

PROMOTIONAL PARTNER AGREEMENT

Between Phonenumbers4u Ltd company registration number: 06683142, VAT registration number: 944797565 of Suite 328, 162–168 Regent Street, London, W185TD and The Customer.

Phonenumbers4u Ltd is a provider of telecommunication network services & The Customer wishes to utilise Phonenumbers4u's services. This Agreement shall come into effect at such a time as Phonenumbers4u Ltd agrees to provide service according to these terms.

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1 INTERPRETATION

- 1.1 The following provisions shall have effect for the Interpretation of this Agreement;
 - 1.1.1 Words denoting the singular number only shall include the plural and vice versa, words importing persons include bodies corporate and non-corporate.
 - 1.1.2 The clause headings do not form part of this deed, these are for convenience only and shall not be taken into account in its construction or interpretation.
- 1.2 Definitions:

'Service Numbers' Numbers allocated to the customer from time to time, over which the Customer shall neither acquire any right, title or interest.

'Rates' – Specified in the Annex 1 which are the rates payable by either party

'The Act' – means the Telecommunications Act 1984.

'End User' – means users of the services provided by the Customer.

'Service Facilities' – Any software, web site, or transmission system offered to and used by the customer.

'Fraud Traffic' is any traffic, where there is a reasonable expectation that the End User is not likely to pay their telephone bill, or where the Customer is in breach of current legislative guidelines relevant to traffic both premium rated and non premium rated.

'Report' is the statement produced by Phonenumbers4u showing revenue produced on Service Numbers allocated to the Customer, based on reports provided to Phonenumbers4u by Suppliers with whom it contracts.

'Intellectual Property Rights' – means database right, patents, registered and unregistered design rights, registered and unregistered trade marks, and all other industrial or intellectual property rights or trade secrets existing at any time in any jurisdiction and all rights that shall apply to them.

'Email' – Electronic Mail.

'Carrier' – Any entity with whom Phonenumbers4u contracts for delivery or transmission of any mobile or mobile text services.

'Site' – Location where services are provided.

2 FORMATION OF CONTRACT

- 2.1 The parties acknowledge that neither party was induced to enter into this Agreement by virtue of any representations, warranties or statements made prior to concluding this Agreement
- 2.2 Any error, omission or typographical error in any quotation, offer, sales information, invoice, or document supplied by Phonenumbers4u shall be subject to correction without liability.
- 2.3 Phonenumbers4u may vary any provision in this Agreement, (without prior consent from the Customer), if such change is required because of regulatory, insurance, safety or statutory changes made after the date of this Agreement. Phonenumbers4u shall in such circumstances give the Customer 30 days notice of such changes. The Customer shall have the right by giving notice in writing to Phonenumbers4u to terminate this Agreement, within 14 days of receiving such notice. This Agreement would then be terminated within 30 days of such notification, or on a later date specified by the Customer.

3 RESPONSIBILITIES AND OBLIGATIONS

- 3.1 Phonenumbers4u
 - 3.1.1 Phonenumbers4u shall provide the Customer with network service access Number/SMS Services as appropriate, but not withstanding this, Phonenumbers4u is not obliged to supply Service Numbers or services requested by the Customer. It may also change services supplied to the Customer if this is required for regulatory, statutory or legal reason, and in such instance shall notify the Customer as soon as is reasonably practical.
 - 3.1.2 Not withstanding the above Clause, Phonenumbers4u shall in the event of the termination of this Agreement, not re-allocate numbers/keywords to another customer, that have been allocated to the Customer under this Agreement, for a period of three months from the termination date.
 - 3.1.3 Phonenumbers4u makes no warranty that services shall be continuous or free from faults.
 - 3.1.4 Phonenumbers4u shall notify the Customer as soon as reasonably practical, of any rates payable brought about by industry regulation or regulatory bodies.
 - 3.1.5 Phonenumbers4u shall provide the Customer with reasonable technical and sales support.
 - 3.1.6 Phonenumbers4u may from time to time make changes to equipment used to handle and provide any service. Such changes are at the sole discretion of Phonenumbers4u, and shall be made without prior consent from the Customer.
 - 3.1.7 On signing this Agreement Phonenumbers4u will use its best endeavours to make Services ready for service, and notify the customer of the Services by e-mail, prior to the Service Commencement Date.

- 3.1.8 Phonenumbers4u may assign the rights and obligation of this Agreement to a third party without the prior consent of the Customer.
- 3.2 Customer
- 3.2.1 The Customer must be 18 years old or over to adopt premium rate services from Phonenumbers4u.
- 3.2.2 The Customer shall ensure that they have all necessary approvals, permissions or authorisations for the services offered to its End Users. The Customer shall be responsible for the content, quality and delivery of services offered, and for ensuring that these services comply with the Act and this Agreement.
- 3.2.3 The Customer shall provide Phonenumbers4u on request with information or material regarding the service offered to its End Users, or agents.
- 3.2.6 The Customer shall ensure that services provided are not used for any illegal purpose, or for the transmission or offering of any information or services which are, libellous, unlawful, abusive, threatening, harmful, threatening, defamatory, or in anyway infringe the laws governing, but not exhaustively covering, copyright, intellectual property rights, trademarks, or any other material that is slanderous or may cause offence in any way.
- 3.2.7 The Customer shall cooperate with Phonenumbers4u in relation to any complaints, enquiries or investigations regarding services offered by the Customer. The Customer shall, at the discretion of Phonenumbers4u, without limitation, bare in full, any costs associated with such complaints, investigations, or enquiries.
- 3.2.8 The Customer shall under no circumstances attempt to decompile copy or imitate any of Phonenumbers4u's products or services in any way shape or form.
- 3.2.9 The Customer shall not assign the rights and obligations of this Agreement to any other party without the express permission in writing of Phonenumbers4u. Moreover the Customer shall not use Phonenumbers4u's name, trademarks, or copyrights in any way that implies any approval or connection with the services or products offered by the Customer.
- 3.3 The Customer shall ensure that any third party using its facilities shall be bound by the terms of this Agreement.
- 3.4 The Customer shall ensure that they have sufficient financial and other resources necessary to discharge their obligations to Phonenumbers4u and ICSTIS, under the ICSTIS Code Of Practice.
- 3.4 The Customer is permitted to use Phonenumbers4u's contact details on their non adult themed services and advertising, however Phonenumbers4u, PO BOX 626, Kent, BR5 1XW shall not be used with adult themed services. For adult themed services the Customer may use: PremRate.com, PO BOX 626, Kent, BR5 1XW or their own contact details.

4 PROVISION OF SERVICES

- 4.1 It is acknowledged that Phonenumbers4u is reliant on a third party for delivery of services, and therefore Phonenumbers4u can have no liability of whatever nature, for any delay or failure in provision of the same, moreover Phonenumbers4u makes no warranty that its network or services shall be continuous, or will be free from faults.
- 4.2 In the event that the Customer provides its own equipment, or provide leased lines to connect to its equipment, this shall require the prior consent of Phonenumbers4u, and mutual agreement of charges that the Customer shall pay to Phonenumbers4u, the Customer is solely responsible for any costs, without limitation, to include, the installation, delivery and maintenance of the same, and Phonenumbers4u can have no liability whatsoever for equipment provided at the Site by the Customer.

5 RATES & PAYMENTS

- 5.1 Phonenumbers4u shall pay the Customer for services, according to the Rates detailed in Annex 1 and detailed in the monthly Report, subject to Clauses 5.8 & 5.9. The Customer shall pre-pay Phonenumbers4u for any services according to the rates In Annex 1. Payments are based on reports provided to Phonenumbers4u by Carriers with whom it contracts.
- 5.2 Phonenumbers4u shall endeavour to send the Customer a monthly report or self-billing invoice within 45 days from the end of the month in which the traffic was generated. Subject to Phonenumbers4u having received cleared funds then payment shall be made to the Customer within 50 days from the end of the month in which the traffic was generated. Where cleared funds have not been received within this time period then Phonenumbers4u shall make payment within 3 working days of receiving cleared funds.
- 5.3 All rates detailed in Annex 1 and in the monthly Reports shall be exclusive of all taxes or duties.
- 5.4 If Phonenumbers4u is made aware by it's supplier, that it's policy is not to make payment within 45 days from the end of the month in which the traffic was generated, then Phonenumbers4u will make the Customer aware at the earliest opportunity.
- 5.5 In the event that OFCOM, other regulatory bodies, or any other Carriers with which Phonenumbers4u contracts make retrospective price adjustments to revenues paid to Phonenumbers4u, which result in Phonenumbers4u having overpaid the Customer, then Phonenumbers4u at its sole discretion, may deduct from subsequent payments to the Customer, sufficient revenues to reflect the sums overpaid to the Customer under this contract.
- 5.6 The Customer's payment shall be calculated according to data provided by Carriers with whom Phonenumbers4u contracts, which shall be accepted, except in the case of manifest error, as being conclusive for the determination of revenues due to the Customer.

- 5.6 Phonenumbers4u shall at its sole discretion, not pay any fees or revenue to the Customer for any traffic generated on Services in the following circumstances;
- (a) Where there has been fraudulent traffic, or breaches of OFCOM, ICSTIS or DMA regulations and it shall be accepted that Phonenumbers4u's determination shall be final and binding.
 - (b) Where any Carrier does not pay Phonenumbers4u for traffic generated under this contract.
 - (c) Where total revenue payable to the Customer is less than £15.00 per month, no payment shall be made for that month, and the amount will not be carried over to subsequent months.
- 5.7 Phonenumbers4u reserves the right to reclaim any Service that remains unused for a period of 6 months, giving the Customer 14 days notice.
- 5.8 In the event that OFCOM, other regulatory bodies, or any other Carriers with which Phonenumbers4u contracts make retrospective price adjustments to revenues paid to Phonenumbers4u, Phonenumbers4u may at any time vary the Rates detailed in Annex 1, but shall give the Customer 30 days written notice of such change.
- 5.9 In the event that any Network Operator withholds any payment, due to AIT or otherwise, the Customer shall have no entitlement to recover any part of these funds from Phonenumbers4u and indemnifies Phonenumbers4u fully from any liability, except if the withheld revenue is later released, in which case, Phonenumbers4u shall pay the appropriate revenue to the Customer.
- 5.10 In the event that Phonenumbers4u suffers any losses or costs as a result of withheld payment due to AIT or otherwise, the Customer agrees to cover these costs and/or losses and pay them to Phonenumbers4u immediately upon invoice.
- 5.11 If the Customer owes Phonenumbers4u revenues that are overdue, the Customer accepts that Phonenumbers4u can at its sole discretion deduct these sums from any revenues that your services produce until payment has been fully received.
- 5.12 Where the Customer has caused a breach of any ICSTIS, OFCOM or DMA Regulations, any fines and administrative charges will be passed directly to the Customer and the Customer accepts full liability for them. Phonenumbers4u reserves the right to charge it's own administrative charges in line with those imposed by the regulatory body for any work that it has to undertake in respect to any breaches of regulations.
- 5.13 The Customer's payment shall be calculated by the number of minutes the Customer's services have generated in that particular month, minutes shall be rounded down to the nearest minute when calculating the total payable to the Customer.

6 AUDIT

- 6.1 The Customer may at its own expense, and giving 14 days written notice, inspect the database of Phonenumbers4u to audit revenues due to the Customer. Such audit shall only be made in regard to the traffic due to the Customer only and under this contract, and shall only be undertaken by a Chartered Accountant, in a manner that shall reasonably minimise disruption of Phonenumbers4u's business.
- 6.2 The Customer shall have no audit rights with respect to any Carriers with whom Phonenumbers4u contracts.

7 RESTRICTED AREAS

- 7.1 The Customer shall ensure that it's End Users are bound contractually to Terms & Conditions, aimed at ensuring that End Users do not engage in any actions that might be considered an abuse to Phonenumbers4u's and or a Carrier's network, these include, but are not limited to;
- (a) Attempting to circumvent user authentication, security of any network, or account;
 - (b) Attempting to interfere or deny access to any service or host;
 - (c) Sending any unsolicited messages, this includes adding or attempting to add addressees to any mailing list without their express permission;
 - (d) Using the service for any illegal purpose, or for the transmission or offering of any information or services which are libellous, unlawful, abusive, threatening, harmful, defamatory, or in anyway infringe the laws governing, but not exhaustively covering, copyright, intellectual property rights, trademarks, or any other material that is slanderous or may cause offence in any way.
- 7.2 It is the Customer's responsibility to enforce its End User's adherence to Clause 8.1
- 7.3 In the event that Phonenumbers4u identifies any breach of Clause 8.1. It shall notify the Customer. If Phonenumbers4u does not within 48 hours of such notice receive a satisfactory response from the Customer detailing what action is to be taken against offending Users to enforce compliance, then Phonenumbers4u can disconnect the service.
- 7.4 The Customer will provide all reasonable cooperation with Phonenumbers4u to ensure End User compliance with Clause 8.1.

8 COPYRIGHT

- 8.1 All Intellectual Property Rights owned by one party shall remain vested in such party, and for clarity, and avoidance of doubt;
- (a) the Intellectual Property Rights of the Service Numbers shall be vested in Phonenumbers4u
 - (b) equipment provided at the Site, unless purchased by the Customer, all rights of any nature, trade name, documents, drawings and information including any access codes provided to the Customer, and information in Phonenumbers4u database accessed by the End Users and the Customer remain vested in Phonenumbers4u.

9 TECHNICAL SUPPORT

- 9.1 Phonenumbers4u shall provide the Customer with reasonable technical support

- 9.2 In the event that the Customer becomes aware of any faults with the service, it shall notify Phonenumbers4u as soon as soon as reasonably possible.
- 9.3 In the event of a fault being reported, Phonenumbers4u shall keep a log of faults and shall use its best endeavours to rectify the fault as soon as is reasonably possible.

10 CONFIDENTIALITY

- 10.1 Neither party shall during the life of this Agreement or thereafter disclose to any third party, or use for any purpose the information gained in connection with this Agreement, nor the terms and payments due, but each party may disclose to its officers and employees such information as may be required for them to fulfil their proper performance of their duties, and may be use in the proper exercise of its rights and obligations under this Agreement.
- 10.2 The obligations of confidence and restrictions on disclosure shall not apply in the following circumstances;
- (a) where such information was already known prior to this Agreement;
 - (b) where such information was already in the public domain, save as a result of a breach of Clause 11.1.; or
 - (c) where a third party, who did obtain the same from the disclosing party, disclosed such information to it lawfully.
- 10.3 Phonenumbers4u shall have the unconditional and irrevocable right to disclose the identity and address of the Customer and any End User in the event of any complaint received from any regulatory or governmental body, licensed telecommunications carrier, in connection with services offered by the Customer.
- 10.4 All user data and CLI information gathered through the running of The Customer's services shall be confidential to The Customer and may only be used for The Customer's own purposes.

11 LIMITATION OF LIABILITY

- 11.1 Phonenumbers4u shall use its best endeavours to ensure its network and services are fault free, and that service is uninterrupted. Phonenumbers4u gives no warranty or guarantee that the service is satisfactory or suitable for the Customer's purposes, or that service shall be uninterrupted or fault free. All warranties relating to the service from Phonenumbers4u are excluded, even if implied by statute.
- 11.2 The Customer shall be responsible at all times for maintaining the security of its and its User's data, and Phonenumbers4u shall bear no liability for the loss or damage in part or whole, of such data, to the extent that such loss or damage has been caused or contributed to by the Customer.
- 11.3 Phonenumbers4u shall not be liable for any indirect, incidental, special or consequential damages or for interrupted communications, lost data, or loss of profit, or economic loss arising out of or in connection with this Agreement, or out of any consequent negligence by its officers or employees.
- 11.4 Except as otherwise stated the Customer's sole remedy for any breach of this agreement, shall at Phonenumbers4u's sole discretion be;
- (a) Correction in a reasonable timescale of any fault;
 - (b) Replacement of service supplied.
- 11.5 Direct damages caused as a result of Phonenumbers4u's breaches of this Agreement shall in any event be limited to the previous 1 months revenue generated by the Customer, and received by Phonenumbers4u, but in no event shall exceed £5,000.00 for any one event or series of events.

12 INDEMNIFICATION

- 12.1 The Customer agrees to indemnify Phonenumbers4u and its parent, subsidiaries, affiliates, officers and employees from any claim or demand, including any made by a third party, arising out of the Customer's or End User's use of the service. The Customer agrees not to hold Phonenumbers4u and its parent, subsidiaries, affiliates, officers and employees responsible for any direct or indirect damage resulting from the use of Phonenumbers4u software or services, in particular, but not limited to; the use or impossibility to use the Service, confidence in information obtained, errors and omissions, defects, viruses, delay in transmission, interruption of service or loss of data.
- 12.2 The Customer agrees to indemnify Phonenumbers4u, and its parent, subsidiaries, affiliates, officers and employees from any claim or demand, arising from, but not limited to;
- (a) A breach by the Customer of the conditions of this Agreement;
 - (b) Negligence or misconduct by the Customer;
 - (c) The marketing or promotion undertaken by the Customer;
 - (d) The service content provided or marketed by the Customer;
 - (e) A breach by the Customer of the ICSTIS Code Of Practice;
 - (f) A breach by the Customer of the terms of any other relevant regulatory body.
- 12.3 Phonenumbers4u agrees to indemnify the Customer and its parent, subsidiaries, affiliates, officers and employees from any claim or demand, arising from;
- (a) Any claim or action by a third party in relation to Phonenumbers4u infringing any Intellectual Property Rights;
 - (b) A breach by Phonenumbers4u of this Agreement;
- 12.4 Phonenumbers4u shall have no liability under this clause if;
- (a) The demand or claim arises as a result of the Customer's negligence, misconduct or breach of this Agreement;
 - (b) If the Customer does not immediately notify Phonenumbers4u of any claim;

- (c) If the Customer does not give Phonenumbers4u full authority to deal with the claim, or does not provide information and cooperation for Phonenumbers4u to defend the claim.
- 12.5 The Customer shall fully indemnify Phonenumbers4u in the event that the Customer transmits any unsolicited text messages, against any claim or demand, including any made by a third party, and all costs relating thereto.
- 12.6 The Customer accepts full responsibility for the service and/or its promotion, and agrees to indemnify Phonenumbers4u, and its parent, subsidiaries, affiliates, officers and employees from any claim or demand, in connection with the Customers services or activity and undertakes that, in the event that a breach of the ICSTIS Code of Practice, or any other relevant legislation or regulations, is established and a sanction and/or administrative charge is imposed, the Customer will be responsible for full compliance and/or payment.
- 12.7 The Customer agrees to indemnify Phonenumbers4u and its parent, subsidiaries, affiliates, officers and employees from any claim or demand, arising from Phonenumbers4u's status as a Service Provider under the ICSTIS Code of Practice where the service in question is provided in agreement with, or on behalf of, the Customer, and the Customer shall fulfil any responsibilities as Phonenumbers4u asks of it whether financial or otherwise.

13 TERM & TERMINATION

- 13.1 This Agreement shall commence from the date hereof and shall remain in force until the contract is terminated.
- 13.2 Phonenumbers4u may terminate this Agreement with immediate effect by giving notice at any time, if;
- (a) The Customer does not comply with the terms of this Agreement;
 - (b) The Customer says, or gives the impression, that it will not abide by the terms of this Agreement;
 - (c) The Customer ceases trading, convenes a meeting of, or comes to an arrangement with its creditors, has distress or other seizure levied over any of its assets or does not satisfy any demand for payment from any legal person;
 - (d) Any step is taken to wind up or dissolve the Customer, a receiver, and/or manager or administrator appointed over any assets;
 - (e) Phonenumbers4u believes the Customer has allowed services to be used for any illegal purpose; or
 - (f) Phonenumbers4u or the Customer, is instructed by, or receives any complaint or objection from any Carrier with whom it Contracts, OFCOM, or Regulatory or Governmental body.
 - (g) Termination is required to protect Phonenumbers4u's interests because of regulatory, insurance, safety or statutory changes made after the date of this Agreement.
- 13.3 Either party may terminate this Agreement if either party has committed a breach of the Agreement, and fails to remedy the breach within 30 days of notice requiring it to do so, and;
- (a) If either party takes any steps to wind up or dissolve, or
 - (b) a receiver and/or manager or administrator is appointed over any assets;
- 13.4 Termination shall be without prejudice to the rights and obligations accruing up to and including the date of termination, suspension or expiry.

14 GENERAL

- 14.1 This Agreement represents the entire understanding between the two parties. No other prior arrangements, representations or understandings, orally or in writing have any validity.
- 14.2 Phonenumbers4u'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.
- 14.3 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.
- 14.4 Neither party shall be deemed to be in breach of this Agreement for any failure in performance caused by events outside of its reasonable control, to include, but not limited to any act of God, inclement weather, shortage of power, flood, drought, lightning, fire, lock-out, trade dispute, labour disturbance, act or omission of Government highway authorities, or telecommunication Operators or other authority, war, military Operators, or riot.
- 14.5 English Law applies to this agreement. Both parties hereby submit to the jurisdiction of the English Courts.

Full name: _____

Signature: _____

Date: ____/____/____

Questions regarding this agreement? CALL: 0871 918 0604 or info@phonenumbers4u.com