

# Privacy Policy

PartyLine is a project by Dialup, Inc. We (“Dialup”, “Dialup, Inc.”) value your privacy. This privacy policy governs your use of the Services (as defined herein) (the “Privacy Policy”) and applies to your usage of the website <https://partyline.chat>, built by Dialup’s software (referred to as the “Services”).

## The Information You Provide

During the registration and/or through your use of the Services we ask you to provide your personal data such as name, email address, phone number. We use that information to provision the Services, contact you when necessary, improve the Services and as further described in this Privacy Policy.

In order to create an account to be able to utilize the Services, we may ask you to provide us:

1. Your first and last name, email address, telephone number, mobile number, age, and city;

We may collect this information from you at various times and places, such as when you:

1. Submit account registration forms or otherwise save your information with us on our Services;
2. Sign up or request to be placed on our mailing, SMS text and/or email marketing lists; and/or
3. Contact us regarding a question or concern such as when you make inquiries concerning the Services;

Your decision to provide us with information is voluntary, but if you choose not to provide any requested information you may not be able to take advantage of all of the Services’ features, including making purchases or payments through the Services.

## Children’s Privacy

We understand the importance of protecting children's privacy in the interactive world. Our Services are not intended to be used by children and we do not knowingly

collect personal data from children under the age of 13. If you are a child under 13 years of age, you are not permitted to use or otherwise access the Services and should not send any information about yourself to us through the Services.

## **Information we Collect When you Use the Services**

In addition to information that you choose to submit to us, we automatically receive and store certain information when you visit or interact with the Services ("Usage Information"). Usage Information is stored on and accessed from your personal computer, laptop, tablet, mobile phone or other device (a "Device") whenever you visit or interact with our Services.

### **Usage Information includes:**

1. your IP address, UDID or other unique identifier ("Device Identifier"); A Device Identifier is a number that is automatically assigned to your Device used to access the Services, and our computers identify your Device by its Device Identifier;
2. your Device functionality (including browser, operating system, hardware, mobile network information);
3. the areas within our Services that you visit and your activities there, including remembering you and your preferences;
4. your Device location;
5. your Device characteristics; and
6. other Device data, including the time of day you visit our Services.

## **Tracking Technologies**

We use various methods and technologies to store or collect Usage Information ("Tracking Technologies"). Tracking Technologies may set, change, alter or modify settings or configurations on your Device. Currently, we do not respond to Do Not Track Signals. A few of the Tracking Technologies used through the Services, include, without limitation, the following (and subsequent technology and methods later developed):

1. Cookies and Firebase Analytics. Cookies are a small piece of data used to exchange information between your browser and the server. We use cookies to store your session identifier. The server erases your cookies when you log out. We may use the permanent cookies to store some of your preferences, such as

user interface language. We also use Google's offering, Firebase Analytics, which allows us to gain helpful insight regarding App usage and user engagement. To learn more about Firebase Analytics, please visit <https://firebase.google.com/docs/analytics>.

2. Usage Information and Server Logs. As further described above, every time you visit the Services' web interface, servers log an entry that includes date and time, your IP address, browser type, browser language, referrer and an address of the page requested. When you connect using client software, the server log file adds that includes timestamp, your IP address, your Services username, client platform and client software version.
3. Web Beacons. A Web Beacon is a small tag (which may be invisible to you) that may be placed on our Services' pages and messages. Web beacons may be used by us for a number of purposes, including counting visitors to the Services, to monitor how users navigate the Services, to count how many emails that were sent by us were actually opened or to count how many particular links were actually viewed.

## **How We Utilize Tracking Technologies**

We use the above Tracking Technologies (or ones we incorporate in the future)

1. to allow you to use and access the Services
2. for the prevention of fraudulent activity and improved security functionality
3. to assess the performance of the Services, as part of our analytic practices and to improve the Services;
4. to identify you when you visit or sign in to our Services
5. to keep track of your specified preferences and to track your online activities over time and across third-party sites; and
6. to deliver content, including ads, relevant to your interests on our Services and third party sites based on how you interact with our advertisements and/or content.

## **Do Not Track Signals**

Some third parties utilize signals or other mechanisms for the expression of consumer choice regarding the collection of information about each consumer's online activities over time and across third-party websites or online services (e.g., browser do not track signals). As noted in this Privacy Policy above, currently, we do not monitor or take any action with respect to these signals or other mechanisms.

## **Information We Collect When You Interact with Third-Party Sites**

The Services may include functionality that allows certain kinds of interactions between the Services and your account on a third-party website or application (for example, the link to Facebook or Twitter). The use of this functionality may involve the third-party site providing information, including personal data to us. For example, we may provide links through the Services to facilitate sending a communication from the Services, or we may use third parties to facilitate emails, Tweets or Facebook, Instagram, or Pinterest postings. These third parties may retain any information used or provided in any such communications or activities and these third parties' practices are not subject to our Privacy Policy. We do not control or have access to your communications through these third parties. Further, when you use third-party sites or services, you should review the applicable third-party privacy policies.

## **Public Communication**

If you send someone else a communication from the Services, such as an invitation to a friend or if you request to connect with your partner, the information you provide (e.g., names, email addresses, mobile number, etc.) will be used to facilitate the communication. You need to ensure that you have the recipient's permission to use his or her information for this purpose. Please be aware that when you use any send-to-a-friend functionality on or through the Services, your email address, mobile number, name or username and message may be included in the communication sent to your addressee(s).

When you connect to your partner, they can see your age and location. Your partner will never see your phone number, email address, or name.

## **How we Use your Information**

We use your personal data, Demographic Information and Usage Information for purposes of:

1. Sending you marketing information about Dialup;
2. Sending you email communications such as electronic newsletters about our Services;
3. Improving the effectiveness of our Services;
4. Processing Services' account registration;

5. Providing customer service, including responding to your inquiries regarding Services;
6. Sending you information about orders you have made on the Site;
7. Helping us address problems with and improve our Services;
8. Providing mobile marketing messages and other communications and messages;
9. Protecting the security and integrity of the Services;
10. Creating aggregated data and statistics (which does not identify you and which we freely use and share);
11. For internal business purposes; and
12. For purposes disclosed at the time you provide your information or as otherwise set forth in this Privacy Policy.

## **Sharing of Information with Third Parties**

### **When You Request We Share With Third Parties**

You may be presented with an option to receive certain information directly from third parties or to have us send certain information to third parties or give them access to it. If you choose to do so, your information may be disclosed to such third parties and all information you disclose will be subject to the third-party privacy policies and practices of such third parties. In addition, third parties may store, collect or otherwise have access to your information when you interact with their content through the Services. This may include using third-party tools such as Facebook, Twitter, Instagram, Pinterest or other third-party posting or content sharing tools and by so interacting you consent to such third party practices. We are not responsible for the privacy policies and practices of such third parties and, therefore, you should review such third-party privacy policies and practices of such third parties prior to requesting information from or otherwise interacting with them.

### **Third Parties Providing Services to Company**

We may use third-party service providers to perform certain services on behalf of us or the Services, such as: (i) to assist us in the operations of the Services; (ii) to manage a database of customer information; (iii) hosting the Services; (iv) designing and/or operating the Services' features; (v) tracking the Services' activities and analytics; (vi) enabling us to send you special updates or perform other administrative services; and (vii) other services designed to assist us in our business as it relates to the Services. We may provide these vendors with access to user information, including Device Identifiers and personal data, to carry out the services they are performing for you or for us. Third-party analytics and other service providers may set and access their own Tracking Technologies

on your Device and they may otherwise collect or have access to information about you, which may include personal data, about you. For any third party we share your personal data with, we enter into contracts limiting their use of your personal data to their provision of services for us.

### **To Protect the Rights of Company and Others**

To the fullest extent permitted by applicable law, we may also disclose your information if we believe in good faith that doing so is necessary or appropriate to: (i) protect or defend the rights, safety or property of Dialup or third parties (including through the enforcement of this Privacy Policy, our Terms & Conditions, and other applicable agreements and policies); or (ii) comply with legal and regulatory obligations (e.g., pursuant to law enforcement inquiries, subpoenas or court orders). To the fullest extent permitted by applicable law, we have the absolute discretion in electing to make or not make such disclosures, and to contest or not contest requests for such disclosures, all without notice to you.

### **Affiliates and Business Transfer**

We may disclose and transfer your information: (i) to a subsequent owner, co-owner or operator of the Services; or (ii) in connection with a merger, consolidation, restructuring, the sale of substantially all of our interests and/or assets or other corporate change, including during the course of any due diligence process.

## **Data Storage**

Services uses third party hosting providers to store your data. Our third party providers store your username, encrypted password, phone number, and email address.

## **Transfer of Information to and from the United States**

Our Services are operated in the United States. If you are located outside of the United States, please be aware that you will be sending your personal data to the United States.

## **Help us Help you; Securing Your Login Information**

If you receive an email that appears to be a request from us for personal data, Do Not Respond as this may be a "phishing" scam designed to steal your information. Never include your credit or debit card number or other sensitive information in an email, as it is not a secure means of transmitting information. We will only request this kind of information during secure transactions on or through the Services. It is your responsibility to safeguard any password you create to access the Services.

## **Communications Preferences**

You are responsible for maintaining the accuracy of the information you submit to us, such as your contact information provided as part of registration. If you wish to update, delete or modify your personal data or do not wish to be contacted via email, direct mail and/or telephone for commercial purposes, please make changes to "My Account" online by clicking the "Settings" option. Provide your exact name and postal or email address or telephone number so that we may identify you accurately. You may also "unsubscribe" from our email by using the link provided at the bottom of each email. In most cases it takes ten (10) days or less to process your "do not email" request. It may take up to eight (8) weeks to process your "do not mail" request because mailings are planned long in advance. You may also opt out of our SMS Program by replying STOP to the last message received. You may receive a single subsequent SMS message confirming your opt-out. If you change your mind about choices you've previously made, make changes to "My Account" online or contact us for assistance. You understand and acknowledge that it may not always be possible to completely remove or delete all of your information from the Services and that residual data may remain on backup media or for other reasons.

## **Disclosure**

In addition to the other usage rights reserved by Dialup as set forth in this Privacy Policy, the Services may disclose personally identifiable information when it's required to comply with law enforcement requests or subpoenas, including when you violate the Terms of Service.

## **Privacy Policy Changes and Modifications**

This Privacy Policy may be modified or changed from time to time in our sole discretion. When changes are significant, we will notify you by emailing you a notice. Any changes will be effective immediately upon the posting of the revised Privacy Policy and your use

of the Services indicates your consent to the Privacy Policy posted at the time of use. However, we will not use your previously collected personal data in a manner materially different than indicated at the time it was collected without your consent. Further, any material changes or revisions to the Privacy Policy will be communicated to you via email, at the most current address you have on file with us. It is accordingly, very important that you keep your email address up-to-date in our systems! To the extent any provision of this Privacy Policy is found by a competent tribunal to be invalid or unenforceable, such provision shall be severed to the extent necessary for the remainder to be valid and enforceable. If you have any comments or questions concerning our Privacy Policy, please contact us at [legal@dialup.com](mailto:legal@dialup.com).

## **NOTICE TO CALIFORNIA RESIDENTS**

If you are a California resident, California Civil Code Section 1798.83 permits you to request information regarding the disclosure of your personal information by Dialup to third parties for the third parties' direct marketing purposes. If we change this policy, we will update this provision and provide instructions on how you may make a request for details. If any other state enacts a similar law as the California law, then this provision will also apply to such state. Nevertheless, if you wish to make such a request, please contact us at [legal@dialup.com](mailto:legal@dialup.com) or write us at P.O. Box 427211 San Francisco, CA 94142.

## **EU AND EEA USERS, SPECIFICALLY**

This Section provides additional information on how we manage personal data that we receive from residents of the European Union ("EU") and European Economic Area ("EEA"). These rights may be limited in some circumstances by local law requirements.

### **Data Controller**

Dialup, Inc.

[legal@dialup.com](mailto:legal@dialup.com)

Phone: +1.415.481.3366

Mailing: P.O. Box 427211, San Francisco, CA 94142

## Purpose of Processing EU Data

We use, transfer, disclose, and process personal data in several ways. We use the data we collect, including personal data, for several purposes of:

1. Sending you marketing information, newsletters and other promotional communications, including through direct mail offerings; the legal bases of which our processing is based upon, is affirmative opt-in consent from you (Art. 6.1.a GDPR);

## Your Rights Under the GDPR

1. To request to be provided with a copy of your personal data held by us;
2. To request the rectification or erasure of your personal data held by us, if applicable;
3. To request that we restrict the processing of your personal data (while we verify or investigate your concerns with this information, for example);
4. To object to the further processing of your personal data, including the right to object to marketing;
5. To request that your provided personal data be moved to a third party;
6. To lodge a complaint with the competent supervisory authority;
7. Your right to withdraw consent: Where the processing of your personal data by us, is based on consent, you have the right to withdraw that consent without detriment at any time by contacting us at [legal@dialup.com](mailto:legal@dialup.com). You can also change your marketing preferences at any time by logging into your account and going to the “Settings” page.

## Contact Us

All requests to exercise your Rights, or inquiries about your personal data should be made to the legal department at [legal@dialup.com](mailto:legal@dialup.com) or by writing to: Dialup, Inc. at P.O. Box 427211 San Francisco, CA 94142.

If your request or concern is not satisfactorily resolved by us, you may approach your local data protection authority. To help determine who your local data protection authority is, please refer to [https://ec.europa.eu/info/law/law-topic/data-protection/reform/what-are-data-protection-authorities-dpas\\_en](https://ec.europa.eu/info/law/law-topic/data-protection/reform/what-are-data-protection-authorities-dpas_en).

# Terms of Service

The website PartyLine (the “App”) and its services (collectively, the “Services”) are owned and operated by Dialup, Inc. (“Dialup,” “we,” or “us”) and are accessed by you under the Terms of Service described herein (“Terms of Service” or “Terms”). Please read these Terms of Service carefully before using the Services. By accessing or using any part of the Services, you agree to become bound by these terms and conditions. If you do not agree to all these terms and conditions, then you may not access the App or use the Services and please refrain from doing so. Nothing in these Terms shall be deemed to confer any third party rights or benefits.

PLEASE READ THESE TERMS CAREFULLY. THESE TERMS SET FORTH THE LEGALLY BINDING TERMS AND CONDITIONS FOR YOUR USE OF THE SERVICES AVAILABLE BY DIALUP. PLEASE BE AWARE THAT THESE TERMS OF SERVICE, AS SET FORTH BELOW, CONTAINS PROVISIONS THAT GOVERN HOW CLAIMS THAT YOU AND DIALUP HAVE AGAINST EACH OTHER ARE RESOLVED. IN PARTICULAR, IT CONTAINS AN ARBITRATION AGREEMENT WHICH WILL, WITH LIMITED EXCEPTIONS, REQUIRE YOU TO SUBMIT CLAIMS THAT YOU HAVE AGAINST DIALUP TO BINDING AND FINAL ARBITRATION. UNLESS YOU OPT OUT OF THE ARBITRATION AGREEMENT CONTAINED IN THESE TERMS: (I) YOU WILL ONLY BE PERMITTED TO PURSUE CLAIMS AND SEEK RELIEF AGAINST DIALUP ON AN INDIVIDUAL BASIS, NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION OR PROCEEDING; AND (II) YOU ARE WAIVING YOUR RIGHT TO SEEK RELIEF IN A COURT OF LAW AND TO HAVE A JURY TRIAL ON YOUR CLAIMS. THE ARBITRATION PROVISIONS SET FORTH IN THESE TERMS COULD AFFECT YOUR RIGHT TO PARTICIPATE IN PENDING CLASS ACTION LITIGATION. PLEASE SEE SECTION THE ARBITRATION AGREEMENT SPECIFICALLY FOR MORE INFORMATION REGARDING THESE ARBITRATION PROVISIONS, INCLUDING THE ARBITRATION PROVISIONS’ IMPACT ON THE PENDING CLASS LITIGATION AND HOW TO OPT OUT OF ARBITRATION. THE TERMS OF SERVICE LIMIT THE REMEDIES THAT MAY BE AVAILABLE TO YOU.

## Changes to These Terms

We may make minor changes or modifications to portions of these Terms at any time, including when there are changes in our services, technology, regulation or for other reasons, provided that we will notify you of any material changes in accordance with the

terms of this section. If we do, we will provide notice by posting the updated Terms on our website and changing the “Last Updated” date above. Any amended Terms will become effective no earlier than 14 days after they are posted and will apply prospectively to your use of the Services after the changes become effective, except that changes addressing new functions of our Services or changes made for legal reasons may be effective immediately. Your continued use of our Services following the effective date of these changes will constitute your acceptance of such changes. If you do not agree to any amended Terms, you will need to discontinue using our Services. However, with respect to and not limited to, material updates, or updates that may affect your privacy, personal data, fees due or usage rights, we will provide you with an email sent to your most current email address on file, with a link to the updated Terms, and a brief explanation in the body of the email that explains the changes to these Terms. You must affirmatively consent to the new, updated Terms prior to your continued use of the Services.

## **Our Privacy Policy**

Our Privacy Policy describes how we collect, use, and share your personal data. We are committed to protecting your personal data, and we consider this to be a vital part of our relationship with you. Please review our Privacy Policy closely to confirm that you agree to, and are comfortable with, our data handling and usage practices.

### ACCESSING AND USING THE SERVICES

## **Overview**

Our Services are designed to pair users for voice chats. Please review our [Website](#) for additional description of the features and functionalities of our Services.

## **De-Identified Data**

As described in our Privacy Policy, we may share aggregated or de-identified data related to your usage of our Services; however, such data will not include any information that can reasonably be used to identify you, including conversations you have through the Services. We will not share your personal information, including your email or real name, without your consent.

## **Account Registration**

You may be required to register with us in order to access and use certain features of our Services. If you choose to register for our Services, you agree to provide and maintain true, accurate, current and complete information about yourself as prompted by our registration form. Registration data and certain other information about you are governed by our Privacy Policy. If you are under 13 years of age, you are not authorized to use our Services, with or without registering. In addition, if you are under 18 years old, you may use our Services, with or without registering, only with the approval of your parent or guardian.

## **Account Security**

You are responsible for maintaining the confidentiality of your password and account, if any, and are fully responsible for any and all activities that occur under your password or account. You agree to immediately notify us of any unauthorized use of your password or account or any other breach of security, and ensure that you exit from your account at the end of each session when accessing our Services. Except where prohibited by law, we will not be liable for any loss or damage arising from your failure to comply with this section.

## **Modifications to Services**

We may modify or discontinue, temporarily or permanently, our Services or any part of our Services upon notice to you, sent to the latest email address you have provided to us through the Services. You agree that , except where prohibited by law, we will not be liable to you or to any third party for any modification, suspension or discontinuance of our Services.

## **Usage and Storage**

You acknowledge that we may establish general practices and limits concerning use of our Services, including the maximum period of time that a user can retain data or other content using our Services and the maximum storage space that will be allotted on our servers on your behalf

## **Mobile Application, Specifically**

If you have elected to use our App, we hereby grant you a limited, non-transferable, revocable license to use the object code of such software within the App on any mobile device that you own or control that such App is authorized to operate on (as determined by us in our sole discretion) and is permitted by this section. The App is licensed, not sold, to you for use only under these Terms. Dialup reserves all rights, title and interest not expressly granted to you. Nothing herein allows you to use the App on a device that you do not own or are not authorized to control.

Our Services, specifically the App, are available via a mobile device or desktop, including the ability to share content to the Services using a mobile device, the ability to browse the Services from a mobile device and the ability to access certain features through the App downloaded and installed on a mobile device. To the extent you access our Services through a mobile device, your wireless service carrier's standard charges, data rates and other fees may apply. In addition, downloading, installing, or using certain mobile services may be prohibited or restricted by your carrier, and not all mobile services may work with all carriers or devices. By using our App, you agree that we may communicate with you by SMS, MMS, text message or other electronic means to your mobile device and that certain information about your usage of our App may be communicated to us. In the event you change or deactivate your mobile telephone number, you agree to promptly update your account information to ensure that your messages are not sent to a person that acquires your old number.

## **Prohibited Activities**

You may not utilize the Services for any illegal or fraudulent purposes. You are solely responsible for all code, video, images, information, conversations, data, text, software, music, sound, photographs, graphics, messages or other materials that you upload, share, publish or display or email or otherwise use via our Services. This section sets forth certain examples of the kind of content and/or use that is illegal or prohibited. We reserve the right to investigate and take appropriate legal action against anyone who, in our sole discretion, violates this section, including without limitation, suspending or terminating your account and reporting you to the law enforcement authorities. You agree to not use our Services to: upload or transmit any content that

1. infringes any intellectual property or other proprietary rights of any party;
2. you do not have a right to upload under any law or under contractual or fiduciary relationships;

3. contains software viruses or any other harmful computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
4. poses or creates a privacy or security risk to any person;
5. constitutes unauthorized advertising, promotional materials, commercial activities and/or sales, "junk mail," "spam," "chain letters," "pyramid schemes," "contests," "sweepstakes," or any other form of solicitation;
6. is unlawful, harmful, threatening, abusive, harassing, tortious, excessively violent, defamatory, vulgar, obscene, nude, partially nude, or sexually suggestive, pornographic, libelous, invasive of another's privacy, hateful racially, ethnically or otherwise objectionable;
7. or, in our sole judgment, is objectionable or that restricts or inhibits any other person from using or enjoying our Services, or which may expose us or our users to any harm or liability of any type;
8. create a username for the purpose of preventing others from using that handle, sell or buy usernames, or impersonate another person or entity in a manner that is intended to or does mislead, confuse or deceive others, or falsely state or otherwise misrepresent your affiliation with a person or entity;
9. interfere with or disrupt our Services or servers or networks connected to our Services, or disobey any requirements, procedures, policies or regulations of networks connected to our Services;
10. violate any applicable local, state, national or international law, or any regulations having the force of law;
11. solicit personal information from anyone under the age of 18;
12. promote suicide, self-harm, self-mutilation or eating disorders;
13. harvest or collect email addresses or other contact information of other users from our Services by electronic or other means for the purposes of sending unsolicited emails or other unsolicited communications;
14. advertise or offer to sell or buy any goods or Services for any business purpose that is not specifically authorized by us;
15. further or promote any criminal activity or enterprise or provide instructional information about illegal activities; and/or
16. share content (text, image, audio) that implicitly or explicitly associates the user with, or represents promotion of, celebration with violent extremist ideologies, groups, and tactics. We acknowledge that there is no universal definition of terrorism. For the purposes of our Services, we will consider terrorist content to be material posted by, or in, support of organizations included on the Consolidated United Nations Security Council Sanctions List, in addition to country/region-specific sanctions list; obtain or attempt to access or otherwise obtain any materials or information through any means not intentionally made

available or provided for through our Services and we may, in our sole discretion, remove any content that we believe may constitute or otherwise be considered to be terrorist content.

In connection with your use of our Services you will not engage in or use any data mining, robots, scraping or similar data gathering or extraction methods. If you are blocked by us from accessing our Services (including by blocking your IP address or your associated phone number), you agree not to implement any measures to circumvent such blocking (e.g., by masking your IP address or using a proxy IP address).

## **Export Controls; International Use**

Software (as defined below under “Services Content, Software and Trademarks”) available in connection with our Services and the transmission of applicable data, if any, is subject to United States export controls. No Software may be downloaded from our Services or otherwise exported or re-exported in violation of U.S. export laws. Downloading or using our Services is at your sole risk. Recognizing the global nature of the Internet, you agree to comply with all local rules and laws regarding your use of our Services, including as it concerns online conduct and acceptable content. If you are accessing the Services from within the EEA or EU, please review the local laws regarding data transport and usage that apply to you, and review our Privacy Policy with respect to international transactions.

## **Commercial Use**

Unless otherwise expressly authorized in these Terms or in our Services, you agree, except where expressly permitted by applicable law, not to display, distribute, license, perform, publish, reproduce, duplicate, copy, create derivative works from, modify, sell, resell, exploit, transfer or upload for any commercial purposes, any portion of our Services, use of our Services, or access to our Services.

## **INTELLECTUAL PROPERTY RIGHTS**

### **Services Content, Software and Trademarks**

You acknowledge and agree that our Services may contain content or features (“Services Content”) that are protected by copyright, patent, trademark, trade secret or

other proprietary rights and laws. Except as expressly authorized by us, you agree not to modify, copy, frame, scrape, rent, lease, loan, sell, distribute or create derivative works based on our Services or the Services Content, in whole or in part, except that the foregoing does not apply to your own User Content (as defined below under “User Content Transmitted Through the Services”) that you legally upload to our Services. Any use of our Services or the Services Content other than as specifically authorized in these Terms is strictly prohibited. The technology and software underlying our Services or distributed in connection therewith are the property of us, our affiliates and our partners (the “Software”). We may assign its rights and obligations under these Terms, in whole or in part, to any party at any time without any notice. You agree not to copy, modify, create a derivative work of, reverse engineer, reverse assemble or otherwise attempt to discover any source code, sell, assign, sublicense, or otherwise transfer any right in the Services without first obtaining our express, written consent thereto. Any rights not expressly granted herein are reserved by us.

Our name and logos are our trademarks and service marks (collectively the “Trademarks”). Other product and service names and logos used and displayed via our Services may be trademarks or service marks of their respective owners who may or may not endorse or be affiliated with or connected to us. Nothing in these Terms or our Services should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any of Trademarks displayed on our Services, without our prior written permission in each instance. All goodwill generated from the use of Trademarks will inure to our exclusive benefit.

## **User Content Transmitted Through the Services**

With respect to the content or other materials you upload through our Services or share with other users or recipients (collectively, “User Content”), you represent and warrant that you own all right, title and interest in and to such User Content, including, without limitation, all copyrights and rights of publicity contained therein. By uploading any User Content you hereby grant and will grant us and our affiliated companies and successors and assigns, where applicable, a nonexclusive, worldwide, royalty free, fully paid up, transferable, sublicensable (through multiple tiers), perpetual, irrevocable license to copy, display, upload, perform, distribute, store, modify and otherwise use your User Content in connection with the operation of our Services in any form, medium or technology now known or later developed, including allowing such information to be shared with or by other users. You acknowledge and agree that any questions, comments, suggestions, ideas, feedback or other information about our Services, submitted by you to us are non-confidential, and we will be entitled to the unrestricted

use and dissemination of these submissions for any purpose, commercial or otherwise, without acknowledgment or compensation to you.

You acknowledge and agree that we may preserve content and may also disclose content, including without limitation, your User Content if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to: comply with legal process, applicable laws or government requests; enforce these Terms; respond to claims that any content violates the rights of third parties; or protect the rights, property, or personal safety of us, our users and the public. You understand that the technical processing and transmission of our Services, including your content, may involve transmissions over various networks; and changes to conform and adapt to technical requirements of connecting networks or devices.

## **Procedure for Alleging Copyright Complaints or Claims; DMCA**

We respect the intellectual property of others, and expect our users to do the same. If you believe that your work has been copied in a way that constitutes copyright infringement, or that your intellectual property rights have been otherwise violated, you should notify us of your infringement claim in accordance with the procedure set forth below.

We will process and investigate notices of alleged infringement and will take appropriate actions under the Digital Millennium Copyright Act (“DMCA”) and other applicable intellectual property laws with respect to any alleged or actual infringement. A notification of claimed copyright infringement should be emailed to us at [legal@dialup.com](mailto:legal@dialup.com) and/or mailed to P.O. Box 427211 San Francisco, CA 94142 with the subject line “DMCA Takedown Request”.

To be effective, the notification must be in writing and contain the following information: an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest; a description of the copyrighted work or other intellectual property that you claim has been infringed; a description of where the material that you claim is infringing is located on our service, with enough detail that we may find it on our service; your address, telephone number, and email address; a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright or intellectual property owner, its agent, or the law; a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner’s behalf.

If you believe that your User Content that was removed (or to which access was disabled) is not infringing, or that you have the authorization from the copyright owner, the copyright owner's agent, or pursuant to the law, to upload and use the content in your User Content, you may send us a written counter-notice containing the following information: your physical or electronic signature; identification of the content that has been removed or to which access has been disabled and the location at which the content appeared before it was removed or disabled; a statement that you have a good faith belief that the content was removed or disabled as a result of a mistake or a misidentification of the content; and your name, address, telephone number, and email address, a statement that you consent to the jurisdiction of the federal courts located within San Francisco, California and a statement that you will accept service of process from the person who provided notification of the alleged infringement.

If we receive a counter-notice, we will send a copy of the counter-notice to the original complaining party informing that person that it may replace the removed content or cease disabling it in ten (10) business days. Unless the copyright owner files an action seeking a court order against the content provider, member or user, the removed content may be replaced, or access to it restored, in ten (10) to fourteen (14) business days or more after receipt of the counter-notice, at our sole discretion.

In accordance with the DMCA and other applicable law, we have adopted a policy of terminating, in appropriate circumstances and in our sole discretion, users who are deemed to be repeat infringers. We may also, in our sole discretion, limit access to our Services and/or terminate the accounts of any users who infringe any intellectual property rights of others, whether or not there is any repeat infringement.

INDEMNITY; DISCLAIMER; LIMITATION OF LIABILITY

## **Indemnity and Release**

To the maximum extent permitted by law, you agree to release, indemnify and hold us and our affiliates and their officers, employees, directors and agents harmless from any from any and all losses, damages, expenses, including reasonable attorneys' fees, rights, claims, actions of any kind and injury (including death) arising out of or relating to your use of our Services, any content, your connection to our Services, your violation of these Terms or your violation of any rights of another. If you are a California resident, you waive California Civil Code Section 1542, which says: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his

settlement with the debtor.” If you are a resident of another jurisdiction, you waive any comparable statute or doctrine.

## **Disclaimer of Warranties**

YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK. THE SERVICES ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. EXCEPT WHERE PROHIBITED BY LAW, WE EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. We make no warranty that our Services will meet your requirements, that our Services will be uninterrupted, timely, secure, or error-free, that the results that may be obtained from the use of our Services will be accurate or reliable, or that the quality of any products, services, information, or other material obtained by you through the Services will meet your expectations.

## **Limitation of Liability**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT EXCEPT WHERE PROHIBITED BY LAW, WE WILL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY DAMAGES, OR DAMAGES FOR LOSS OF PROFITS INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, RESULTING FROM: (I) THE USE OR THE INABILITY TO USE THE SERVICES; (II) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICES; (III) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (IV) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICES; OR (V) ANY OTHER MATTER RELATING TO THE SERVICES. EXCEPT WHERE PROHIBITED BY LAW, IN NO EVENT WILL OUR TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES OR CAUSES OF ACTION EXCEED THE AMOUNT YOU HAVE PAID US IN THE LAST SIX (6) MONTHS, OR, IF GREATER, ONE THOUSAND DOLLARS (\$1,000). SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR

INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS SET FORTH ABOVE MAY NOT APPLY TO YOU. IF YOU ARE DISSATISFIED WITH ANY PORTION OF THE SERVICES OR WITH THESE TERMS, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USE OF THE SERVICES.

NOTHING IN THESE TERMS SHALL LIMIT OR EXCLUDE OUR LIABILITY FOR: (i) DEATH OR PERSONAL INJURY RESULTING FROM OUR NEGLIGENCE OR THE NEGLIGENCE OF OUR EMPLOYEES, AGENTS OR SUBCONTRACTORS; (ii) FRAUD OR FRAUDULENT MISREPRESENTATIONS; OR (iii) ANY OTHER LIABILITY THAT CANNOT BE EXCLUDED BY APPLICABLE LAW.

## **Termination**

You agree that we, in our sole discretion, may suspend or terminate your account (or any part thereof) or use of our Services and remove and discard any content within our Services (including any User Content), for any reason, with or without cause, including, without limitation, for lack of use or if we believe that you have violated or acted inconsistently with the letter or spirit of these Terms. Any suspected fraudulent, abusive or illegal activity that may be grounds for termination of your use of our Services, may be referred to appropriate law enforcement authorities. You agree that any termination of your access to our Services under any provision of these Terms may be effected without prior notice, and acknowledge and agree that we may immediately deactivate or delete your account and all related information and files in your account and/or bar any further access to such files or our Services.

Further, you agree that, except where prohibited by law, we will not be liable to you or any third party for any termination of your access to our Services.

## **Disputes with Other Users**

You agree that you are solely responsible for your interactions with any other user in connection with our Services, and except where due to our gross negligence or willful misconduct, we will have no liability or responsibility with respect thereto. You understand and agree that when you interact with other users on or through the Services, including but not limited to, your partner, such other user may share information with you, and that we have no ability to monitor that information, nor do we endorse or condone any statements made on or through the Services that generates from your interactions with other users on the Services.

## **General**

These Terms constitute the entire agreement between you and us and govern your use of our Services, superseding any prior agreements between you and us with respect to our Services. Both you and us acknowledge that neither you nor us has relied on any representation, undertaking or promise given by the other or be implied from anything said or written in negotiations between you and us except as expressly stated in these Terms.

You also may be subject to additional terms and conditions that may apply when you use affiliate or third party services, third party content or third party software. These Terms will be governed by the laws of the State of California without regard to its conflict of law provisions. With respect to any disputes or claims not subject to arbitration, as set forth above, you and we agree to submit to the personal and exclusive jurisdiction of the state and federal courts located within San Francisco, California. Our failure to exercise or enforce any right or provision of these Terms will not constitute a waiver of such right or provision. If any provision of these Terms is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of these Terms remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of our Services or these Terms must be filed within one year after such claim or cause of action arose or be forever barred. A printed version of this agreement and of any notice given in electronic form will be admissible in judicial or administrative proceedings based upon or relating to this agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. You may not assign these Terms without our prior written consent, but we may assign or transfer these Terms, in whole or in part, without restriction. Notices to you may be made via either email or regular mail.

## **Notice for California Users**

Under California Civil Code Section 1789.3, users from California are entitled to the following specific consumer rights notice: The Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be contacted in writing at 1625 North Market Blvd., Suite N 112, Sacramento, CA 95834, or by telephone at (916) 445-1254 or (800) 952-5210.

## **Contact Us**

You may contact us by email at [legal@dialup.com](mailto:legal@dialup.com).

## ARBITRATION AGREEMENT

### **Arbitration Agreement & Dispute Resolution**

Please read this Arbitration Agreement carefully. It is part of your contract with Dialup and affects your rights. It contains procedures for MANDATORY BINDING ARBITRATION AND A CLASS ACTION WAIVER.

### **Scope of Arbitration Agreement (“Arbitration Agreement”)**

You acknowledge and agree that any dispute or claim relating in any way to your access or use of the Services or to any other aspect of your relationship with Dialup will be resolved by binding arbitration, rather than in court, except that (1) you may assert claims in small claims court if your claims qualify, so long as the matter remains in such court and advances only on an individual (non-class, non-representative) basis; and (2) you or Dialup may seek equitable relief in court for infringement or other misuse of intellectual property rights (such as trademarks, trade dress, domain names, trade secrets, copyrights, and patents). This Arbitration Agreement shall apply, without limitation, to all claims that arose before this or any prior Agreement.

NOW OR IN THE FUTURE, THERE MAY BE LAWSUITS AGAINST DIALUP ALLEGING CLASS, COLLECTIVE, AND/OR REPRESENTATIVE CLAIMS. SUCH CLAIMS, IF SUCCESSFUL, COULD RESULT IN SOME MONETARY RECOVERY TO YOU. THE EXISTENCE OF SUCH CLASS, COLLECTIVE, AND/OR REPRESENTATIVE LAWSUITS DOES NOT MEAN THAT SUCH LAWSUITS WILL ULTIMATELY SUCCEED. BUT IF YOU AGREE TO ARBITRATION WITH DIALUP, YOU ARE AGREEING IN ADVANCE THAT YOU WILL NOT PARTICIPATE IN OR SEEK TO RECOVERY MONETARY OR OTHER RELIEF UNDER SUCH CLASS, COLLECTIVE, AND/OR REPRESENTATIVE LAWSUITS. INSTEAD, BY AGREEING TO ARBITRATION, YOU MAY BRING YOUR CLAIMS AGAINST DIALUP IN AN INDIVIDUAL ARBITRATION PROCEEDING. IF SUCCESSFUL ON SUCH CLAIMS, YOU COULD BE AWARDED MONEY OR OTHER RELIEF BY AN ARBITRATOR.

### **Arbitration Rules and Forum**

This Arbitration Agreement is governed by the Federal Arbitration Act in all respects. To begin an arbitration proceeding, you must send a letter requesting arbitration and describing your claim to our registered agent, [include name and address of registered agent here.] The arbitration will be conducted by the American Arbitration Association (“AAA”) under its rules, including the AAA’s Supplementary Procedures for Consumer-Related Disputes. The AAA’s rules are available at [www.adr.org](http://www.adr.org) or by calling the AAA at 1-800-778-7879. Payment of all filing, administration, and arbitration fees will be governed by the AAA’s rules. We will reimburse those fees for claims totaling less than \$10,000 unless the arbitrator determines the claims are frivolous. Likewise, Dialup will not seek attorneys’ fees and costs in arbitration unless the arbitrator determines the claims are frivolous. If the AAA is not available to arbitrate, the parties will select an alternative arbitral forum.

## **Arbitrator Powers**

The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve any dispute relating to the interpretation, applicability, enforceability or formation of this Arbitration Agreement including, but not limited to any claim that all or any part of this Arbitration Agreement is void or voidable. The arbitration will decide the rights and liabilities, if any, of you and Dialup. The dispute will not be consolidated with any other matters or joined with any other cases or parties. The arbitrator will have the authority to grant motions dispositive of all or part of any claim or dispute. The arbitrator will have the authority to award monetary damages and to grant any non-monetary remedy or relief available to an individual under applicable law, the arbitral forum’s rules, and this Agreement. The arbitrator will issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding on you and Dialup.

## **Waiver of Jury Trial**

YOU AND DIALUP EACH KNOWINGLY AND VOLUNTARILY WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO SUE IN COURT AND RECEIVE A JUDGE OR JURY TRIAL. You and Dialup are instead electing to have claims and disputes resolved by arbitration. An arbitrator can award on an individual basis the same damages and relief as a court and must follow this Agreement as a court would. However, there is no judge or jury in arbitration, and court review of an arbitration award is limited. In any litigation between you and Dialup over whether to vacate or enforce an

arbitration award, you and Dialup waive all rights to a jury trial, and elect instead to have a judge resolve the dispute.

## **Waiver of Class or Consolidated Actions**

ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS. CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. If, however, this waiver of class or consolidated actions is deemed invalid or unenforceable, neither you nor Dialup is entitled to arbitration. Instead, all claims and disputes will then be resolved in a court as set forth in the applicable section of the Terms above.

## **Opt Out**

You may opt out of this Arbitration Agreement. If you do so, neither you nor Dialup can force the other to arbitrate. To opt out, you must notify Dialup in writing no later than 30 days after first becoming subject to this Arbitration Agreement. Your notice must include your name and address, Dialup username (if any), the email address you used to set up the Dialup account (if you have one), and an unequivocal statement that you want to opt out of this Arbitration Agreement. You must send your opt-out notice to: [legal@dialup.com](mailto:legal@dialup.com) and P.O. Box 427211 San Francisco, CA 94142. If you opt out of this Arbitration Agreement, all other parts of this Agreement will continue to apply to you. Opting out of this Arbitration Agreement has no effect on any previous, other, or future arbitration agreements that you may have with us.

## **Survival**

This Arbitration Agreement will survive any termination of your relationship with Dialup.

## **Exclusive Venue**

To the extent the parties are permitted under this Agreement to initiate litigation in a court, both you and Dialup agree that all claims and disputes arising out of or relating to the Agreement will be litigated exclusively in the state or federal courts located in the applicable county within the State of California.

## Your Concerns

If you have any concerns about material which appears on or through these Services, please contact us at [legal@dialup.com](mailto:legal@dialup.com).