

## **Dialogic Fax Upgrade Program** **Terms and Conditions**

Dialogic Inc. and its applicable affiliates and/or subsidiaries (“Dialogic”) which sell certain Dialogic® products (“Eligible Products”) are offering a Fax Upgrade Program (“Fax Upgrade Program”) for the period between October 1, 2011 and December 31, 2011 (“Applicable Period”). The following terms and conditions apply to the Fax Upgrade Program.

Also during the Applicable Period, and in conjunction with the Fax Upgrade Program, Dialogic is offering the Dialogic Fax Upgrade Bonus Enterprise SBC and Gateway Program (hereafter “Bonus Program”) whereby those who participate in and comply with the terms and conditions of the Fax Upgrade Program (“Program Participants”) can, at their option, also participate in the Bonus Program.

If you are interested in participating in the Bonus Program and have not already read and understand the Bonus Program Terms and Conditions, please review them now (see: <http://www.dialogic.com/~media/Promos/docs/2011-FaxUpgradeBonusRebate-TermsAndConditions.pdf>). Nothing within this document modifies or negates the Bonus Program Terms and Conditions, which are hereby incorporated by reference.

### **Fax Upgrade Program Terms and Conditions**

- The Fax Upgrade Program is solely in effect during the Applicable Period, which may be extended or shortened at the sole discretion of, and without prior notice from, Dialogic.
- Eligible Products must be purchased and invoiced during the Applicable Period to be considered for a payment or credit (“Fax Upgrade Rebate”) in connection with the Fax Upgrade Program.
- The Fax Upgrade Program is not valid in conjunction with any other promotional offers and/or special pricing discounts from Dialogic, other than the Bonus Program, the terms and conditions of which are accessible at <http://www.dialogic.com/~media/Promos/docs/2011-FaxUpgradeBonusRebate-TermsAndConditions.pdf>.
- A product is not an Eligible Product or a Trade-In Product for purposes of the Fax Upgrade Program or a Fax Upgrade Rebate if it was provided for evaluation purposes, or leased or sourced by the Program Participant outside of a Dialogic approved channel.
- A product is not a Trade-In Product for purposes of the Fax Upgrade Program or a Fax Upgrade Rebate unless it is in working condition when received by Dialogic.
- An Eligible Product that was purchased at a special discount rate or under another promotional offer from Dialogic (other than the Bonus Program) is not eligible for the Fax Upgrade Program or to receive a Fax Upgrade Rebate.
- The following steps (“Required Steps”) must occur in this stated order and, if applicable, in accordance with the stated date or time period in order for a Program Participant to qualify for and receive a Fax Upgrade Rebate in connection with the purchase of one or more Eligible Products:
  - A Program Participant purchases the Eligible Product(s) during the Applicable Period.
  - Once the Program Participant has received the Eligible Product(s) in hand, and on or after October 15, 2011 but by no later than January 20, 2012 the Program Participant must visit the online registration page <https://www.dialogic.com/landing/fax-upgrade> to provide and electronically submit the following information (“Registration Information”):
    - the serial number(s) and model name(s) of the Eligible Product(s)
    - the total number of fax ports of the product(s) that is/are being traded in (“Trade-In Product”) by the Program Participant
    - all other requested information
  - **IMPORTANT NOTE:** Program Participants are only eligible for a rebate if the number of fax ports on the Eligible Product(s) purchased per the Fax Program is greater than or equal to the number of fax ports on the Trade-In Product(s) being traded in by Program Participants. See below for information on calculating Fax Upgrade Rebate amounts.
  - Once the Registration Information is submitted, Dialogic will review the Registration Information and, if the Program Participant is determined to be eligible for the Fax

- Upgrade Program based on the Registration Information, Dialogic will contact (e.g., via email) the Program Participant to inform the Program Participant of its eligibility (“First Contact Date”).
- The Program Participant sends Dialogic the Trade-In Product(s) such that the Trade-In Product(s) is/are received by Dialogic no later than sixty (60) days after the First Contact Date.
  - Once Dialogic receives the Trade-In Product(s) and verifies that it/they conform(s) to the relevant Registration Information and that all requirements and terms and conditions of the Fax Upgrade Program have been met, Dialogic will contact (e.g., via email) the Program Participant (“Second Contact Date”) and will issue the Fax Upgrade Rebate(s) within ten (10) weeks of the Second Contact Date.
  - See <http://www.dialogic.com/~media/Promos/docs/Fax-upgrade-product-list-2011.pdf> for a complete list of Eligible Products and Trade-In Products. The list of Eligible Products and Trade-In Products is subject to change without notice.
  - There is no limit to the number of times Program Participants can participate in the Fax Upgrade Program during the Applicable Period, provided that each additional time they participate they again perform the Required Steps and comply with the terms and conditions of the Fax Upgrade Program.
  - Trade-In Products must be returned, at Program Participant’s cost, to the appropriate Dialogic location among those noted below. Failure to send the Trade-In Products to the correct location may result in a Program Participant being ineligible to receive a Fax Upgrade Rebate, and for the Trade-In Products to be returned to the Program Participant at Program Participant’s cost:

For Program Participants located in the “Americas” region:

**Dialogic Inc.  
Attention: Mike Nolfi  
1515 Route 10 East  
Parsippany, NJ 07054  
USA**

For Program Participants located in the “EMEA” region:

**Dialogic Distribution Ltd  
Attention: Dennis O’Donnell  
Unit O3 North Ring Business Park  
Santry, Dublin 9  
IRELAND**

For Program Participants located in the “APAC” region:

**Dialogic Singapore Pte Ltd  
Attention: Ms Ng Bee Hua  
60 Anson Road  
#09-04 Mapletree Anson  
Singapore 079914**

Trade-In Product acknowledgements, submission forms and shipping information can be obtained at <https://www.dialogic.com/landing/fax-upgrade>.

- Should a Trade-In Product be received more than sixty (60) days after the Contact Date, the Program Participant will not be eligible to receive a Fax Upgrade Rebate. In such a case, Dialogic

will use reasonable commercial efforts to return the Trade-In Product(s) to the Program Participant, with the Program Participant being responsible for all associated costs.

- However, Dialogic bears no duty or responsibility to return – to Program Participants – any Trade-In Product(s) Dialogic receives, including but not limited to Trade-In Products that are received by Dialogic under circumstances so as to not conform to these terms and conditions.
- Dialogic must receive payment in full for the Eligible Product(s) before any Fax Upgrade Rebate(s) is/are paid out.
- Program Participants represent that they hold free and clear title to their Trade-In Product(s) and must be prepared to provide proof of purchase for their Trade-In Products if requested to do so by Dialogic.
- Title to all Trade-In Products passes to Dialogic upon Dialogic's receipt of the Trade-In Products.
- As indicated above, Fax Upgrade Rebate qualification is based on the total number of fax ports for Eligible Products being greater than or equal to the total number of fax ports on the Trade-In Product(s). The actual Fax Upgrade Rebate amount is calculated as \$100.00 (US) per eligible port of Dialogic® Brooktrout® Fax Boards or Dialogic® Technology Expansion Capability (TEC) purchased as Eligible Product(s) and \$50.00 (US) per eligible port of Dialogic® Brooktrout® SR140 Fax Software purchased as Eligible Product(s). Non-fax ports, if any, on the Trade-In Product(s) do not count toward the Fax Upgrade Rebate calculations.
- If a Program Participant purchases (a) Dialogic® Brooktrout® Fax Boards and/or Dialogic® Technology Expansion Capability (TEC) as well as (b) Dialogic® Brooktrout® SR140 Fax Software in a single order of Eligible Products and the total number of fax ports of the (a) + (b) Eligible Product(s) is greater than the total number of fax ports on the Trade-In Product(s) being traded in, then the Fax Upgrade Rebate amount will be calculated based on the number of fax ports of the Eligible Products that are Brooktrout Fax Boards and TEC and the balance, if any, of the Fax Upgrade Rebate will be based on the fax ports of the Eligible Products that are Brooktrout SR140.
  - Example #1: a Program Participant purchases, in a single order of Eligible Products, a total of four (4) ports of Brooktrout Fax Boards and a total four (4) ports of Brooktrout SR140, and has six (6) total ports within its Trade-In Product(s). The Program Participant is entitled to receive a Fax Upgrade Rebate of \$500.00 (US), whereby \$400.00 (US) of the Fax Upgrade Rebate is based on the four (4) total ports of Brooktrout Fax Boards and the remaining \$100.00 (US) of the Fax Upgrade Rebate is based on two (2) of the four (4) ports of Brooktrout SR140.
  - Example #2: a Program Participant purchases, in a single order of Eligible Products, a total of four (4) ports of TEC and a total of four (4) ports of Brooktrout SR140, and has four (4) total ports within its Trade-In Product(s). The Program Participant is entitled to receive a Fax Upgrade Rebate of \$400.00 (US) whereby all of the Fax Upgrade Rebate is based on the four (4) ports of TEC.
- Program Participants are responsible for preparing and submitting all required documentation in connection with the return of Trade-In Product(s).
- If the Program Participant is an end user company, then the Fax Upgrade Rebate will be issued by Dialogic directly to the end user company in the form of a check, unless the end user company has an open Accounts Receivable balance with Dialogic at the time the Fax Upgrade Rebate is being issued, in which case the Fax Upgrade Rebate may instead – at Dialogic's discretion – be issued as a credit to the end user company's account with Dialogic.
- If the Program Participant is not an end user company (i.e., is an ISV or Distributor), then the Fax Upgrade Rebate will be issued in the form of a credit to the ISV's or Distributor's account with Dialogic.
- Fax Upgrade Rebates will be paid (or credited) to the companies participating in the Program and not any Program Participant as an individual.
- Dialogic bears no responsibility or liability for Fax Upgrade Rebates paid to incorrect entities based on incorrect information being provided to Dialogic as part of the Registration Information or otherwise.
- Fax Upgrade Rebate credits are not transferable to, nor will be reissued for, a different Program Participant or to another entity.

- All Program Participants are solely responsible for payment of any and all applicable taxes in connection with the Fax Upgrade Rebate(s).
- All Program Participants are solely responsible for determining whether the Fax Upgrade Program and its terms and conditions comply with all applicable local, state, country and national laws, rules and treaties that would apply.
- Non-compliance with Fax Upgrade Program guidelines and requirements and/or these terms and conditions may result in various consequences for Program Participants including, but not limited to, non-eligibility for the Fax Upgrade Program and/or a Fax Upgrade Rebate, or the Bonus Program, and/or ineligibility for future participation in any Dialogic promotional programs or giveaways.
- Submitting false claims or information for the purpose of obtaining or increasing Fax Upgrade Rebates or otherwise in connection with the Fax Upgrade Program (a) will disqualify a Program Participant from being able to receive any Fax Upgrade Rebate per the Fax Upgrade Program, and (b) will make the Program Participant ineligible for future participation in any Dialogic promotional programs or giveaways, and (c) may subject the Program Participant to applicable civil liability and/or criminal prosecution.
- Dialogic shall bear no liability to a Program Participant, end user company, or other associated third party under the Fax Upgrade Program, including, without limitation, under these terms and conditions.
- The Fax Upgrade Program is subject to change or termination at any time, without notice, by Dialogic. All Trade-In Product transactions are subject to the approval of Dialogic.
- All issues and questions concerning the construction, validity, interpretation and enforceability of these terms and conditions, or the rights and obligations of any Program Participant and/or Dialogic, shall be governed by, and construed in accordance with the laws of the State of California, without giving effect to any choice of law or conflict of law rules or provisions (whether those of California, or of any other United States or other jurisdiction) that would cause the application of the laws of any jurisdiction other than California, wherein all Program Participants hereby irrevocably and unconditionally consent and submit to the exclusive jurisdiction of such courts over any suit, action or proceeding arising out of these terms and conditions.
- The invalidity or unenforceability of any provision of these terms and conditions shall not in any way affect the validity or enforceability of any other provision. If any such provision is determined to be invalid or otherwise unenforceable, these terms and conditions shall be construed in accordance with their terms as if the invalid or unenforceable provision(s) was/were not contained therein.
- All Program Participants agree that (1) any and all disputes, claims, and causes of action arising out of or in connection with the Fax Upgrade Program shall be resolved individually without resort to any form of class action, and each Program Participant waives the right to a jury trial for such disputes, claims, and causes of action; (2) any claims, judgments and/or awards shall be limited to actual out-of-pocket costs incurred, including costs associated with participating in the Fax Upgrade Program, but in no event attorneys' fees; and (3) under no circumstances will a Program Participant be permitted to obtain any award for, and Program Participants hereby waive all rights to claim, punitive, indirect, special, incidental or consequential damages as well as any and all rights to have damages multiplied or otherwise increased and waive all rights to claim any other damages, other than damages for actual out-of-pocket expenses.
- By participating in the Fax Upgrade Program, Program Participants release Dialogic, its affiliated companies, directors, officers, employees, representatives, partners and agents from any liability whatsoever for any claims, costs, injuries, losses or damages of any kind arising out of or in connection with the Fax Upgrade Program (including, without limitation, claims, costs, injuries, losses or damages related to personal injuries, death, damage to, loss or destruction of property, rights of publicity or privacy, defamation or portrayal in a false light).
- All applicable national, state and local laws apply to the Fax Upgrade Program; void where prohibited. Dialogic shall be entitled to interpret these terms and conditions as needed – including but not limited to rules regarding participation, eligibility, deadlines, and restrictions – and all of its decisions are final. Dialogic reserves the right, in its sole discretion, to cancel, suspend or

terminate the Fax Upgrade Program for any reason and at any time, including prior to the stated ending date of the Applicable Period.

- All Program Participants agree to be bound by these terms and conditions and by all decisions made by Dialogic with regard thereto. Dialogic reserves the right to disqualify any Program Participants from participation in the Fax Upgrade Program (and the Bonus Program) should such Program Participants be determined or otherwise deemed to be in any way tampering with, abusing or improperly influencing or affecting any aspect of the Fax Upgrade Program.
- Dialogic and Brooktrout are registered trademarks of Dialogic Inc. or its subsidiaries. Dialogic's trademarks may be used publicly only with permission from Dialogic. Such permission may only be granted by Dialogic's legal department at 1504 McCarthy Boulevard Milpitas, CA 95035-7405 USA.