

**Generally it is 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 the copyright laws when you use CastAlive!**

## **CastAlive! Terms and Conditions**

Please read the following terms and conditions (the “**CastAlive! Terms**”) carefully before downloading our application, so that you are aware of your legal rights and obligations with respect to the CastAlive! software and service.

### **1. Definitions**

In these CastAlive! Terms the following terms shall have the following meanings unless the context requires otherwise:

“**CastAlive! Service**” means the CastAlive! service which is designed to operate in conjunction with the WhitePhone Internet communications services and enable conversion of electronic messages (videos, messages and voice mails) to the WhitePhone format, and upload of those messages to the WhitePhone service and publication, transmission or broadcasting or those messages using WhitePhone.;

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

“**Site**” means the web site the URL of which is [www.whitephone.com](http://www.whitephone.com);

“**Software**” means the computer programmes in object code which are downloaded from the Site and which allow and enable the use of the CastAlive! Service by the User and includes any new version of such computer programmes, any other associated computer programmes and any patches or upgrades which are applied to such computer programmes or associated computer programmes; and

“**User**” means any person, corporate body or other legal entity using the WhitePhone service or the CastAlive! Service.

### **2. Interpretation**

In this Agreement references to “you” or “your” means any User. Each User is bound by these CastAlive! Terms individually and corporate users agree to these CastAlive! Terms on behalf of their corporation. To the extent that the context permits, references to “we” and “us” and “our” refer to WhitePhone and its subsidiaries, affiliates, officers, agents, co-branders or other partners, and employees.

### **3. Acceptance**

By downloading or installing the Software (as defined above), you irrevocably accept these CastAlive! Terms and offer to enter into this contract. We only accept contracts from our office in Jersey and no verbal or other representation may constitute a valid acceptance by us.

To use the WhitePhone software you must also accept the Terms of Use of that software. You hereby acknowledge that you are bound by those terms. In the event of conflict between those terms and the CastAlive! Terms, the latter shall prevail.

If you are a WhitePhone Branding Partner or Intra-Talk Customer, you are also bound by the relevant terms of the agreements which govern such arrangements. In the event of conflict between those terms and the CastAlive! Terms, the latter shall prevail.

#### 4. Modification

We reserve the right to change, modify, suspend or discontinue any portion of the Software and/or the CastAlive! Service at any time. 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

**With few exceptions, it is 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 the copyright laws when you use CastAlive!**

Recognizing the global nature of the Internet, you agree to comply 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.

You must only use the CastAlive! Service and/or the WhitePhone 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 User who receives that Media is free to distribute that Media to other parties including to other 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;

You must not use the CastAlive! Service and/or the WhitePhone service to convert, upload, publish, broadcast or transmit any Media which:

- (i) is unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, pornographic, libellous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable or potentially harmful to any recipient or their computer system or the CastAlive! Service;
- (ii) could harm minors in any way;
- (iii) impersonates any person or entity, including, but not limited to, a WhitePhone official 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;

Where you obtain from third parties Media which you intend to convert, upload, publish, broadcast or transmit using the CastAlive! Service and/or the WhitePhone service you must bring these terms and conditions to the attention of such party and obtain their agreement that they consent to the use of their Media in the manner intended and can confirm their right to give such consent.

You understand that all Media which you introduce using the CastAlive! Service or the WhitePhone service is your responsibility. This means that you, and not us, are entirely responsible for all Media which you upload, or otherwise transmit via the CastAlive! Service. We do not control the Media posted via the CastAlive! Service and, as such, do not guarantee the accuracy, integrity or quality of such Media.

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.

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 WhitePhone service. This can include deleting the Media after transmission but before all Users have downloaded it, or substituting such Media with an alternative message. If we do not remove any such Media forthwith, even if we have raised questions about it, 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.

We do not claim ownership of the Media you upload or transmit using CastAlive! but by submitting Media to us for transmission to 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 Users to other Users. This license exists only for as long as Media which you have transmitted remains in at least one User's message box.

## **6. Notice**

We may notify you of relevant changes to the CastAlive! Service and these CastAlive! Terms:

- (i) by email to the last email address registered against your account which notice will be deemed to be received upon despatch from our server; or
- (ii) by instant message if your account is logged in to the CastAlive! 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 CastAlive! Service**

The CastAlive! Service will be supplied in accordance with these CastAlive! Terms and the service descriptions on our Site ([www.whitephone.com](http://www.whitephone.com)) as updated from time to time. We cannot guarantee that the CastAlive! Service will be uninterrupted or free of faults. At times we may need to suspend all or part of the CastAlive! Service to correct a fault or for maintenance purposes. If this happens we will restore the CastAlive! Service to you as quickly and as reasonably possible.

We grant you a non-exclusive, non-transferable licence to download, install and use the Software that you need to use the CastAlive! Service (the “**Licence**”). 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. 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 CastAlive! 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 CastAlive! Service.
- (vii) You will not use the CastAlive! 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 CastAlive! Service to the detriment of the overall acceptability of the service for Users and the likelihood that such 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 CastAlive! Service.
- (x) You must comply with all reasonable instructions provided by us in relation to the CastAlive! Service, including any guidelines we issue in respect of any aspect of the CastAlive! Service and accept our right to restrict or terminate your use of the CastAlive! Service at any time without compensation if we judge it to be in the interests of the Users, the CastAlive! Service or us to do so.
- (xi) You agree to be responsible for having the use of appropriate equipment for use with the CastAlive! Service including a suitable Internet connection and you will continue to be liable for any subscription charges due to us (until termination of the CastAlive! Service) even if you cannot use the CastAlive! Service due to your equipment or connection being inoperative.
- (xii) You agree to pay all amounts due to us promptly when due and not to use the CastAlive! Service in any manner which could result in your prepaid account being overdrawn.

- (xiii) You agree that you will not falsify or use the CastAlive! Service to transmit or intercept, modify, damage or monitor any text, voice, data or e-mail messages intended for other Users or use the CastAlive! Service to in any way cause detriment or harm to any communication system, ourselves or any User.
- (xiv) You agree that you will not resell or attempt to resell the CastAlive! 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 CastAlive! 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 CastAlive! 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 CastAlive! Service are payable in advance and the CastAlive! 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.

You are responsible for all charges applied to your account for use of the CastAlive! 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.

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. 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 CastAlive! Service and will also be reviewed each year to reflect any inflationary pressures affecting us.

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.

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.

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. Prices may be changed by 14 days Notice to you. Charges will be calculated based on the exchange rates prevailing at the time when charges are incurred. The account balance will be maintained in the currency chosen when you signed up to the CastAlive! Service and we will not be responsible for any losses due to exchange rate fluctuations.

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

For consumers in the European Union, charges are quoted inclusive of any applicable Value Added Tax, and a VAT invoice will be provided on request. As we are a Jersey company, no VAT is currently chargeable to business customers in the European Union. You are responsible for and shall pay any other 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 CastAlive! 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 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 CastAlive! 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 CastAlive! Service or account or breach any of these terms and conditions;
- (x) The CastAlive! 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 CastAlive! 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.

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.

We may recover from you any costs or losses incurred as a result of any breach by you of the CastAlive! 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 crystallised.

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

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. 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.

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 5.00). 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. 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.

The license for use of the Site and the Software is effective until terminated. You may terminate it at any time by deleting the Software together with all copies thereof. Termination of the license does not cancel any obligations you have towards us under these CastAlive! Terms. The license will terminate upon conditions set forth elsewhere within these CastAlive! Terms or if you fail to comply with any term or condition of these CastAlive! Terms. In such event, we shall not be required to give notice to effect such termination. 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 CastAlive! Service, the downloading or use of the Software or any event beyond our control including the act of any network operator or third party. We expressly exclude any warranty as to the suitability, quality or reliability of the CastAlive! Service or the Software or that they will be fit or suitable for your purposes. You agree that the limitation of liability in this agreement is appropriate. These limitations do not restrict or limit your rights as a consumer. 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 CashAlive! Service or WhitePhone service.

Whilst we may endeavour to provide reasonable assistance to enable you to use the CastAlive! 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 CastAlive! Service to work whether or not we are involved in providing advice directly or via our Site.

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.whitephone.com](http://www.whitephone.com).

## **13. Other information**

These CastAlive! Terms may be changed at any time by 14 days Notice to you.

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

These CastAlive! 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.

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

The CastAlive! Service is provided by WhitePhone Limited, a Jersey company which can be contacted at Vue des Îles, La Rue du Grouet, Petit Port, St Brelade, Jersey, JE3 8HL. Customer services can be contacted at [support@whitephone.com](mailto:support@whitephone.com).