

DIRECT DEBIT ORIGINATORS EXTRACT:
TERMS AND CONDITIONS

DISTRIBUTOR LICENCE

VERSION 2

TERMS AND CONDITIONS - ORDER FORM TO SUPPLY THE DIRECT DEBIT ORIGINATORS EXTRACT: DISTRIBUTOR LICENCE

The following terms and conditions apply to and are deemed to be incorporated in the contract for the supply of the Direct Debit Originators Database by Vocalink Limited ("Vocalink") except as may be specifically agreed by Vocalink in writing. They are in addition to and without prejudice to Vocalink's rights at common law or statute. They exclude any terms and conditions pre-offered by the Distributor unless the contrary is expressly and specifically agreed in writing by an authorised representative of Vocalink.

THE PARTIES AGREE AS FOLLOWS:

1. Definitions and interpretation

"Vocalink" means Vocalink Limited of 1 Angel Lane, London, EC4R 3AB, registered in England, company number 6119048.

"Customer" means a party to whom the Distributor grants a licence and supplies the Direct Debit Originators Database.

"Customer Licence" means the licence granted by the Distributor to a Customer allowing it to use the Direct Debit Originators Database.

"Distributor" means the party whose company name and address have been entered on the order form.

"Bacs" means Bacs Payment Schemes Limited of 2 Thomas More Square, London E1W 1YN, registered in England, company number 4961302.

"Direct Debit Originators Database" means the Vocalink product by that name, consisting of a copy of a computer file of data relating to direct debit originators or any data taken from the computer file of direct debit originators and incorporated into any computer file produced or created by the Distributor.

"Licence Start Date" means the date requested by the Distributor on the Order Form from which the Distributor wishes to start downloading the

Direct Debit Originators Database and therefore the date from which this licence will become effective.

"Technical Specification" means the latest version of the document of that name that specifies the format and content of the Direct Debit Originators Database.

"Direct Debit Originators Database Version" means a release of the directory identified by its date.

"Territory" shall mean the United Kingdom.

This licence shall be deemed to include any attached schedules or appendices.

2. Grant of licence

Vocalink hereby grants the Distributor a non exclusive licence to distribute and sell the Direct Debit Originators Database in the Territory during the continuance of this Agreement on the terms and conditions set out herein.

This licence is granted by Vocalink on the agreement of the parties that:

a) it is a personal, non exclusive, non transferable, terminable licence permitting the Distributor to grant Customer Licences, produce electronic copies of the Direct Debit Originators Database for licensees, produce electronic copies of the Direct Debit Originators Database for the use of the Distributor and incorporate data from the Direct Debit Originators Database into any computer file or product

produced by the Distributor;

b) any licence which the Distributor may grant to a Customer shall be no less onerous than, and shall be consistent with, the terms of this licence;

c) title to the Direct Debit Originators Database does not pass under any circumstances to the Distributor or its licensees;

d) the licence excludes the provision of support and maintenance;

e) the Distributor acknowledges that the Direct Debit Originators Database is provided solely for the purpose of facilitating the operation of the Direct Debit scheme, and that the use of any information included in the Direct Debit Originators Database for any other purpose, will constitute an unlawful breach of this licence.

f) the Distributor acknowledges that Bacs and its officers, employees and agents have no liability to it whatsoever in connection with this licence or the Distributor's or Customer's use of the Direct Debit Originators Database.

3. Duration

This licence commences on the Licence Start Date and will continue in effect until terminated by the Distributor or Vocalink.

TERMS AND CONDITIONS - ORDER FORM TO SUPPLY THE DIRECT DEBIT ORIGINATORS EXTRACT: DISTRIBUTOR LICENCE (CONT.)

4. Payment of licence fee

a) The Distributor shall pay to Vocalink the Licence Fee as advised by Vocalink from time to time. Payment of the Licence Fee shall be made to Vocalink quarterly in advance commencing on the Licence Start Date. By paying the Licence Fee the Distributor shall be entitled to download a maximum number of Direct Debit Originators Database Versions per calendar quarter. The maximum number of Direct Debit Originators Database Versions is dependent on the Required Frequency requested by the Distributor in the Order Form.

- i. If Required Frequency is requested as Quarterly the maximum number of Direct Debit Originators Database Versions per quarter shall be one.
- ii. If Required Frequency is requested as Monthly the maximum number of Direct Debit Originators Database Versions per quarter shall be three.
- iii. If Required Frequency is requested as Two Per Month the maximum number of Direct Debit Originators Database Versions per quarter shall be six.
- iv. If Required Frequency is requested as Weekly the maximum number of Direct Debit Originators Database Versions per quarter shall be thirteen.
- v. If Required Frequency is requested as Daily the maximum number of Direct Debit Originators Database Versions per quarter shall be unlimited.

In the event that the Distributor exceeds the maximum number of downloads per calendar quarter then Vocalink shall charge the Distributor an additional file charge for each file downloaded in excess of the maximum. Any additional file charges will be invoiced quarterly in arrears.

b) The Licence Fee and any additional file charges may be increased by Vocalink upon three month's advance written notice to the Distributor.

5. Format and availability of Direct Debit Originators Database

A revised version of the Direct Debit Originators Database will be available to the Distributor on each working day (Monday to Friday (inclusive)) of each week for the Distributor to download. The Direct Debit Originators Database will be made available to the Distributor in the format specified in the version of the Technical Specification that is current at that time.

6. Access to Vocalink

Upon registration by Vocalink, Vocalink will issue the Distributor with a contact ID and password. The Distributor shall be responsible for keeping the contact ID and password secret. In the event that the Distributor loses the contact ID and password they will notify Vocalink immediately. Vocalink will forthwith reset the contact ID and password and inform the Distributor accordingly. For the avoidance of doubt, upon resetting the Distributor's password Vocalink shall render the previous password void and it will cease to be applicable.

Any copies of the Direct Debit Originators Database that are downloaded while the Distributor's contact ID and password are being used shall be deemed as being downloaded by the Distributor. Accordingly, the Distributor will be responsible for the payment of any Licence Fees and additional file charges incurred as a result of Direct Debit Originators Database downloads while the Distributor's contact ID and password are being used.

7. Licence to use the Direct Debit Originators Database

- a) The Distributor is licensed to copy and use the Direct Debit Originators Database only in accordance with the express terms of this licence.
- b) The Distributor shall include in any licence granted by it the provisions set out in Schedule One below or on similar but no less onerous terms, such similar terms having been agreed in writing by Vocalink. In particular, the Distributor shall include terms similar to those found at clauses 8 (a) and 8 (b) of this licence.

8. Title and copyright

a) The Distributor acknowledges that all intellectual property rights including but not limited to copyright and other intellectual property rights in the Direct Debit Originators Database are owned by Bacs.

b) No title or rights of ownership, copyright or any other intellectual property rights in the Direct Debit Originators Database are or will be transferred to the Distributor.

c) The Distributor will ensure that all of its relevant employees are advised that the Direct Debit Originators Database and all intellectual property rights in it are the property of Bacs and the Distributor will use all reasonable endeavours to ensure that its employees comply with all of the terms and conditions of this licence.

d) The Distributor shall ensure that all copies of the Direct Debit Originators Database and of any manuals made by the Distributor will incorporate the notice in the form set out in paragraph (a) of the Schedule hereto indicating that copyright in the Direct Debit Originators Database and any related manuals is vested in Bacs. In the case of any manuals, each manual must also contain a similar disclaimer.

9. Distributor undertakings

The Distributor shall

- a) satisfy itself that the Direct Debit Originators Database meets its operational and business requirements;
- b) ensure that it only distributes the latest version of the Direct Debit Originators Database as available to the Distributor at the time of delivery to the Customer;
- c) offer the Customer the option to receive regular updates of the Direct Debit Originators Database at least every three months;
- d) ensure that notices supplied to the Distributor by Vocalink are sent within 10 working days of their receipt to all Customers to whom the Distributor has supplied the Direct Debit Originators Database in the last 5 years.

TERMS AND CONDITIONS - ORDER FORM TO SUPPLY THE DIRECT DEBIT ORIGINATORS EXTRACT: DISTRIBUTOR LICENCE (CONT.)

10. Vocalink warranty

a) The Direct Debit Originators Database will be the current version at the time when it is made available for collection by the Distributor and Vocalink will use its reasonable endeavours to update the Direct Debit Originators Database daily. Should any delay occur in updating the Direct Debit Originators Database then Vocalink shall ensure that the immediately previous version of the Direct Debit Originators Database remains available for collection until such time as an updated version is released.

b) Vocalink's sole obligation and the Distributor's sole remedy with respect to any errors will be to remedy any errors in the Direct Debit Originators Database provided that Vocalink has been notified of the error within fourteen days of the date of collection by the Distributor.

c) The above warranty constitutes the only warranty provided by Vocalink in respect of the Direct Debit Originators Database. The obligations and liabilities of Vocalink in this licence are in place of, and the Distributor accordingly waives, all implied guarantees and warranties, including without limitation, any warranty of merchantability or fitness for a particular purpose whether or not any purpose has been notified to Vocalink.

d) Vocalink will indemnify the Distributor against direct damage to property to the extent caused by the wilful and grossly negligent acts or omissions of Vocalink under this licence, but not otherwise, by making good such damage to property provided that Vocalink's total liability under this sub clause shall not exceed the actual Licence Fee paid for the Direct Debit Originators Database.

e) The limit on Vocalink's liability set out in clause 10(d) shall not apply to claims by the Distributor arising from death or personal injury caused by Vocalink's negligence.

f) In any event, and notwithstanding anything to the contrary contained in this licence, under no circumstances shall Vocalink be liable, in contract, tort

or otherwise howsoever, and whatever the cause thereof for;

- i. any increased costs or expenses;
- ii. any loss of profit, business, contracts, revenues, or anticipated savings, or;
- iii. for any special, direct or indirect or consequential damage of any nature whatsoever.

g) The Distributor acknowledges that:

- i. the Direct Debit Originators Database has not been produced to meet individual Distributor specifications;
- ii. the Direct Debit Originators Database cannot be tested in advance in every possible operating combination and environment;
- iii. it is not possible to produce a Direct Debit Originators Database known to be error-free in all circumstances and Vocalink does not warrant that the Direct Debit Originators Database will be error-free.

11. Confidentiality

The Customer shall not during the term of this Agreement, nor after its termination, however caused, disclose or divulge or allow to be disclosed or divulged to any person, firm or company (other than its employees, officers, consultants, sub-contractors, agents and the like or an affiliated company), any information which it receives or obtains and which is confidential and relates to VocaLink business generally, except as may be necessary to fulfil its obligations under this Agreement or as may be required by applicable law and/or regulation or pursuant to a court order or a binding request from a regulatory (or other analogous) authority with jurisdiction or from any other third party with power to require the disclosure of such information and provided that as far as reasonably practicable the consent of VocaLink is first obtained.

12. Termination

Vocalink may at its sole discretion terminate this licence in writing immediately or on giving such period of notice in writing as Vocalink considers appropriate if the Distributor:

a) immediately where the Distributor is in breach of the terms of this Agreement where although such breach is capable of remedy it has not been so remedied within thirty days of receipt of a notice from Vocalink specifying the breach and requiring its remedy;

b) immediately should the Distributor go into liquidation or if a receiver of its assets is appointed or any other analogous event in any jurisdiction occur.

c) for convenience on giving the Distributor 3 months notice

The Distributor shall be entitled to terminate the licence by giving Vocalink two calendar weeks notice in writing. Upon receipt of the Distributor's notice of cancellation:

a) Vocalink shall cancel the licence on the date specified by the Distributor in their notice of cancellation.

b) Vocalink shall not refund any licence fees already paid.

c) The Distributor shall be entitled to continue to download and distribute the Direct Debit Originators Database, as defined in clause 4, until the date specified by the Distributor in their notice of cancellation.

For the avoidance of doubt, upon termination of this licence, howsoever caused, the Distributor shall cease to provide the Direct Debit Originators Database and Customer Licences.

13. Effects of termination

On the termination of this Agreement all pre-existing rights and obligations which have accrued to or by either of the parties under this licence shall continue in full force and effect.

14. Return of documents and materials on termination

On termination of this licence the Distributor shall immediately deliver to Vocalink or destroy all documents and copies of the Direct Debit Originators Database and any other items or property belonging to Vocalink (including any Technical Specifications) which the Distributor may have in its possession or be under its control.

TERMS AND CONDITIONS - ORDER FORM TO SUPPLY THE DIRECT DEBIT ORIGINATORS EXTRACT: DISTRIBUTOR LICENCE (CONT.)

15. Payment following termination

The Distributor shall pay to Vocalink any amounts due to it that are not in dispute.

16. Waiver

No forbearance or delay by either party in enforcing its respective rights will prejudice or restrict the rights of that party, and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach.

17. Notices

Any operational communications shall be sent by Vocalink by e-mail to the Primary Security Contact specified in the order form. Any other notice, instruction or communication shall be sent by ordinary first class post, telex, facsimile transmission or by such other means as may be appropriate in the circumstances, and in the case of a notice served by first class post it shall be deemed to have been received by the party to whom it was sent forty-eight hours after posting, and in the case of any other form of transmission twenty-four hours after sending.

18. Agency

a) The relationship between Vocalink and Distributor is that of independent parties. Neither party is the agent for the other, and neither party has any authority to make any contract,

whether expressly or by implication, in the name of the other party, without that party's prior written consent for express purposes connected with the performance of the obligations contained in this licence.

b) The relationship between Bacs and Vocalink is that of independent parties. No party is the agent for another, and no party has any authority to make any contract, whether expressly or by implication, in the name of any other party, without that party's prior written consent for express purposes connected with the performance of the obligations contained in this licence.

19. Entire agreement and rights of third parties

a) This licence and the documents referred to or incorporated in it constitutes the entire agreement between the parties with respect to the matters dealt with and supersedes and extinguishes any prior drafts, agreements, undertakings, representations, warranties and arrangements of any nature whatsoever, whether or not in writing, between the parties in relation to such matters.

b) No term of this licence shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party, but this does not affect any right or remedy of a third party which exists or is available apart from under that Act.

20. Force majeure

In the event that either of the parties are unable to carry out all or any of their obligations under this Agreement as a result of matters arising beyond their reasonable control neither party shall have a claim against the other provided that notice of the event or events is given to the party not affected within forty-eight hours.

21. Restriction on assignment

Under no circumstances is this licence capable of being assigned by the Distributor and any such assignment shall be deemed to be void.

22. Law

This licence shall be governed by and construed according to English law and both parties hereby submit to the exclusive jurisdiction of the English courts.

TERMS AND CONDITIONS - ORDER FORM TO SUPPLY THE DIRECT DEBIT ORIGINATORS EXTRACT: DISTRIBUTOR LICENCE (CONT.)

SCHEDULE ONE - TERMS OF CUSTOMER LICENCE

Each Customer licence of the Direct Debit Originators Database (the Extract) granted pursuant to this licence by the Distributor shall be contained in a written document signed by the Distributor and the Customer and shall be on terms at least similar to the following:

a) As between the Customer and the Distributor, all copies of the Extract supplied by the Distributor shall be the property of Bacs and except as provided by the Customer licence (and s.296A of the Copyright Designs and Patents Act 1988) the Customer shall have no rights to copy, modify, develop or adapt the Extract or to use, sell, dispose of or transfer the Extract or any copies thereof in the possession of the Customer.

b) The Distributor grants the Customer a royalty-free fully paid-up licence without limit of time to use the Extract solely for use in connection with the Bacs Payment System and to make one copy of the Extract for backup purposes only provided that the Customer licence shall not give the Customer any rights to copy and or use the Extract other than for the purpose in relation to which it was supplied.

c) The Customer shall keep confidential and shall not be entitled to disclose the Extract to any third party. All copies of the Extract shall remain the property of Bacs and upon the Customer ceasing to use the Extract, the Customer

shall return to the Distributor the said copies. For the avoidance of doubt the Customer shall not be entitled to sell, loan or in any other way dispose of the said copies to any third parties.

d) All Extracts and related data licensed to the Customer are provided in an "as is" state. No warranty or indemnity of any kind whatsoever is given by the Distributor in respect of the Extract and all conditions and warranties express or implied by law or statute or otherwise are hereby expressly excluded.

Upon notification by Vocalink Limited to the Customer that the licence agreement between Vocalink Limited and the Distributor has been terminated, the Distributor's rights and obligations under the Customer licence shall automatically be assigned forthwith to Vocalink Limited who shall thereupon be deemed a party to the Customer licence and all rights and obligations thereunder shall be directly enforceable by or against Vocalink Limited as the case may be.

f) The Customer acknowledges that Bacs and its officers, employees, agents and licensors have no liability to it whatsoever in connection with the Customer licence or the Customer's use of the Direct Debit Originators Database.

g) The Customer acknowledges that all intellectual property rights including but not limited to copyright and other intellectual property rights in the Direct Debit Originators Database are owned by Bacs.

h) No title or rights of ownership, copyright or any other intellectual property rights in the Direct Debit Originators Database are or will be transferred to the Customer.

i) The Customer will ensure that all of its relevant employees are advised that the Direct Debit Originators Database and all intellectual property rights in it are the property of Bacs and the Customer will use all reasonable endeavours to ensure that its employees comply with all of the terms and conditions of the Customer licence.

j) The Customer shall ensure that all copies of the Direct Debit Originators Database and of any manuals made by the Customer will incorporate the notice set out in paragraph (a) of this Schedule hereto indicating that copyright in the Direct Debit Originators Database and any related manuals is vested in Bacs. In the case of any manuals, each manual must also contain a similar disclaimer.

END

AGREEMENT TO THE TERMS AND CONDITIONS

Name	Signature
Date	

Return these signed terms and conditions with your completed order form and the completed Direct Debit Instruction to:

Service registration
DDO order form
Vocalink Limited
Unit 17 Humphrys Road
Woodside Estate
Dunstable
LU5 4TB

Head Office

1 Angel Lane
London
EC4R 3AB
United Kingdom

info@vocalink.com

vocalink.com

Registered No. 6119036

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