

TERMS AND CONDITIONS OF SERVICE AGREEMENT

Activation Agreement for Services

By subscribing to and utilizing Call Desk Inc Services, you agree to and are bound by the following Terms and Conditions.

Definitions

"Service" or "Services" means any and all services provided to you by Call Desk, Inc., an Oregon corporation doing business as "Call Desk Inc ." Call Desk, Inc. is hereinafter referred to as "Call Desk Inc ," "we," "us," or "our."

Right to Change Terms and Conditions

You agree that Call Desk Inc may change these Terms and Conditions, or its rates, for any or all portions of the Services at any time with ten (10) days notice. You agree that Call Desk Inc may provide notice of such changes by posting the changes on the Call Desk Inc web site, or by e-mail or conventional mail to the address currently on file for your account. By continuing to use the Services after the tenth day of such notice, you agree to be bound by the modified Terms and Conditions of the Services.

Billing and Payment

All Call Desk Inc transactions are based and calculated on the U.S. Dollar and you agree to pay Call Desk Inc for all rates and charges. Charges will begin accruing on the date Call Desk Inc receives your written, verbal or online application. A subscription to the Service may require a credit card number or voided check for billing, depending on your program. By providing your credit card information or a voided check, you grant Call Desk Inc authorization to submit charges to that credit card number or to debit your bank account for your use of the Service each month.

The rates for a Service period are charged in advance of the upcoming period of service. All usage charges based on "per minute" rates will be billed in arrears based on actual usage. Any other applicable charges (such as setup fee, payphone surcharges, taxes, etc.) will also be billed to you. You acknowledge that the amount charged by Call Desk Inc may vary based on your usage of the Service. All invoices are due upon receipt. Any charges left unpaid for 30 days will be subject to a monthly service fee of the lesser of 1.5% of the outstanding balance, or the maximum legally allowable interest rate. If charges applied to your credit card or bank account are rejected, Call Desk Inc reserves the right to assess a processing fee of not less than \$50.00.

If you place your account "on hold" or "on vacation," some charges may be suspended. However, you acknowledge that you are responsible for any usage charges that may have accrued before that time, as well as the current month's service fee and all service fees debited to your account while the service is "on hold" or "on vacation." Please contact Call Desk Inc customer service for specific information regarding your service plan.

You understand that failure to pay charges as required will result in the disruption of your Service and your account being turned over to an outside collection agency. You agree to pay account balance, late fees and collection charges if Call Desk Inc places your account with an outside collections agency.

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You grant permission to Call Desk Inc to check your credit history and rating, and to refuse you service or suspend your account at any time based on our evaluation of your creditworthiness. A credit limit will be established for you and if the amount owing on your account exceeds your credit limit at any time, you are required to make immediate payment in order to avoid disruption of your Service.

Billing Statements

You will have access to a billing statement for each month that you incur Service charges. Unless you notify Call Desk Inc in writing of any dispute regarding your statement within forty-five (45) days (or such longer period as may be required by law, if any) after the date the statement was made available to you, the charges on the statement will be deemed to be accepted by you for all purposes, including resolution of any inquiries made by your credit card issuer, if applicable.

Right to Monitor and Record all calls

As a quality control measure and in pursuit of continuous improvement, Call Desk Inc maintains the right to record and/or monitor all calls received and made by your account. These recordings may be used for training, quality control, continuous improvement practices or as otherwise deemed necessary by Call Desk Inc. You agree that calls made to or by your Call Desk Inc Service may be monitored and/or recorded.

Service Levels

Call Desk Inc 's reputation depends on providing a high level of customer service when answering the telephones. In order to maintain this high level of service, we need to know about any expected periods of unusually high call volume. If you plan to conduct any media campaigns that direct the audience to call your Call Desk Inc Service, you are required to obtain advance written consent.

Cancellation

Your Service may be canceled with a 30 day written notice by either party, with or without cause. Call Desk Inc may suspend, interrupt, or cancel your service, without notice, for non-payment, or if Call Desk Inc reasonably suspects it will not receive payment, or for any violation by you of these Terms and Conditions.

After your Service is cancelled for any reason, you agree that Call Desk Inc is authorized to invoice you for any outstanding balance and you agree to pay it. Call Desk Inc will not refund a prorated portion of monthly service fees in the event that you cancel Service part way through your billing cycle. Subsequent reinstatements of Service after cancellation are subject to a Service reinstatement fee.

Ownership of Numbers

You understand that all CallDesk.com numbers, whether toll or toll-free, are rented and are non-transferable. CallDesk.com does not release numbers for direct billing to you through another service provider. Attempting to transfer a number without the approval of CallDesk.com will cause you to be liable for any and all fees associated with retrieving that number.

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Compliance and Cooperation

Call Desk Inc requires its Services to be used lawfully and in compliance with all regulations and governing bodies. You agree that your access to and your use of your Service account is subject to all applicable federal, state and local laws and regulations.

Call Desk Inc will cooperate with federal, state and local authorities and with injured third parties when asked for information about an account or a toll-free number or during the investigation of any suspected crime or civil wrong attempted or perpetrated by using, or attempting to use, the Service. You understand that Call Desk Inc will examine any and all portions of your Service to cooperate with such requests and you hereby consent to such examination. You also understand that Call Desk Inc will provide the contact information for your account to any federal, state or local authority who makes a reasonable written request for such information or if necessary to clear up Call Desk Inc's involvement in a regulated activity associated with your Service. You grant consent to Call Desk Inc to provide this information.

Call Desk Inc reserves the right to identify and restrict the same or substantially similar electronic mail and/or fax messages, whether or not commercial, to a large number of recipients (spamming). Because Call Desk Inc has no practical ability to restrict all communication, conduct, or content which might violate these Terms and Conditions prior to its transmission on Call Desk Inc 's systems, and because Call Desk Inc cannot ensure prompt removal of any such communications or content after transmission or posting, Call Desk Inc does not assume liability for you or others for any failure to enforce the terms of these Terms and Conditions.

Fraudulent and Abusive Use of the Services

Call Desk Inc helps protect you against fraudulent use of your Services with private user names and passwords, credit card verification upon sign up, and daily and monthly usage limits. You are responsible for controlling access to and maintaining the security of your user name and password. You shall notify Call Desk Inc of any user names and passwords which are lost, stolen, or suspected of being used fraudulently by contacting Call Desk Inc customer service. You agree you are liable for all charges incurred prior to and within thirty (30) minutes after you request Call Desk Inc customer service to deactivate your user names and passwords. You agree to not engage in or assist others in fraudulent or abusive use of the Services.

Indemnification and Release

You agree to indemnify and hold harmless Call Desk Inc and its directors, officers, affiliates, employees, agents, suppliers, subcontractors, and vendors from any damages, losses, obligations, liabilities, claims and expenses (including reasonable attorneys' fees and other costs and expenses of any suit, action, investigation, claim, or proceeding) of any kind whatsoever, sustained, incurred or required to be paid by Call Desk Inc by reason of or arising out of, directly or indirectly, your use of the Services, or the use of your Service account by another (whether or not authorized by you), including without limitation, any claim of libel, defamation, violation of rights of privacy or publicity. Call Desk Inc reserves the right to assume the exclusive defense and control of any such claim subject to indemnification, but, notwithstanding Call Desk Inc 's control of the defense of such claim, you will remain obligated under this indemnity.

Disclaimer of Warranty

You acknowledge and agree that Call Desk Inc has not made, and does not make, any warranty or guarantee with respect to the Service, whether express or implied, and that the Service is offered to you "AS IS" and "AS AVAILABLE." Without limitation of the foregoing, Call Desk Inc makes no warranty that the Service (i) is merchantable, (ii) is fit for a particular purpose, (iii) is or will operate "error-free", or (iv) is non-infringing of the rights of any third party. You

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acknowledge and agree that Call Desk Inc cannot and does not guarantee (i) that the Service will be available at all times, (ii) that voice mail, fax mail or e-mail messages or other services will be delivered or received within a particular time, or will be transmitted accurately, (iii) that voice mail, fax mail or e-mail messages will be stored for any particular time, or (iv) that each and every country will be accessible through its access numbers. You acknowledge and agree (i) that Call Desk Inc cannot and does not guarantee, and assumes no liability for, the security or confidentiality of data transmitted to or from the Service, (ii) that no computer system is immune from intrusion, (iii) that data transmitted to or from the Service may pass through many computer systems, and (iv) even encrypted data is only as secure as the encryption method used to protect it and may not offer complete security.

Limitation of Liability

YOU AGREE THAT Call Desk Inc WILL NOT BE LIABLE OR RESPONSIBLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, OR SPECIAL DAMAGES, LOSSES, LOST PROFITS, OBLIGATIONS, LIABILITIES, CLAIMS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES AND OTHER COSTS AND EXPENSES OF ANY SUIT, ACTION, INVESTIGATION, CLAIM, OR

PROCEEDING) OF ANY KIND WHATSOEVER (WHETHER BASED IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), SUSTAINED OR INCURRED BY YOU AS A RESULT OF YOUR USE OF THE SERVICE OR THE USE OF YOUR SERVICE ACCOUNT BY ANOTHER (WHETHER OR NOT AUTHORIZED BY YOU), INCLUDING THE LOSS, DELAY OR INACCURACY OF ANY VOICE MAIL, E-MAIL OR OTHER MESSAGE OR SERVICE, ANY LOSS OF CONFIDENTIALITY OF ANY VOICE MAIL, E-MAIL OR OTHER MESSAGE INTENDED TO BE CONFIDENTIAL, OR AS A RESULT OF ANY SUSPENSION, INTERRUPTION OR CANCELLATION OF SERVICE (EVEN IF Call Desk Inc HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES). IN NO EVENT WILL THE AGGREGATE LIABILITY OF CALL DESK INC FOR ANY AND ALL CLAIMS (WHETHER BASED IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), EXCEED THE AMOUNT PAID BY YOU TO CALL DESK INC FOR SERVICE RENDERED IN THE MOST RECENT BILLING PERIOD. IT IS YOUR RESPONSIBILITY TO TEST YOUR SYSTEM BEFORE ANY ADVERTISING IS RUN TO ENSURE THE SYSTEM IS FUNCTIONING PROPERLY AND CAN BE ACCESSED FROM YOUR AREA. CALL DESK INC BEARS NO RESPONSIBILITY FOR REIMBURSEMENT OF ADVERTISING COSTS DUE TO A FAILURE TO TEST THE SYSTEM BY THE SUBSCRIBER, PRIOR TO ADVERTISING.

Copyright/Trademarks

The trademarks, logos and service marks displayed on Service materials or any Service web sites are the property of Call Desk Inc, its affiliates and other parties. You agree that you may not use any such trademark, logo or service mark without the written permission of Call Desk Inc or such third party, which may own them. You agree that the Service, and all programs, services, processes, technologies, designs, inventions, materials and software used by Call Desk Inc for or in connection with the Service are owned by and/or are proprietary to Call Desk Inc, and you agree not to duplicate, or attempt to duplicate, such Service, or provide any similar service, in whole or in part, directly or indirectly, alone or in cooperation with others; or to translate, reverse engineer, disassemble or de-compile any software used or owned by Call Desk Inc for or in connection with the Services.

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Arbitration and Governing Law

Any dispute arising out of or related to these Terms and Conditions or the use of the Service by you (or by another person using your Service account, with or without your permission) shall be submitted exclusively to binding arbitration before the American Arbitration Association in Portland, Oregon. You agree that all arbitration proceedings shall be before one arbitrator in Portland, Oregon and you waive any objections that might otherwise be available based on improper venue or forum non-conveniens.

Discovery appropriate to the dispute between the parties and the desire of the parties for a prompt and efficient resolution of the dispute will be permitted. The arbitrator will be bound by these Terms and Conditions and applicable law, and the decision of the arbitrator will be binding on Call Desk Inc and you. The arbitrator will have the power to award costs and expenses (including attorneys' fees) to the prevailing party. The arbitrator's decision may be enforced in any court of competent jurisdiction. These Terms and Conditions shall be governed by the laws of Oregon applicable to agreements entered into and performed wholly in Oregon.

Acceptance of Privacy Policy

By using our web site, you signify your assent to the Call Desk Inc Privacy Policy. Call Desk Inc reserves the right to modify our Privacy Policy at any time without prior written notice and only the current Privacy Policy may be deemed effective. Your continued use of our web site following such changes will be considered your acceptance of such changes.

Client

Company: _____

Name (printed): _____

Title: _____

Signature: _____

Date: _____

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