



## Broadcast Licence Agreement

# ENGAGE BROADCAST LICENCE AGREEMENT

THIS AGREEMENT is dated the 200[X]

## BETWEEN

- (1) Voice Commerce Group Limited a company incorporated in Jersey of 5, Rue Des Arbres. La Verte Rue, St Mary, Jersey, JE3 3DA (“**Licensor**”), and
- (2) [**Company name**] whose registered office is at [**address**] (the “**Licencee**”)

This licence **must** be read in conjunction with The Engage Enterprise Agreement licence number [**insert**] issued to the Licencee (2) by Licensor (1).

## 1. Definitions

The following terms and definitions shall have the following meanings unless the context requires otherwise:

1.1 “Engage Broadcast” means The Engage Broadcast service which is designed to operate in conjunction with the Engage Enterprise Internet communications services. Engage Broadcast enable conversion of electronic messages (videos, messages and voice mails) to the Engage broadcast format, and subsequent upload, publication, transmission and broadcasting over the Engage Network to registered and licensed Engage End Users.

1.2 “Media” means information, data, text, software, music, sound, photographs, graphics, video, messages or other materials or combinations of such materials stored digitally or electronically

1.3 “Site” means the Voice Commerce Group web site the URL of which is [www.voice-commerce.com](http://www.voice-commerce.com);

1.4 “Software” means the computer programs in object code which are downloaded from the Site and which allow and enable the use of the Engage Broadcast Service by the Licencee and includes any new version of such computer programs, any other associated computer programs and any patches or upgrades which are applied to such computer programs or associated computer programs;

1.5 “End User” is any person, corporate body or other legal or entity using the Engage services on a licensed basis.

## 2. Interpretation

2.1 To the extent that the context permits references to “you” or “your” means you “The Licencee” and each individual or corporate users on behalf of their corporation.

2.2 To the extent that the context permits, references to “we” and “us” and “our” refer to The Licensor and its subsidiaries, affiliates, officers, agents, and employees.

## 3. Acceptance

By downloading or installing the Engage Broadcast software, as defined in this licence, you hereby irrevocably accept these licence terms.

3.1 No verbal or other representation may constitute a valid variation to these terms.

3.2 To use the Engage Enterprise software you must accept the Terms of Use of that software and you hereby acknowledge that you are bound by those terms whilst using the Engage Broadcast software.

3.3 Copies of all current and relevant legal agreements can be downloaded from <http://www.voice-commerce.com/engage-moduler.html>

## 4. Modification

We reserve the right to change, modify, suspend or discontinue any portion of the Software and/or the Engage Broadcast service at any time.

4.1 We may also impose limits on certain features, message data storage capacity, message sizes, or restrict your access to parts of or the entire application without notice or liability.

## 5. Media content

It is generally illegal to reproduce, distribute or broadcast a sound or video recording without the permission of the copyright owner. It is your responsibility to comply with all the relevant copyright laws when you use Engage Broadcast.

5.1 Recognizing the global nature of the Internet, you hereby agree to comply fully with all local rules regarding online conduct and acceptable Media, including all applicable laws regarding the transmission of technical data exported from any particular country.

5.2 You must only use the Engage Broadcast service to convert, upload, publish, broadcast or transmit any Media which:

- (i) you have an unequivocal right to publish without restrictions imposed or implied by any third parties' contracts or rights and where you are entitled to and do consent that any End User who receives that Media is free to distribute that Media to other parties including to other End Users;
- (ii) the copyright owner has consented may be published in this manner;
- (iii) relates to any living person or corporate body where you have obtained any necessary consents from such person or corporate body;

5.3 You must not use the Engage Broadcast Service to convert, upload, publish, broadcast or transmit any Media which:

- (i) is unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, pornographic, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable or potentially harmful to any recipient or their computer system or the Engage Broadcast service;
- (ii) could harm minors in any way;
- (iii) impersonates any person or entity, including, but not limited to, an official of The Voice Commerce Group or its subsidiaries or employee, or falsely state or otherwise misrepresent your affiliation with a person or entity;
- (iv) you do not have a right to transmit under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements);
- (v) infringes any patent, trademark, trade secret, copyright or other proprietary rights of any party;
- (vi) contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
- (vii) is likely or calculated to be unintelligible to a significant proportion of the targeted Users;
- (viii) intentionally or unintentionally violates any applicable local, state, national or international law, including, but not limited to, any rules of any national or other securities exchange, and any regulations having the force of law;
- (ix) promotes or provides instructional information about illegal activities, promotes physical harm or injury against any group or individual, or promotes any act of cruelty to animals;
- (x) includes hidden or subliminal images or any content or a type which could trigger epileptic or other seizures;

5.4 Where you obtain from third parties, Media which you intend to convert, upload, publish, broadcast or transmit using the Engage Broadcast service it is your responsibility to bring these terms and conditions to the attention of such party in advance of any broadcast and obtain their confirmation, and undertaking that they consent to the use of their Media in the manner intended and can confirm their right and authority to give such consent.

5.5 You understand that all Media which you introduce using the Engage Broadcast is your responsibility. This means that you, and not us, are entirely responsible for all Media which you upload, or otherwise transmit via the Engage Broadcast Service.

5.6 We do not control the Media broadcast via the Engage Broadcast Service and, as such; do not guarantee the accuracy, integrity or quality of such Media.

5.7 You agree that you must evaluate, and bear all risks associated with, the use of any Media, including any reliance on the accuracy, completeness, or usefulness of such Media.

5.8 You acknowledge that we do not pre-screen Media, but that we and our agents shall have the right (but not the obligation) in our sole discretion to refuse or remove any Media at any time and without notice that is available via the Engage service. This can include deleting the Media after transmission but before all End Users have downloaded it, or substituting such Media with an alternative message.

5.9 If we do not remove any such Media forthwith, this does not imply that we concur with or accept the content of that Media and does not limit in any manner our right to remove the Media at any time in the future or reduce any indemnity to which we are entitled from those publishing or forwarding the Media.

5.10 We do not claim ownership of the Media you upload or transmit using Engage Broadcast however by submitting Media to us for transmission to End Users you grant us the world-wide, royalty-free, and non-exclusive license to reproduce, modify, adapt and publish the Media solely for the purpose of enabling such transmission, including onward transmission by End Users to other End Users.

5.11 This license exists only for as long as Media which you have transmitted remains in at least one End User's message box.

## 6. Notice

We may notify you of relevant changes to the Engage Broadcast Service and these Engage Broadcast Terms:

- (i) by email to the last email address registered against your account which notice will be deemed to be received upon dispatch from our server; or
- (ii) by instant message if your account is logged in to the Engage Broadcast Service which notice will be deemed to be received upon transmission; or
- (iii) by any conventional means acceptable under applicable law and whichever method is used will constitute valid notice (“Notice”) to you.

## 7. The Engage Broadcast Service

The Engage Broadcast Service will be supplied in accordance with these Terms and the service descriptions on our Site ([www.voice-commerce.com](http://www.voice-commerce.com)) as updated from time to time.

7.1 We cannot guarantee that the Engage Broadcast Service will be uninterrupted or free of faults. At times we may need to suspend all or part of the Engage Broadcast Service to correct a fault or for maintenance purposes. If this happens we will restore the Engage Broadcast Service to you as quickly and as reasonably possible.

7.2 We grant you a non-exclusive, non-transferable licence to download, install and use the Software that you need to use the Engage Broadcast Service (the “Licence”).

7.3 Upgrades to such Software will be made available from time to time and you should upgrade to the latest version promptly when notified of its availability.

7.4 We accept no liability arising from the failure of a User to upgrade the Software in accordance with this clause.

## 8. Your Obligations

In entering into this agreement you accept the following obligations and we retain the right to terminate this Agreement and/or the Licence in accordance with clause 10 if we reasonably believe that you are in breach of any of them:

- (i) You agree that you will acquaint yourself with and comply with all applicable laws concerning Internet-based and electronic communications.
- (ii) You will not send any unsolicited commercial communication not permitted by applicable law.
- (iii) You will comply with all applicable privacy laws including obtaining a recipients' consent before sending Media of any type.
- (iv) You will ensure that you don't transmit content to recipients registered in countries where you do not have the necessary consents or which do not permit that content to be distributed in this manner.
- (v) You will ensure that any content which may only be transmitted to persons over a certain age is not published using the Engage Broadcast Service unless you have appropriate confirmation that the intended recipients are above the required age.
- (vi) You will not forge headers or otherwise manipulate identifiers in order to disguise the origin of any Media transmitted through the Engage Broadcast Service.
- (vii) You will not use the Engage Broadcast! Service for any unlawful purposes such as but not limited to making any offensive, indecent or hoax communications or allowing other persons to do so or using the services fraudulently or in connection with a criminal offence.
- (viii) You understand and agree not to make excessive use of the broadcasting capability of the Engage Broadcast Service to the detriment of the overall acceptability of the service for End Users and the likelihood that such End Users will opt-in to receive messages.
- (ix) You will obtain permission from us, pay any applicable charges and follow any guidelines we may require, before deploying any automated process to generate calls or messages using the Engage Broadcast Service.
- (x) You must comply with all reasonable instructions provided by us in relation to the Engage Broadcast Service, including any guidelines we issue in respect of any aspect of the Engage Broadcast Service and accept our right to restrict or terminate your use of the Engage Broadcast Service at any time without compensation if we judge it to be in the interests of the End Users, the Engage Broadcast Service or us to do so.
- (xi) You agree to be responsible for having the use of appropriate equipment for use with the Engage Broadcast Service including a suitable Internet connection and you will continue to be liable for any subscription charges due to us (until termination of the Engage Broadcast Service) even if you cannot use the Engage Broadcast Service due to your equipment or Internet connection being inoperative.

(xii) You agree to pay all amounts due to us promptly when due and not to use the Engage Broadcast Service in any manner which could result in your prepaid account being overdrawn without prior agreement.

(xiii) You agree that you will not falsify or use the Engage Broadcast Service to transmit or intercept, modify, damage or monitor any text, voice, data or e-mail messages intended for other End Users or use the Engage Broadcast Service to in any way cause detriment or harm to any communication system, ourselves or any End User.

(xiv) You agree that you will not resell or attempt to resell the Engage Broadcast Service as if it were your own service.

(xv) You agree that you will keep your log-in and password details secure and not reveal them to any other person. We will never ask you for your password and you should assume that any attempt to request a password is fraudulent, not respond to the request and advise us immediately of the attempt. Where you use the Engage Broadcast Service on a shared or public computer you should not use any software to automatically retain the username and password. If you accidentally do so, you should change the password without delay. We will not accept any responsibility for any losses incurred due to the loss or misuse of log in details.

(xvi) If you plan to use the Software and/or Engage Broadcast Service in a country where it is or becomes forbidden by law to use Software for Internet communications or which restricts you from using Internet-based applications you agree that you will not download, install or use the Software.

## 9. Charges

Unless agreed otherwise in writing, charges for the Engage Broadcast Service are payable in advance and the Engage Broadcast Service may be suspended immediately and any messages broadcast but not yet opened by recipients may be deleted in the event that the prepaid account balance falls below our operating minimum or at any other time where we have cause for concern about your ability to pay for any chargeable services.

9.1 You are responsible for all charges applied to your account for use of the Engage Broadcast Service whether or not you personally used it, except for charges incurred after our customer service centre has been informed that your log-in details have been compromised. A choice of account top-up methods may be made available to you, but we reserve the right to determine which funding source you may use to reflect cost and risk factors. The non-availability of any particular method does not signify that your credit standing is poor.

9.2 Subscription and usage charges and any other amounts due under this agreement will be charged to your account as they arise or fall due and will immediately reduce the available balance.

9.3 Monthly subscription services are provided on a full month basis and no refund will be due in respect of any subscription charges for the month of termination. All subscription prices are subject to increase when additional services are included in the Engage Broadcast Service and will also be reviewed each year to reflect any inflationary pressures affecting us.

9.4 If you provide payment details on the basis that we may debit your account regularly with variable amounts (for example by an automated top-up scheme) we may debit any amounts you owe to us from time to time using those payment details without further advance notice except to the extent required by the relevant payment service provider.

9.5 Charging will commence after any initial free period. We may terminate any free period and withdraw any amount of free credit at any time before it is used without having any obligation to explain our reasons for doing so.

9.6 Details of our latest prices are available on the Site. We reserve the right to change our rates or the way billing is calculated at any time.

9.7 Prices may be changed by 14 days Notice to you.

9.8 Charges will be calculated based on the exchange rates prevailing at the time when charges are incurred.

9.9 The account balance will be maintained in the currency chosen when you signed up to the Engage Broadcast Service and we will not be responsible for any losses due to exchange rate fluctuations.

9.10 Other chargeable services may be made available by us and these may be billed on an ad hoc or usage basis. The billing arrangements for these additional services will be notified to you as such services are introduced.

9.11 We reserve the right to determine in our absolute discretion to what extent you are eligible to use any other services which we introduce.

9.12 You are responsible for and shall pay any applicable taxes including federal, state, provincial, municipal, local or other governmental sales, use, excise, added value, personal property, public utility or other taxes, fees or charges now in force or enacted in the future, that arise from or as a result of your subscription or use or payment for the Engage Broadcast Service.

## 10. Suspension and termination

We may suspend or cancel or restrict usage of your account and/or terminate the Licence to use the Software at any time without notice if we believe that we, any of our partners or resellers or any other End Users could otherwise suffer any loss or reputational damage including but not limited to in the following circumstances:

- (i) You fail to pay any due charges;
- (ii) Any amounts credited to the account are charged back, reclaimed or refunded;
- (iii) Your password has become known by a third party or access to your account has otherwise been compromised;
- (iv) Your e-mail address fails to work;
- (v) You deny any transactions which have taken place on the account;
- (vi) Any unusual pattern of transactions arises on your account;
- (vii) We receive any complaints regarding your use of the Engage Broadcast Service;
- (viii) Any adverse credit or risk information comes to our attention or you refuse to co-operate with any investigation or provide confirmation of identity when requested;
- (ix) You misuse the Engage Broadcast Service or account or breach any of these terms and conditions;
- (x) The Engage Broadcast Service can no longer be provided to you due to any cause beyond our control, including changes of legislation;
- (xi) You attempt to use the Engage Broadcast Service from a country and in a manner which you are not permitted to do by the law of that country;
- (xii) You use an anonymising proxy server or any other means of trying to hide your identity or location from us;
- (xiii) Your account has not been used for more than 2 years;
- (xiv) You take any steps which are likely to lead to bankruptcy or similar.

10.1 We may impose reasonable transaction limits on your account including introducing a delay between topping up an account and making the funds available for use in that account.

10.2 We may recover from you any costs or losses incurred as a result of any breach by you of the Engage Broadcast Terms and, if we believe that any such costs or losses may arise, we may withhold payment of any monies owing to you at our absolute discretion until such time as they have crystallized.

10.3 Where we suspend or cancel your account we may also permanently remove any free credit which has been given to you.

10.4 Where a balance is due by you we may offset this against any monies owing to you by us and any related group companies howsoever arising.

10.5 Interest will be payable on any net amounts overdue by you to us at five (5) percentage points above the Bank of England base lending rate applicable at the time together with such reasonable costs as we incur in the collection of such overdue debt.

10.6 Subject to our rights elsewhere in this agreement, and the cancellation of any unused free credit balances, we will remit to you the net balance on your account following closure provided that you satisfy any identity checks which we may reasonably require, and the amount due to you being more than our minimum remittance amount which will be notified from time to time (currently GBP 200.00).

10.7 Any remittance made will be subject to the deduction of bank remittance charges which we incur and you should note that your bank may also levy charges on receipt of funds.

10.8 In the event that we are unable to complete a payment to you following closure, those funds will be held on account for you for a period of twelve months (during which time we will make reasonable endeavours to complete the payment). If at the end of those twelve months we have still been unable to complete the payment, the funds will revert to us.

10.9 The license for use of the Site and the Software is effective until terminated.

10.10 You may terminate this licence at any time by deleting the Software together with all copies thereof.

10.11 Termination of the license does not cancel any obligations you have towards us under these Engage Broadcast Terms.

10.12 The license will terminate upon conditions set forth elsewhere within these Engage Broadcast Terms or if you fail to comply with any term or condition of these Engage Broadcast Terms. In such event, we shall not be required to give notice to effect such termination.

10.13 Upon termination of the Licence you agree to destroy the Software together with all backup copies, modifications, printed or written materials, and merged portions in any form, or return same to us at your expense.

## 11. Liability

We will not be liable to you either in contract or tort (including negligence) or otherwise for any damage, cost or expense, loss of or corruption of data, loss of profits or production, loss of operational time, goodwill, contracts or anticipated savings or any indirect or consequential loss caused by the interruption, delay, suspension, non-delivery, packet loss caused by any interruption of the Engage Broadcast Service, the downloading or use of the Software or any event beyond our control including the act of any network operator or third party.

11.1 We expressly exclude any warranty as to the suitability, quality or reliability of the Engage Broadcast Service or the Software or that they will be fit or suitable for your purposes.

11.2 You agree that the limitation of liability in this agreement is appropriate. These limitations do not restrict or limit your rights as a consumer.

11.3 You may contact us at any time by email at the address given on our web site. You will fully indemnify us against any expenses, liabilities, losses, costs (including legal costs), action, claims, damages or liabilities howsoever incurred by us as a result of your breach of this agreement or arising as a consequence of any Media you have introduced using the Engage Broadcast Service.

11.4 Whilst we may endeavour to provide reasonable assistance to enable you to use the Engage Broadcast Service we are not responsible for your hardware, firewall, anti-virus or operating system configuration or for any consequences of any changes you may make to get the Engage Broadcast Service to work whether or not we are involved in providing advice directly or via our Site.

11.5 We will take all reasonable precautions to prevent unauthorised access to the Media once it has been uploaded to our servers. However, where unauthorised persons do gain access to the Media we will not be liable for any damages of any kind, including without limitation any compensatory, incidental, direct, indirect, special, punitive or consequential damages, loss of use, loss of data, loss of income or profit, loss of or damage to property, loss of or damage to reputation, claims of third parties or other losses of any kind, arising out of or in connection with the unauthorised person's access to the Media.

## 12. Privacy

Your privacy is very important to us and details of our Privacy Policy can be found on our web site at [www.voice-commerce.com](http://www.voice-commerce.com).

## 13. Other information

These Engage Broadcast Terms may be changed at any time by 14 days Notice to you.

13.1 Acceptance of this contract will take place at our offices in Jersey and is subject to status checks.

13.2 These Engage Broadcast Terms are the parties' entire Agreement and (except in the case of fraudulent misrepresentation) supersede all previous correspondence, understandings between, or representations by either party (or representative of either party) in relation to its subject matter.

13.3 If a court of competent jurisdiction holds any part of this agreement as unenforceable then the rest of the agreement shall remain in force to the maximum extent permissible by law.

13.4 Except in the case of fraud, this Agreement is the complete and exclusive statement of the Agreement between the parties relating to the subject matter of this Agreement, which supersedes all previous communications, agreements and other arrangements written or oral.

13.5 This agreement shall be governed by English law and be subject to the exclusive jurisdiction of the English courts.

13.6 The Engage Broadcast! Service is provided by Voice Commerce Group Limited.. Customer services can be contacted at [support@voice-commerce.com](mailto:support@voice-commerce.com).