



# Sorting Code Directory terms and conditions

**DISTRIBUTOR LICENCE**

**VERSION 6.0**



# Sorting Code Directory terms and conditions: Distributor Licence

The following terms and conditions set out the terms on which the Sorting Code Directory may be used by the Distributor and its Customers. They are in addition to and without prejudice to the rights of Vocalink 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.

This Distributor Licence allows the Distributor to:

- a) download, copy and/or distribute multiple instances of the Sorting Code Directory, as described in clause 2 below; and
- b) allow Customers to access and use a single instance of the Sorting Code Directory under the Customer Licence.

By way of example, this Distributor Licence would be appropriate for: the head office of a large company that requires access to multiple single instances of the Sorting Code Directory for use by its subsidiaries; or a payment software supplier that is required to make available a single instance of the Sorting Code Directory to each of its customers.

If the Distributor makes available an instance of the Sorting Code Directory to any of its Customers, the Distributor shall ensure that such Customer complies with the terms and conditions of the Single Instance Licence and keep the Sorting Code Directory up-to-date as described in clause 2 below.

## The parties agree as follows:

### 1. Definitions and interpretation

**"Contract Year"** means the twelve month period commencing on the Licence Start Date and each successive 12 month period.

**"Customer"** means a third party to whom the Distributor (i) grants a licence to use the Sorting Code Directory and (ii) supplies the same.

**"Customer Licence"** means the licence granted by the Distributor to a Customer allowing it to use the Sorting Code Directory.

**"Direct Debit"** means, for UK based organisations, the direct debit system which allows for automated bill payment or for, non-UK organisations, an agreed process of wire transfer of funds.

**"Distributor"** means the party whose company name and address have been entered on the Order Form.

**"Extended Industry Sorting Code Directory"** or **"Extended ISCD"** means the Vocalink product by these names, consisting of a copy of a computer file of Sorting Code Data or any data taken from the computer file of Sorting Code Data and incorporated into any computer file or product produced by the Distributor or its Customers.

**"Industry Sorting Code Directory"** or **"ISCD"** means the Vocalink product by these names, consisting of a copy of a computer file of Sorting Code Data or any data taken from the computer file of Sorting Code Data and incorporated into any computer file or product produced by the Distributor for distribution to its Customers.

**"Intellectual Property"** means any current and future intellectual property rights, including:

c) copyright, trademarks, service marks, trade names, domain names, rights in logos and get-up, inventions, confidential information, trade secrets and know-how, design rights, patents, utility models, semi-conductor topographies, all rights in computer software and data, rights in databases;

d) all intangible rights and privileges of a nature similar, analogous or allied to any of the above;

e) all granted registrations and all applications for registration;

f) all renewals, reversions or extensions;

g) the right to sue for damages for past infringement; and

h) all forms of protection of a similar nature which may subsist anywhere in the world;

in every case in any part of the world and whether or not registered.

**"Licence Fee"** means the fee payable by the Distributor to Vocalink for the use of the Sorting Code Directory specified in the Order Form under the terms of this Distributor Licence.

**"Licence Start Date"** means the date on the Order Form which is accepted by Vocalink and from which the Distributor may download the Sorting Code Directory specified in the Order Form.

**"Order Form"** means both the online registration form and Direct Debit payment authorisation form which are made available by Vocalink and completed by the Distributor in order to apply to use the Sorting Code Directory specified in the Order Form under the terms of this Distributor Licence.

**"Service User Number"** means the unique number identifying the Distributor as a licensee of the Sorting Code Directory.

**"Sorting Code"** means the number codes issued (from time to time) to members of payment schemes for use as an identifier in those payment schemes.

**"Sorting Code Data"** means the data which constitutes a sort code.

**"Sorting Code Directory"** means either the Extended ISCD or the ISCD as applicable and set out in the Order Form.

**"Technical Specification"** means the latest version of the document of that name which specifies the format and content of the Sorting Code Directory.

**"Territory"** means the United Kingdom.

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

**"Vocalink Download Site"** means the electronic data site made available to the Distributor in accordance with clause 6.

This Agreement shall be deemed to include any attached schedules or appendices and the Order Form.

## 2. Grant of licence

i) Vocalink hereby grants the Distributor a personal, non exclusive, non transferable, terminable licence to:

i) provide a single electronic copy of the Sorting Code Directory to each of its Customers under the Customer Licence; and

ii) itself use and copy the Sorting Code Directory;

iii) incorporate data from the Sorting Code Directory into any computer file or product produced by the Distributor; and

iv) license computer files or products produced by the Distributor pursuant to clause 2.a)iii) above to Customers and supply copies of the same to Customers,

each during the continuance of this Distributor Licence on the terms and conditions set out herein.

j) The licence granted by Vocalink under clause 2(a) above is subject to the following conditions:

i) the Sorting Code Directory not being sold, hired, sub-licensed, lent nor otherwise transferred to a third party except in accordance with the terms and conditions of this Distributor Licence;

ii) title to and ownership of the Intellectual Property rights in the the Sorting Code Directory shall be reserved to Vocalink (and its licensors) and shall not, under any circumstances, pass to the Distributor or its licensees including without limitation its Customers;

iii) Vocalink shall not be required to provide any support or maintenance services under this Distributor Licence;

iv) the Distributor shall keep the Sorting Code Directory up-to-date by downloading the latest copy of the applicable file from the Vocalink Download Site at least once every month and ensuring that all of the Distributor's instances of the Sorting Code Directory are replaced by the latest version;

v) the Sorting Code Directory is provided solely for the purposes contemplated under this Distributor Licence. The Distributor acknowledges that the use of the Sorting Code Directory (or any information therein) for any other purpose, may constitute an unlawful breach of this Distributor Licence; and

vi) the Distributor shall be primarily liable to Vocalink for the acts and omissions of the Distributor's Customers in relation to their use of the Sorting Code Directory and, without limitation to the generality of the foregoing, the Distributor shall have sole responsibility for ensuring that any distribution, access and/or use of the Sorting Code Directory outside the Territory is done so in accordance with all applicable laws and regulations.

The Distributor warrants and represents that the Sorting Code Directory, including any copy which is made by the Distributor pursuant to this Distributor Licence, shall remain under its control (except to the extent that it is permitted to distribute the same to Customers) and that it will take all reasonable precautions to safeguard the Sorting Code Directory against unauthorised use.

### **3. Duration**

This Distributor Licence shall commence on the Licence Start Date and will continue in full force and effect until terminated by the Distributor or Vocalink pursuant to clause 11 below.

### **4. Payment of Licence Fee**

k) The Distributor shall pay to Vocalink the Licence Fee as advised by Vocalink. Payment of the Licence Fee shall be made to Vocalink either:

i) quarterly in advance commencing on the Licence Start Date by Direct Debit; or

ii) annually in advance by providing Vocalink with a purchase order, commencing on the Licence Start Date,

iii) annually in advance by payment of invoice, commencing on the Licence Start Date.

Upon paying the Licence Fee the Distributor shall be entitled to download the Sorting Code Directory identified in the Order Form from the Vocalink Download Site. Subject to the Distributor paying the Licence Fee and complying with the terms of this Distributor Licence, there shall be no limitation on the number of copies of the Sorting Code Directory that the Distributor may download in any calendar quarter.

l) The Licence Fee may be increased by Vocalink upon three month's advance written notice to the Distributor.

m) Where the Distributor wishes to pay Vocalink using the payment option in clause 4(a)(ii) the Distributor shall include a purchase order number, and/or any other information necessary to ensure that any invoice is paid promptly, (collectively "PO Details") together with the Order Form in respect of the first year's fees, and shall provide such PO Details in respect of any renewal at least 30 days in advance of the anniversary of the Licence Start Date in respect of the renewal fees.

## **5. Format and availability of Sorting Code Directory**

a) An updated version of the Sorting Code Directory will be available for download by the Distributor on the last working day of the week. The Sorting Code Directory will be made available to the Distributor in the format specified in the version of the Technical Specification that is current at that time.

b) The Distributor shall update its Sorting Code Directory at least monthly (as described in paragraph 2 above) and make available the updated version, as a single instance, to all of its Customers.

## **6. Access to Vocalink Download Site**

a) On the Licence Start Date, Vocalink will issue the Distributor with a Service User Number, user identifications and passwords to enable the Distributor to access the Vocalink Download Site for the sole purpose of downloading copies of the Sorting Code Directory in accordance with this Distributor Licence. The Distributor shall be responsible for keeping the Service User Number, contact IDs and passwords confidential and up to date by obtaining new versions from Vocalink. In the event that the Distributor loses any user identification and/or password, it shall notify Vocalink of the fact immediately in writing. Vocalink will promptly assist with the steps required to reset the user identification 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 copy of the Sorting Code Directory that is downloaded within a Distributor Session shall be deemed to have been downloaded by the Distributor (where "Distributor Session" refers to a session of the Vocalink Download Site that has been initiated using the Distributor's user identification and password).

b) The Distributor shall:

i) notify Vocalink of the contact details of at least two primary security representatives ("Primary Security Contacts") within the Distributor who are responsible for (i) keeping the Service User Number, users identifications and passwords secure, and (ii) maintaining a list of users within the Distributor who may access the Vocalink Download Site ("Secondary Users") but who do not have the ability to set up user identifications and passwords for such Secondary Users; and

ii) ensure that Vocalink has been provided (at all times) with up to date contact details for at least two Primary Security Contacts and use reasonable endeavours to notify Vocalink if the Primary Security Contacts change within its organisation so that Vocalink can assist with resetting the user identification and password for that Primary Security Contact as necessary.

## **7. Licence to use the Sorting Code Directory**

a) The Distributor is only permitted to copy and use the Sorting Code Directory in accordance with the express terms of this Distributor licence.

b) The Distributor shall include in any licence granted by it to Customers the provisions set out in Schedule 1 below. Any variation to the provisions in Schedule 1 shall only be permitted with the prior written approval of Vocalink.

c) The Distributor shall be entitled (on a non-exclusive basis) to refer to itself as: "Authorised Distributor of the Extended ISCD" or "Authorised Distributor of the ISCD" (as applicable) in its publicity and literature.

## **8. Title and Intellectual Property**

- a) The Distributor acknowledges and agrees that all property rights including but not limited to Intellectual Property rights in the Sorting Code, Sorting Code Data, and the Sorting Code Directory are retained by Vocalink (on behalf of itself or its third party licensors).
- b) No title or rights of ownership or any Intellectual Property rights in the Sorting Code Directory, Sorting Code or Sorting Code Data are or will be transferred to the Distributor or any Customer.
- c) The Distributor will ensure that (i) all of its relevant employees are notified of the fact that all Intellectual Property rights in the Sorting Code Directory, Sorting Code and Sorting Code Data are the property of Vocalink or its third party licensors and (ii) its employees comply with all of the terms and conditions of this Distributor Licence.
- d) The Distributor shall ensure that all copies of the Sorting Code Directory (including any manuals made by the Distributor) will incorporate a notice (in the form set out in Schedule 1 below) indicating that copyright in the Sorting Code Directory and any related manuals is owned by Vocalink or its third party licensors.
- e) Vocalink warrants that the use of the Sorting Code Directory by the Distributor will not infringe the Intellectual Property rights of any third party in the Territory. Vocalink will indemnify and keep indemnified the Distributor against any and all actions claims proceedings costs damages awarded against the Distributor (including reasonable legal expenses arising in connection with any such claim) in connection with a claim that use of the Sorting Code Directory infringes the Intellectual Property rights of a third party in the Territory. Vocalink has no responsibility for the use of the Sorting Code Directory outside the Territory.

## **9. Distributor undertakings**

The Distributor shall:

- a) satisfy itself that the Sorting Code Directory identified in the Order Form meets its operational and business requirements;
- b) ensure that it only distributes the latest version of the Sorting Code Directory available to the Distributor at the time of delivery to the Customer;
- c) make regular updates of the Sorting Code Directory available to Customers on at least a monthly basis; and
- 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 Sorting Code Directory in the last 5 years.

## **10. Vocalink warranties and limitation of liability**

- a) Vocalink warrants that the Sorting Code Directory will be the current version as at the time it is made available for download by the Distributor on the Vocalink Download Site. Vocalink will use its reasonable endeavours to update the Sorting Code Directory on a weekly basis. Should any delay occur in updating the Sorting Code Directory, Vocalink shall ensure that the immediately previous version of the Sorting Code Directory remains available for download until such time as an updated version is made available.
- b) The Distributor acknowledges that:
  - i) the Sorting Code Directory has not been produced to meet individual Distributor or Customer specifications;
  - ii) the Sorting Code Directory cannot be tested in advance in every possible operating combination and environment; and
  - iii) it is not possible to produce a Sorting Code Directory that is error-free in all circumstances and Vocalink does not warrant that the Sorting Code Directory will be error-free. Vocalink does not accept liability for the accuracy of Sorting Code Data which is used within the Sorting Code Directory.

c) Subject to clause 10(b) above, Vocalink warrants that it will use its reasonable endeavours to ensure that the Sorting Code Directory is up to date and materially complete and accurate. Notwithstanding the foregoing, Vocalink's sole obligation and the Distributor's sole remedy with respect to any errors contained in the Sorting Code Directory will be to remedy such errors provided that Vocalink has been notified of the error within fourteen days of the date of download by the Distributor.

d) The above warranties constitute the sole warranties provided by Vocalink in respect of the Sorting Code Directory. The obligations and liabilities of Vocalink under this Distributor Licence are in place of, and the Distributor accordingly waives (to the fullest extent permitted by law), 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.

e) The maximum liability of Vocalink to the Distributor in any Contract Year under or in connection with this Distributor Licence (including under any indemnity) shall not exceed the amount of the annual Licence Fee payable in accordance with this Distributor Licence or £50,000, whichever is the greater, whether arising in tort (including negligence), breach of contract, breach of statutory duty or otherwise in respect of all claims in aggregate (and not on a per claim basis).

f) Notwithstanding anything to the contrary contained in this Distributor Licence, Vocalink shall not be liable, in contract, tort or otherwise howsoever, and whatever the cause thereof for:

i) whether arising directly or indirectly:

(aa) any increased costs or expenses;

(bb) any loss of profit, business, contracts, revenues, or anticipated savings, or;

ii) any special, indirect or consequential losses of any nature whatsoever.

g) The limit on Vocalink's liability set out in this clause 10 shall not apply to claims by the Distributor arising from fraud, death or personal injury caused by Vocalink.

h) Each provision of this Distributor Licence excluding or limiting liability operates separately. If any part is held by a court to be unreasonable or inapplicable, the other parts shall continue to apply.

## **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 and suspension**

a) Vocalink may at its sole discretion terminate this Distributor Licence and the licence granted hereunder in writing immediately or on giving such period of notice in writing as Vocalink considers appropriate:

i) where the Distributor is in breach of the terms of this Distributor Licence and such breach is not capable of remedy;

ii) where the Distributor is in breach of the terms of this Distributor Licence and such breach is capable of remedy, and the Distributor has not remedied the breach within thirty days of receipt of a notice from Vocalink specifying the breach and requiring its remedy; or

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

b) Vocalink may at its sole discretion terminate this Distributor Licence and the licence granted hereunder for convenience on giving the Distributor three months' notice.

c) Vocalink may at its sole discretion suspend the provision of any service provided under this Distributor Licence, including (without limitation) suspending the Distributor's or its Customers' access to the Sorting Code Directory, if the Distributor has not provided the information required under clause 4(c) or has not paid the Licence Fee (within 30 days any invoice or Direct Debit rendered pursuant to this Distributor Licence). Where Vocalink suspends this Distributor Licence or any Customer Licence there shall be no refund or rebate of any licence fees paid or payable.

d) The Distributor shall be entitled to terminate this Distributor Licence by giving Vocalink three months' notice in writing.

e) Upon suspension or termination of this Distributor Licence for any reason:

i) the Distributor shall cease its use and distribution of the Sorting Code Directory;

ii) the Distributor shall give one month's notice to all of its Customers to confirm that (aa) the Distributor will no longer supply updated versions of the Sort Code Directory and (bb) the Customer should contact other approved providers of the Sort Code Directory if they wish to register with any such provider in order to continue to receive updated versions of the Sort Code Directory.

iii) the Distributor shall ensure that all of their Customers delete any instances/copies of the Sorting Code Directory within one month of the date of termination of the Distributor Licence, unless any such Customer has registered with an alternative approved provider of the Sorting Code Directory; and

iv) Vocalink shall not be required to refund any licence fees already paid.

### **13. Effects of termination**

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

### **14. Return of documents and materials on termination**

On termination of this Distributor Licence the Distributor shall immediately deliver to Vocalink or destroy all documents containing and copies of the Sorting Code Directory and any other items or property belonging to Vocalink (including any Technical Specifications) which the Distributor and any Customer may have in its possession or be under its control.

### **15. Payment following termination**

The Distributor shall pay to Vocalink any amounts due to it.

### **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 may be sent by ordinary first class post, email 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 Distributor Licence.

b) The relationship between Vocalink and its third party licensors 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 Distributor Licence.

## **19. Entire agreement and rights of third parties**

a) This Distributor 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 Distributor 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 Distributor Licence 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 Distributor Licence capable of being assigned by the Distributor and any such assignment shall be deemed to be void.

## **22. Law**

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

# **Schedule 1 – Terms of Customer Licence**

Each Customer Licence in respect of the Sorting Code Directory granted pursuant to this Distributor Licence by the Distributor shall be contained in a written document signed by the Distributor and the Customer and shall contain at least the following provisions:

a) Except as provided by the Customer Licence (and s.296A of the Copyright Designs and Patents Act 1988) the Customer is not granted any rights to copy, modify, develop or adapt the Sorting Code Directory or to use, sell, dispose of or transfer the Sorting Code Directory or any copies thereof in the possession of the Customer, and no title or rights of ownership, copyright or any other intellectual property rights in the Sorting Code Directory are or will be transferred to the Customer.

b) The Customer's right to use the Sorting Code Directory is limited to use in connection with the UK Bacs scheme, Faster Payments scheme, CHAPS Sterling scheme and Cheque and Credit Clearing scheme.

c) The Customer acknowledges that all property rights including but not limited to Intellectual Property rights in the Sorting Code, Sorting Code Data, and the Sorting Code Directory are owned by UK Payments.

- d) No title or rights of ownership or any Intellectual Property rights in the Sorting Code Directory, Sorting Code or Sorting Code Data are or will be transferred to the Customer.
- e) The Customer may not make any copies of the Sorting Code Directory except for one copy of the Sorting Code Directory for backup purposes.
- f) The Sorting Code Directory and all copies thereof are the property of Vocalink (or its third party licensors) the Customer is prohibited from selling, loaning or in any other way disposing of any copies of the Sorting Code Directory to any third parties.
- g) The Customer shall keep the Sorting Code Directory confidential and shall not disclose the Sorting Code Directory to any third party.
- h) Upon termination of the Distributor Licence or the Customer Licence (as applicable), the Customer shall return to the Distributor all copies of the Sorting Code Directory in the Customer's possession or control unless it has registered with alternative approved provider to receive copies of the Sorting Code Directory.
- i) The Sorting Code Directory and any related data licensed to the Customer are provided on an "as is" basis. The Customer Licence must not contain any warranty or indemnity of any kind whatsoever in respect of the Sorting Code Directory and must exclude the fullest extent permitted by law all conditions and warranties express or implied or otherwise.
- j) The Distributor shall regularly update its Sorting Code Directory and make sure the Customer receives the up to date version at least monthly.
- k) That, upon notification by Vocalink to the Customer that the Distributor Licence between Vocalink and the Distributor has been terminated, the Distributor's rights and obligations under the Customer Licence will automatically be assigned forthwith to Vocalink who will thereupon be deemed a party to the Customer licence and all rights and obligations there under will be directly enforceable by or against Vocalink as the case may be.
- l) The Customer acknowledges that Vocalink and its officers, employees, agents and licensors have no liability to whatsoever to Vocalink in connection with the Customer Licence or the Customer's use of the Sorting Code Directory.
- m) The Customer shall ensure that all of its relevant staff are aware of and comply with the terms of the Customer Licence.
- n) The Customer shall ensure that all copies of the Sorting Code Directory and of any manuals made by the Customer will incorporate a notice indicating that copyright in the Sorting Code Directory and any related manuals is vested in Vocalink (on behalf of itself and its third party licensors).

**End**

**Contact us**

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vocalink.com

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