such claim; and
 - (iv) this indemnity shall not apply to the extent that any claim or part of a claim directly results from our acts or omissions.

2.2 Based on the information you have supplied to us we will vet you to ensure that you are fit and proper person (in our sole discretion) to become a Member. Our vetting process may include passing information about you to third parties or making independent inquiries about you with third parties for identity verification, credit-checking or other vetting. As part of this process, we may ask you for additional information, and you agree to supply such information to us and agree that we may vet you. We may reject any applications for Membership at our sole discretion.

2.3 We may suspend or terminate your Membership at any time without notice if you are in breach of this Agreement. Where possible, we will notify you of any breaches so that you can remedy them and we will try to give you as much notice as possible of any suspension or termination.

3. **SET-UP AND TESTING OF YOUR VIRTUAL INTERCONNECT LINK AND PROFILE ACTIVATION**

3.1 We will contact you to arrange for set-up and testing of a virtual interconnect link between your electronic communications network and our electronic communications network as soon as reasonably practical after you apply to join the Trading Floor.

3.2 You will work with us and provide sufficient resource to carry out interconnection set-up and testing. Set-up and testing will be carried out in accordance with our then current operations and maintenance manual. You will be responsible for all your own costs.

3.3 Testing must be complete to the satisfaction of both you and us before you may join the Trading Floor in order to buy Routes.

3.4 Provided that you have passed our vetting procedure, you have confirmed to us that you are satisfied with testing, and we are satisfied with testing we will activate your

online Member profile on the Trading Floor to enable you to buy (subject to prepayment as described below in section 5) Routes as described below.

4. **BUYING ROUTES**

4.1 Once your profile has been activated, we may then advertise Routes on the Trading Floor.

4.2 Once a Route advertisement has been placed on the Trading Floor, a conditional contract to purchase that Route may be formed between you and Gateway (a "**Conditional Route Contract**"). Each Conditional Route Contract is subject to the relevant Route advertisement, this Agreement and the condition that you validate the purchase by placing cleared funds of no less than the Minimum Deposit in Trust by way of prepayment for the Route as described below in section 5.

4.3 As soon as a Conditional Route Contract has been validated by pre-payment of cleared funds of no less than the Minimum Deposit in trust (by reference to Gateway's systems) an unconditional contract between Gateway for:

- (a) the sale by Gateway to you; and
- (b) the purchase by you from Gateway ;

of the Route is formed on the terms of this Agreement ("**Validated Route Contract**").

4.4 The Route advertisement will be removed as soon as a Conditional Route Contract is formed. However, if a Validated Route Contract has not been formed within 5 business days of the creation of the Conditional Route Contract, that Conditional Route Contract shall lapse and shall not be capable of being validated by pre-payment or otherwise and the Route advertisement shall be reactivated on the Trading Floor.

5. **BUYING ROUTES AND MAKING PRE-PAYMENT INTO TRUST**

5.1 If you wish to buy a Route on the Trading Floor you may do so by following the on-screen instructions, which will form a Conditional Route Contract.

5.2 By forming a Conditional Route Contract you confirm that:

- (a) it is lawful for you to buy such Route;
- (b) you are able to place cleared funds of no less than the relevant Minimum Deposit into trust by way of part pre-payment for such Route within 24 hours of forming the Conditional Route Contract; and
- (c) you will be in a financial position to pre-pay for the entire Route.

5.3 As soon as reasonably practical (and in any event no later than 24 hours of forming the Conditional Route Contract) you will make a pre-payment for the Route by way of telegraphic transfer to Lloyds TSB using as a reference the reference generated by the Trading Floor when the Conditional Route Contract is formed. As the pre-payment

you have made is used, you will then make further pre-payments until you have paid for the Route.

- 5.4 All payments made pursuant to section 5.3 will be held by Lloyds TSB Bank plc ("**Trust Agent**") in a designated Trust account ("**Trust Account**"). We will instruct the Trust Agent to create a separate Trust Account for each Conditional Route Contract.

6. VALIDATED ROUTE CONTRACT FULFILMENT AND PAYMENT FROM TRUST

- 6.1 As soon as a Validated Route Contract has been formed, the buyer may send minutes for the Route over their interconnect link with us. We will then route those minutes for onward routing in accordance with the Route advertisement whilst the relevant Trust Account has sufficient cleared fund to pay Gateway . If at any time there are insufficient cleared funds within any Trust Account for a particular Route we will cease routing minutes from you on such Route.

- 6.2 On a weekly basis in arrears the Trust Agent will be instructed to pay Gateway from the relevant Trust Account an amount equal to the number of minutes (to the nearest second, apart from Mexico which is per minute) routed to Gateway multiplied by the pence/cents per minute rate in the Route advertisement.

- 6.3 If any dispute arises between you and Gateway, you agree that such dispute shall be resolved by the Dispute Manager acting as an expert and not as an arbitrator. We shall resolve a dispute solely by reference to our records and our decision, except in the event of manifest error, shall be final and binding.

7. CHARGING

- 7.1 Unless otherwise stated all charges shall be exclusive of value added or other applicable tax which shall be added to your invoices.

- 7.2 Gateway will invoice you electronically.

- 7.3 The Trust Agent shall pay over from the Trust Account all sums collected on Gateway's behalf.

- 7.4 You:

- (a) are responsible for payment whether or not the use of the services has been authorised by you; and
- (b) shall have no right to offset, deduct or withhold payment for any reason.

7.5 Gateway may set off any sums owed by us to you against any sums owed by you to Gateway.

8. LIMITATIONS ON LIABILITY

8.1 Nothing in this Agreement shall restrict or exclude your or our liability to the other for fraud or for death or personal injury caused to the first party's employees by the other party's, or its employees' negligence.

8.2 Subject to section 8.1, neither of us will be liable to the other or to any third party for any economic loss, any direct or indirect loss of profits, loss of anticipated savings, loss of business, loss of contracts, loss of revenue, loss of time, loss of goodwill, loss of reputation or loss or harm of data whether in contract, tort or otherwise (including negligence and breach of statutory duty).

8.3 Subject to sections 8.1 and 8.2, each of our total aggregate liability to the other in respect of all causes of action arising in each calendar year in contract, tort or otherwise (including liability for negligence or breach of statutory duty) in connection with the supply or non-supply of the services and this Agreement shall be limited to damages equal to 100% of the charges payable by you to us in such calendar year. If it is not possible to ascertain the level of the charges payable by you to us in any calendar year then this amount shall be deemed to be £5,000 in such calendar year.

8.4 We shall not be liable to you for any event beyond our reasonable control, including but not limited to default or failure of a third party not within our control (including another telecommunications operator, equipment supplier, installer or maintainer), government action or failure in the supply of a third party network or other event of force majeure.

8.5 Except as expressly set out in this agreement all representations, warranties, terms and undertakings, express or implied, statutory or otherwise in respect of this Agreement are expressly excluded.

8.6 This Agreement is the whole agreement for the services. We each agree that the other did not rely on any statement made by us before the date of this agreement and hereby waive any remedy which, but for this section 8.6, might otherwise be available in respect of any untrue statement (whether made innocently or negligently but not fraudulently) before the date of this Agreement.

8.7 Each part of this Agreement that excludes or limits liability operates separately. If any part is disallowed, or is not effective, the other parts will continue to apply.

8.8 Nothing in this Agreement shall create any liability for the Trust Agent and you hereby waive any claim that you might otherwise have against it.

9. WHEN DOES THIS AGREEMENT START AND FINISH?

9.1 This Agreement shall start on the date that you accept it for a period of one year, and shall automatically be renewed each time a new Conditional Route Contract is entered

into for further periods of one year. Either party may terminate this Agreement on 30 days notice to expire on the business day before the anniversary of the last renewal.

- 9.2 In addition to our other rights, we may at any time without informing you end this Agreement and/or suspend the provision of any service, if:
- (a) you materially breach this Agreement or any other agreement you have with us (which shall include late or non-payment of any of our charges);
 - (b) bankruptcy or insolvency proceedings are brought against you (or your parent company), a receiver is appointed over any of your (or your parent company's) assets or you (or your parent company) go into liquidation (or any similar event in your country of incorporation takes place); or
 - (c) we are obliged to by a decision or direction of any governmental body or regulatory authority.

- 9.3 If this Agreement ends or the services are suspended, all charges incurred by you for the use of the services (whether invoiced or not) shall be due and payable in full on demand and you shall have no right to withhold, deduct or set off any such amounts.

10. GENERAL

- 10.1 Any waiver, concession or extra time we may allow you is limited to the specific circumstances in which it is given. It does not affect any rights under this Agreement in any other way.
- 10.2 No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties. However, we may amend this Agreement, with immediate effect, in order to comply with any law or a ruling or decision of any regulatory body.
- 10.3 This Agreement is personal to you and you cannot transfer or try to transfer this agreement or any part of it to anyone else.
- 10.4 Subject to, and in accordance with, relevant data protection legislation you consent to allow us to collect data about your use of the services and to provide this data to our affiliates for the purposes of marketing our services or for any purpose connected with the performance of this Agreement. We will provide you, at your request, with details of all such information held about you and will modify any information held that you notify us is incorrect. We agree not to use your name and/or logo for marketing purposes without your prior written consent.
- 10.5 You agree and acknowledge that we may pass information about you to the Trust Agent and the Platform Manager for the purposes of performing this Agreement.
- 10.6 You agree that during this Agreement, and for six months after its termination, you will not solicit or endeavour to entice away from us or our sub-contractors any of our or their respective employees.

- 10.7 You promise that the person agreeing to these terms on your behalf is authorised to do so.
- 10.8 English law shall govern this Agreement. Both parties submit to the exclusive jurisdiction of the Courts of England always provided that [Customer] may commence proceedings in any other jurisdiction in which you are or become incorporated.
- 10.9 Save for the Platform Manager, we do not intend that any term of this agreement should be enforceable under the Contracts (Rights of Third Parties) Act 1999 by anyone else (which for the avoidance of doubt includes the Trust Agent).
- 10.10 Our address for the receipt of notices is our registered office. Your address for the receipt of notices is the address you have told us about in the sign-up process.
- 10.11 Any notice given in connection with this Agreement shall be served in writing by hand, normal first class post, fax or electronic transmission. Any notice sent by:
- (a) hand, fax or electronic transmission shall be deemed to have been received immediately after despatch or transmission; and
 - (b) post shall be deemed (in the absence of evidence of earlier receipt) to have been received 48 hours after date of posting.

11 USAGE CHARGE SCHEDULE

- 11.1 Gateway may modify its Usage Charge Schedule upon seven (7) days prior notice. Notifications of changes to the advertised rates may be issued via email. Rate increases will become valid with a 7-day notice; rate decreases will become valid the next day.
- 11.2 The Customer Rates that have to be paid by the Customer for each Route are presented on the EVS platform. All Customer Rates can be viewed and downloaded direct from the EVS platform by following the on screen instructions.