

Text My Main Number, Inc.
Online SMS Service
Terms of Service

Revised and Effective: February 2, 2021

These Terms of Service and the Annexes attached hereto (the “Terms of Service”) govern your use of the Online SMS and/or MMS Service (the “Service”) offered by Text My Main Number, Inc. (“TMMN”).

BY COMPLETING THE REGISTRATION PROCESS, CHECKING THE APPLICABLE BOX, USING THE SERVICE AND/OR BROWSING TMMN’S WEBSITE, (1) YOU HEREBY REPRESENT AND WARRANT THAT (A) YOU HAVE READ AND UNDERSTAND THESE TERMS OF SERVICE AND (B) THAT YOU HAVE THE LEGAL AUTHORITY TO ENTER INTO THE TERMS OF USE ON BEHALF OF THE USER WHO IS TO USE THE SERVICE, WHETHER SUCH USER IS YOU AS AN INDIVIDUAL OR SUCH USER IS A LEGAL ENTITY WHOM YOU REPRESENT AND (2) YOU AGREE TO THESE TERMS OF SERVICE, INCLUDING THE LIMITATIONS ON USE AND PROVISIONS RELATING TO THE RESOLUTION OF DISPUTES PROVIDED HEREIN. THE TERM “YOU” (AND “YOUR”) REFERS TO THE INDIVIDUAL OR LEGAL ENTITY, AS APPLICABLE, USER OF THE SERVICE, ANY REPRESENTATIVES OR AFFILIATES OF SUCH USER USING THE SERVICE ON THE USER’S BEHALF AND/OR THE PERSON REGISTERING TO USE THE SERVICE.

TMMN may, from time to time, revise or amend these Terms of Service. Such revisions or amendments (the “Revised Terms of Service”) shall be effective and binding upon you on the date the Revised Terms of Service are made available on TMMN’s website. Your continued use of the Service after TMMN has made the Revised Terms of Service available indicates your consent to the Revised Terms of Service.

ARTICLE I
SERVICE DESCRIPTION

1.1 General. The Service is a hosted Short Message Service (“SMS”) that enables you to send and receive text messages and/or, depending on the features of the Service in which you elect to enroll, a Multimedia Messaging Service (“MMS”) that enables you to send picture and/or video messages, in each case subject to certain limitations on message length and size.

1.2 Optional Network Features. You may elect to receive and pay for certain additional optional network features. You shall notify TMMN in writing (including via e-mail) or by creating a ticket online at support.textmymainnumber.com informing TMMN of its desire to receive such services, and TMMN shall confirm your

enrollment and notify you of any applicable fees, including recurring and non-recurring charges, if any.

1.3 International Texting. Subject to these Terms of Service, you may use the Service to complete international SMS and/or MMS, subject to applicable fees and rates.

1.4 Affiliates and Subsidiaries. TMMN may, at any time at its exclusive election and without notice, permit any of its subsidiaries and affiliates to provide any or all of the Services on behalf of TMMN. You consent to any such subsidiary or affiliate, as applicable, providing any or all of the Services on behalf of TMMN.

1.5 Voice Over Internet Protocol Telephony Services. If you and TMMN agree to include Voice over Internet Protocol Telephony Services (“VOIP Service”) in the Services you receive, you agree that your use of such VOIP Service is subject to the Telephone Service Terms and Conditions attached as Exhibit A.

ARTICLE II RATES AND CHARGES.

2.1 Generally. Current rates and charges for the Service are described in the service agreement between you and TMMN, if any, and/or the invoice(s) delivered or to be delivered to you by TMMN. Rates and charges are subject to change as required by any federal, state or local regulation, or as a result of any charges assessed to TMMN by any network service provider in connection with the Services. You agree to make such payments in accordance with the instructions to be provided to you by TMMN via invoice, with respect to both the required timing of payments and acceptable methods of payment.

2.2 Wireless Carrier Network Charges. You agree that if, at any time, your wireless carrier or network provider requires TMMN to pay a fee or service charge in order for TMMN to provide the Services to you, TMMN may include such fee as a charge on your invoice. You agree to pay any such fee or charge that is included in your invoice.

ARTICLE III SUPPORT AND MAINTENANCE

3.1 TMMN will have no obligation to conduct any maintenance of any equipment (whether or not supplied by TMMN under these Terms of Service), nor to conduct any trouble-shooting at any end user site.

3.2 Trouble tickets involving feature packages or remote users will be accommodated by calling 1-800-361-5230, e-mailing a TMMN representative or general

support e-mail address (support@textmymainnumber.com), via online chat, or by creating a ticket online at support.textmymainnumber.com. All such trouble-tickets will be handled on a commercially reasonable basis.

ARTICLE IV TERMS AND CONDITIONS

4.1 No Resale Qualification. The Service is not available for resale.

4.2 Internet Access. The Service does not include Internet access, which must be purchased separately by you. The Service requires functioning and reliable Internet access. Failure by you to obtain and maintain adequate Internet access may limit or disrupt Service functionality or result in the Service being altogether unavailable.

4.3 Customer-Obtained Facilities. Except as otherwise expressly agreed between you and TMMN (whether in a service agreement or otherwise), you are responsible for obtaining, installing, configuring and maintaining all equipment (including, but not limited to, routers, switches, and firewalls), software, wiring, power sources, telephone connections and/or communications services necessary for inter-connection with TMMN's network or otherwise for use in conjunction with the Service ("Facilities"). You are responsible for ensuring that such Facilities are compatible with TMMN's requirements (including being certified by TMMN for use with the Service and that they continue to be compatible with subsequent TMMN-provided equipment, software and services). Further, you are responsible for operation and configuration of your computer(s) and LAN/WAN. If you connect any Facilities to the Service that are not compatible with the Service, you hereby agree that you are solely responsible for any effects that arise from that connection on the Service or equipment, the software of TMMN or any third party or your equipment or software, and you waive any claims against TMMN relating to the performance of the Service.

4.4 Service Disclaimer. TMMN is not responsible for certain conditions or equipment that may affect the Service, including, without limitation:

- Failure or poor performance of your Domain Name Server ("DNS Server") and/or local area network ("LAN") upon which the Service relies. Network-related outages also may occur, and service restoration intervals may vary from those associated with traditional telecommunications service.
- Failure or poor performance of your Internet access service and/or routers, switches, or other any of your other equipment, with effects including but not limited to loss of circuit connectivity, high jitter, latency, or packet loss.
- Communications from analog modems may have protocol interaction issues when used over Service technology (due to their

handshake and error-checking rules) and cannot be assured to be of the same quality as other communications.

- All inside wiring and special construction at each of your sites.

4.5 [Reserved.]

4.6 Service Restrictions. You understand and agree that use of the Service by you and on your behalf is restricted in the following manner:

- You shall use the Service in accordance with all applicable federal, state, and local laws and regulations.
- You shall use the Service only to contact recipients who have consented to receive SMS and/or MMS messages from you.
- You shall not modify the TMMN-installed configuration without the prior written consent of TMMN.
- You shall not, unless otherwise approved in writing by TMMN, utilize the Service in any outbound call center environment, telemarketing service or mass marketing service or in connection with any similar such application.
- You shall not, unless otherwise approved in writing by TMMN, utilize auto-dialers or any similar type of device in connection with the Service.
- You shall not use the Service in a volume that exceeds the applicable throughput limitation.
- You shall not use the Service to make any solicitation for services, goods or products, to offer deals or discounts, or to otherwise engage in any type of marketing, telemarketing, or “mass blasting”, unless (1) TMMN has authorized the Customer to use the Service for such purpose and (2) TMMN has assigned the Customer a “short code” to be used in connection therewith.
- You shall not use the Service in any other way that, in TMMN’s sole determination, is improper or jeopardizes the ability of TMMN or its service partners, suppliers and affiliates to provide services to other customers.
- You acknowledge and agree that if you participate in the service plan permitting “unlimited” text messages, you will not use the Service for advertising, marketing, any similar activity, or any other activity from time to time prohibited by TMMN.

You expressly acknowledge and agree that any violation of the foregoing restrictions on its use of the Service may result in the immediate suspension or termination of the Service without notice.

4.7 SMS/MMS Origination Information. You acknowledge that TMMN classifies local and long distance SMS/MMS to determine appropriate rate allocation (i.e., local or interstate). TMMN bases this classification on the information in TMMN's systems identifying each call's originating location. As accurate information regarding the origination point of SMS/MMS is necessary to make the appropriate rate allocation, it is a material condition of these Terms of Service that you provide TMMN with accurate information reflecting its SMS/MMS originating location. You shall defend, indemnify and hold TMMN harmless with respect to any third-party claims arising out of your delivery of SMS/MMS origination information to TMMN or to such third parties.

4.8 LNP. You can arrange to port its numbers using LNP (Local Number Portability) at the same time the Service is made available for use, or delay LNP for up to 10 days afterwards. However, billing for the Service will commence in accordance with Section 4.9, below.

4.9 Billing Initiation. Subject to any trial period offered by TMMN, if and as applicable, billing for the Service will begin when the Service is available for use.

4.10 Content.

4.10.1 Responsibility for Content. You acknowledge that all information, data, text, software, music, photographs, graphics, video, messages, tags and/or other materials made accessible or distributed through the Service ("Content") is the sole responsibility of the party from whom such content originated. You and the other users of the Service are solely responsible for any Content distributed through the Service. You acknowledge that TMMN has no obligation to pre-screen and/or review the Content that is made available or distributed through the Service, although TMMN reserves the right in its sole discretion to review, pre-screen, refuse or remove any Content. By agreeing to these Terms of Service, you hereby provide your irrevocable consent to such monitoring. You acknowledge and agree that you have no expectation of privacy concerning the transmission of any Content. In the event that TMMN pre-screens, refuses or removes any Content, you acknowledge that TMMN will do so for its benefit, not yours.

4.10.2 Limitations on Content. No content shall contain any nudity, violence, sexually explicit or offensive subject matter. You shall not post or submit for print services a photograph of another person without that person's permission. You shall not distribute or receive any Content in violation of applicable intellectual property laws. You shall not make available any Content that (a) is unlawful, tortious, defamatory, vulgar, obscene, libelous or racially, ethnically or otherwise objectionable; (b) violates or encourages any conduct that would violate any applicable law or regulation or could give rise to civil liability; (c) promotes discrimination, bigotry, racism, hatred, harassment or harm against any individual or group; (d) is violent or

threatening, or promotes violence or actions that are threatening to any other person or (e) promotes illegal or harmful activities.

4.10.3 Usage. You represent and warrant that the owners of the phone numbers you initiate messages to through TMMN have consented or otherwise opted-in to the receipt of such messages and broadcasts as required by any applicable law or regulation. You agree that you will include clear opt-out and unsubscribe information on your messages when required to do so by any applicable law or regulation and otherwise adhere to the Consumer Best Practices Guidelines promulgated by the Mobile Marketing Association, if applicable to your messages. You further agree that any individuals requesting “do-not-call” status shall immediately be placed on your “do-not-call” accounts list and you further agree that you will not initiate any subsequent messages with such individuals. You also agree to familiarize yourself with and abide by all applicable local, state, national and international laws and regulations, including, but not limited to, the Telephone Consumer Protection Act and the Federal Trade Commission and Federal Communications Commission rules. You agree to be solely responsible for all acts or omissions that occur under your account, including, without limitation, the content of the messages that you create and initiate through TMMN.

4.10.4 Records. You agree and acknowledge that maintenance of appropriate records is critical to your compliance with applicable laws and regulations, and you agree to undertake your best efforts to maintain records relating to (i) the consent by each recipient of messages from you using the Service to receive such messages from you, (ii) the Content that you have distributed through the Service and (iii) any requests from any recipient of Content sent by you using the Service to no longer receive messages through the Service. Further, you agree to provide such accurate and complete records to TMMN without undue delay upon TMMN’s request therefore. You acknowledge and agree that failure to comply with these requirements may result in TMMN terminating your Service. Additionally, you agree and acknowledge (x) that TMMN has no obligation to retain or store records of communications or Content distributed through the Service on your behalf and (y) that TMMN may establish general practices and limits on any such retention of records relating to such communications or Content in its sole discretion.

4.11 DISCLAIMER OF WARRANTY AND LIMITATION OF LIABILITY. THE SERVICE IS PROVIDED AS-IS WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT ALLOWED BY LAW, TMMN DISCLAIMS ALL WARRANTIES, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. IN NO EVENT SHALL TMMN, ITS SERVICE PARTNERS, SUPPLIERS OR AFFILIATES BE LIABLE (WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE) FOR ANY DIRECT, CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL PUNITIVE OR OTHER DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR OTHER PECUNIARY LOSS) ARISING OUT OF THE AGREEMENT OR THE USE OF OR INABILITY TO USE THE SERVICES

EVEN IF TMMN HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN THE EVENT A COURT OF LAW OR ARBITRAL TRIBUNAL AWARDS DIRECT DAMAGES, WHETHER OR NOT IN ACCORDANCE WITH SECTION 4.17 BELOW, CUSTOMER HEREBY EXPRESSLY AGREES THAT DIRECT DAMAGES SHALL NOT EXCEED THE EQUIVALENT OF SIX MONTHS OF FEES AND RATES PAYABLE TO TMMN UNDER THE AGREEMENT.

4.12 DISPUTE RESOLUTION. YOU AND TMMN EXPRESSLY AGREE TO ARBITRATE ANY AND ALL DISPUTES ARISING FROM YOUR USE OF THE SERVICE AND YOUR BUSINESS RELATIONSHIP WITH TMMN. ANY SUCH ARBITRATION SHALL BE HELD IN NEW YORK, NEW YORK AND ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION (“AAA”) IN ACCORDANCE WITH THE AAA RULES THEN IN FORCE. ANY ARBITRATION SHALL TAKE PLACE ON AN INDIVIDUAL BASIS. CUSTOMER HEREBY WAIVES ANY RIGHT TO SEEK OR PURSUE ARBITRATION ON A CLASS BASIS.

4.13 Neither party will be deemed to be negligent, at fault or liable in any respect for any delay or failure in performance, including the interruption of service, resulting from acts of God, war, accidents, labor disputes, strikes, power interruptions or outages or any other cause beyond the reasonable control of the party delayed; provided, however, that such acts or events do not relieve you of your obligation to make payments for invoiced amounts. In no event will TMMN be obliged to provide credits for service interruptions to TMMN communication services provided to you as a result of any act or failure to act under these Terms of Service.

4.14 Indemnification. You agree to hold harmless, indemnify and defend TMMN, its officers, directors, employees, service partners, suppliers and other affiliates from and against any losses, damages, fines, costs and expenses (including reasonable attorneys’ fees) arising out of or relating to (a) your use of, or inability to use, the Service, (b) your violation of these Terms of Service or (c) your violation of any applicable laws, rules or regulations.

4.15 The parties expressly acknowledge that the limitations of liability, disclaimers and indemnification obligations set forth above reflect a conscious allocation of risk between the parties and that the price of TMMN’s services would be higher if TMMN accepted greater obligations or risks.

Appendix I
Designation of Customer Service Administrator(s) with CPNI Authorization

Customer
Signature: _____

Name:

Title:

Date:

- A. Administrator Access to CPNI and Designation as CPNI Authorizer for Users. On behalf of itself and its affiliates, the customer named above (the "Customer"), through its authorized representative's signature, hereby designates the individuals listed below or in an attachment containing the same data elements, as Service Administrators, with the authority to designate end users authorized to access CPNI of Customer and its affiliates, as specified below (collectively "Administrators") for Text My Main Number, Inc. ("TMMN") Business Services and Residential Services. Customer will so designate as Administrators all representatives who are authorized to manage Customer's use of TMMN Service, including through the online applications made available by TMMN to Customer for its use. This designation, and any subsequent additions or removals of Administrators, will be effective within a reasonable period after TMMN has received a signed writing with the content set out above. Administrators are authorized to access the Customer Proprietary Network Information ("CPNI") * of Customer and its affiliates.
- B. User Access to CPNI via Online Applications. Customer representatives ("Users") designated by Administrators as authorized to access online applications made available by TMMN in connection with the Service are also authorized to access the CPNI of Customer and its affiliates through those online applications. This Service-specific CPNI access authorization is independent of any general CPNI authorization or deauthorization, and this authorization is not withdrawn by the withdrawal of a general CPNI authorization. In order to withdraw the Service-specific CPNI authorization established hereby, a Customer Administrator must permanently withdraw the User(s) access to ICP and all other Service-related online applications that may provide access to CPNI.

* CPNI includes information about the quantity, technical configuration, type, destination, location, and amount of use of telecommunications or interconnected voice over Internet Protocol services purchased from TMMN or its affiliates that is made available to TMMN or its affiliates solely by virtue of your relationship with TMMN or its affiliates and related local exchange or toll billing information.

Text My Main Number, Inc.
Voice over Internet Protocol Telephony Service
Terms of Service

These Terms of Service and the Annexes attached hereto (including, if and as applicable the Customer Premises Equipment Terms attached (the “CPE Terms”)), together with the Service Agreement (the “Agreement”), govern the relationship between you and Text My Main Number, Inc. (“TMMN”) and outline the rights and obligations of each party with respect to the Voice over Internet Protocol Telephony Service (the “Service”) to be provided by TMMN to the customer (“you” or “Customer”) during the term of the Agreement.

TMMN may, from time to time, revise or amend these Terms of Service. Such revisions or amendments (the “Revised Terms of Service”) shall be effective and binding upon you on the date the Revised Terms of Service are made available on TMMN’s website. Your continued use of the Service after TMMN has made the Revised Terms of Service available to you shall indicate your consent to the Revised Terms of Service.

ARTICLE I
SERVICE DESCRIPTION

1.1 General. The Service is a hosted voice over IP (“VoIP”) service capable of providing unified communications that include a wide array of business telephony features, and customer premises equipment (“CPE”), as provided under the Agreement. Field Services – Installation and Activation Scope of Work. If you so request, and if TMMN agrees to do so, TMMN shall engage a TMMN employee or authorized agent (the “Technician”) to provide in-person assistance to you in connection with the installation of CPE as follows:

1.2.1 Upon arrival at Customer’s designated site, the Technician will make contact with Customer’s site representative and confirm arrival. The Technician will locate Customer’s pre-determined and pre-designated end user(s)’ work area and provided materials, if any, required for completion of the scope of work. The Technician will conduct a visual inspection of end user provided materials (if any) to ensure presence and serviceability of all required items.

1.2.2 The Technician will unbox and install the VoIP phones and/or analog telephone adapter (“ATA”) devices and/or switches pursuant to the quantities and at the location designated in Customer’s order.

1.2.3 The Technician will test a portion of the CPE for internal, local, outbound and inbound calling and selected feature options. The Technician will test all phones for dial tone.

1.2.4 If during the performance of installation any equipment is found to be nonfunctional, the Technician will re-box the affected equipment and engage the TMMN team to initiate advanced replacement procedures. Upon submission of the

replacement order by the implementation team, Customer will be provided confirmation with shipment tracking information. Upon receipt of the new equipment, Customer is responsible for returning any defective equipment using instructions and shipping information provided.

1.2.5 At the completion of this scope of work, the Technician will review and confirm the installation checklist with the affected end users.

1.3 Field Services – Move-Add-Change-Delete Scope of Work. If you so request, and if TMMN agrees to do so, TMMN shall engage a Technician to provide in-person assistance with respect to moving, changing, adding or deleting CPE as follows:

1.3.1 Upon arrival at Customer's designated site, the Technician will make contact with Customer's site representative and confirm arrival. The Technician will locate Customer's pre-determined and pre-designated end user(s)' work area and provided materials, if any, required for completion of the scope of work. Then the Technician will conduct a visual inspection of end user provided materials (if any) to ensure presence and serviceability of all required items.

1.3.2 If installation is required, TMMN will follow the procedures set forth above in Field Services – Installation and Activation Scope of Work.

1.3.3 In the event the required service involves the removal of TMMN-owned telephones or other equipment, the Technician will locate and disconnect such equipment and return it to TMMN. If only a portion of the Service is being terminated, the Technician will ensure the remaining equipment is in good working order and that the Service continues to be available to Customer in accordance with these Terms of Service.

1.3.4 At the completion of this scope of work, the Technician will review and confirm the installation checklist with the affected end users.

ARTICLE II RATES AND CHARGES.

2.1 Generally. Current rates and charges for the Service are described in the Agreement. Rates and charges that are designated as "fixed for the Term" are subject to change as required by any federal, state or local regulation. Monthly Recurring Charges ("MRCs"), Non-Recurring Charges ("NRCs"), and other charges, including features are set forth in the Agreement. You agree to pay the MRCs and NRCs as set forth in the Agreement and as supplemented or modified by mutual agreement between TMMN, as well as any applicable taxes. You agree to make such payments in accordance with the instructions to be provided to you by TMMN via invoice or otherwise contemplated by these Terms and Conditions, with respect to both the required timing of payments and acceptable methods of payment.Automatic-Renewal. The Agreement will auto-renew after the initial term specified in the Agreement for additional

terms of 12 months (each, an “Automatic Renewal Term”), unless and until Customer provides written notice of its intent to cancel the Service at least 30 days prior expiration of the Agreement or Automatic Renewal Term, as applicable. TMMN shall have the right to determine “fixed for the term” rates and charges, MRCs, NRCs and such other charges and fees as it deems appropriate (the “Automatic Renewal Rates”). The Automatic Renewal Rates shall apply for the duration of the Automatic Renewal Term (other than as provided in Section 2.1); provided, that TMMN shall provide Customer with details regarding the Automatic Renewal Rates as soon as practicable once the Automatic Renewal Term begins.

2.3 Paper Invoice Charge. A \$5 monthly recurring charge applies to every paper invoice provided to a Customer (except invoices solely for intrastate telecommunications services) in lieu of, or in addition to, an online invoice. This charge does not apply where Customer has established to TMMN’s satisfaction, or TMMN determines on its own, that online invoicing is not a reasonable substitute for paper invoicing. Convenience Payment Charge. A \$5 convenience payment charge applies to any Customer payment by credit card, debit card, ETF or ACH for Company service that is authorized by telephone. The charge will be made by the same payment method the Customer selected. The charge does not apply to other payment options.

2.5 Thirty-Day Money Back Guarantee. TMMN offers a money back guarantee on the Service. If for any reason you are not satisfied with the Service provided by TMMN, you may notify TMMN in writing within thirty (30) days’ of the date of the Agreement of your desire to cancel the Service. You shall, if and as applicable, return any TMMN-owned equipment to TMMN undamaged and in good, working condition in its original packaging. Upon receipt of such notice and, if and as applicable, all TMMN-owned equipment in the aforementioned condition, TMMN shall repay the initial fees paid by you hereunder. TMMN shall not, however, pay for any usage of the Service by you prior to your cancellation of the service under this paragraph. This guarantee is only available to first-time customers.

ARTICLE III USER BUNDLE AND TRUNK TERMS AND CONDITIONS

3.1 TMMN will not conduct any maintenance of any equipment (whether or not supplied by TMMN under these Terms of Service) nor conduct any trouble-shooting at any end user site that is not Customer’s primary service address.

3.2 Trouble tickets involving feature packages or remote users will be accommodated by calling 1-800-361-5230, e-mailing a TMMN representative or general support e-mail address, via online chat, or by creating a ticket online at support.TMMNtechnologies.com. All such trouble-ticket calls will be handled on a commercially reasonable basis.

3.3 Site Package Activation Charge. Customer will pay an NRC of \$150.00 for each site it establishes at which the Service shall be provided. This charge includes the provisioning of the network-based features.

3.4 CPE and TMMN-Owned Equipment. Customer will pay MRCs and/or NRCs for CPE and TMMN-owned Equipment, as applicable and in accordance with the Agreement.

3.5 Early Termination Fee. Depending on the equipment, the Services offered and terms of the Agreement, Customer may be required to pay a fee (the “Early Termination Fee”) in the event Customer cancels or terminates the Agreement prior to the end of the agreed upon term of the Agreement. Where applicable, the Early Termination Fee is subject to the terms and conditions for Service Term – Termination (Service Term (Long)) described in Section 3.13.4 of the CPE Terms, attached to this agreement.

3.6 Shipping Charges. Customer will be charged for equipment shipping costs. Such costs will vary based on the quantity of the equipment ordered and destination, as well as the shipping option from available carriers selected by Customer.

3.7 CPE Replacement. After implementation of the Service is completed, if Customer experiences a service issue during the equipment warranty period or leased term that is determined by TMMN to be due to a defective phone, TMMN will replace the phone with a phone of similar capabilities. TMMN will ship the replacement phone to Customer who must return the defective phone to TMMN within 14 calendar days after receiving the replacement. TMMN will provide return labels to Customer for use in shipping the defective equipment back to TMMN. If TMMN does not receive the defective phone within 30 calendar days of the date Customer received the replacement phone, TMMN will bill and Customer will pay the purchase price of the replacement phone. Such payment will be made in addition to the standard MRCs and other fees due according to the terms of the Agreement. Customer agrees and acknowledges that the payment of the purchase price of the replacement phone is not a penalty, but rather is a fee intended to allow TMMN to recoup its losses in connection with Customer’s failure to return the equipment as required by this Section 3.7.

3.8 Optional Network Features. Customer may elect to receive and pay for certain additional optional network features, including short message service, Call Agent and Mobile Client User. Customer shall notify TMMN in writing (including via e-mail) or by creating a ticket online at support.TMMNtechnologies.com informing TMMN of its desire to receive such services, and TMMN shall confirm Customer’s enrollment and notify Customer of any applicable fees, MRCs or NRCs.

3.9 Field Services. Customer may purchase optional field services at rates established by TMMN, with such rates distinguishing between services performed during Standard Hours¹ and After Hours¹. Field Services may include, but are not limited to,

¹ Standard Hours are 8:30 am to 5:00 pm, local time at the site. After Hours are anytime outside Standard Hours.

Site Survey², Installation³, and On-site Tech Dispatch⁴. In addition to the aforementioned rates, Customer may be liable for additional charges, including:

3.9.1 Schedule Change Charges. In addition to the applicable rates and charges for Field Services, TMMN may charge one standard hour at the extended rate (see above) to change a prescheduled arrival window for a Technician if Customer or its end user provides less than forty-eight (48) hours' notice (until the prescheduled arrival time on-site) for such a change.

3.9.2 Labor Expedite Charges. Based on the Field Services charges set forth above, TMMN may charge the After Hours rates even if work is to be performed during standard business hours if Customer requests that Field Services be expedited and less than forty-eight (48) hours' notice is provided.

3.10 International Calling. The Service may be used by Customer to complete international calls to the locations set forth in the international rate sheet.

3.11 Taxes and Governmental Charges. Taxes and Governmental Charges based on the location at which the Service is used – for example, 911 service fees (which may also be referred to by such names as “taxes” or “surcharges”) – will be determined by the Service location designated by Customer for its end-users at the time the Service is activated. At such time as TMMN has the ability to bill Taxes and Governmental Charges for each telephone number based on the location at which the Service is used in each individual month, then Taxes and Governmental Charges attributable to each telephone number during any particular month will be determined by the location designated by each end-user as its service location as of Customer's monthly billing date.

ARTICLE IV TERMS AND CONDITIONS

4.1 Business Application. The Service is offered to commercial (non-government) business, government businesses, and residential customers.

4.2 No Resale Qualification. The Service is not available for resale.

4.3 Internet Access. The Service does not include Internet access, which must be purchased separately by Customer. The Service requires functioning and reliable Internet access. Failure by Customer to obtain and maintain adequate Internet access may limit or disrupt Service functionality or result in the Service being altogether unavailable.

² A minimum of 1 hour of time on-site will be billed for Site Survey. Additional time beyond 1 hour will be billed to the next largest 15-minute increment at the rate shown above.

³ A minimum of 3 hours of time on-site will be billed for Installation. Additional time beyond 3 hours will be billed to the next largest 15-minute increments at the rate shown above.

⁴ On-Site Tech Dispatch is the dispatch of a Text My Main Number, Inc. technician to Customer's site at Customer's request. A minimum of 1 hour of time on-site will be billed for On-Site Tech Dispatch. Additional time beyond 1 hour will be billed to the next largest 15-minute increment at the extended rate noted above.

4.4 Customer-Obtained Facilities. Except as otherwise expressly agreed upon by TMMN and Customer (whether in the Agreement or otherwise), Customer is responsible for obtaining, installing, configuring and maintaining all equipment (including, but not limited to, routers, switches, and firewalls), software, wiring, power sources, telephone connections and/or communications services necessary for inter-connection with TMMN's network or otherwise for use in conjunction with the Service ("Facilities"). Customer is responsible for ensuring that such Facilities are compatible with TMMN's requirements (including being certified by TMMN for use with the Service and that they continue to be compatible with subsequent TMMN-provided equipment, software and services). Customer is responsible for operation and configuration of its computer(s) and LAN/WAN. If Customer connects any Facilities to the Service that Customer reasonably should know may not be compatible with the Service, Customer is solely responsible for any effects that arise from that connection on the Service or equipment, or the software of TMMN, Customer, or any third party, and Customer waives any claims against TMMN relating to the performance of the Service.

4.5 Service Disclaimer. TMMN is not responsible for certain conditions or equipment that may affect the Service, including, without limitation:

- Failure or poor performance of Customer's Domain Name Server ("DNS Server") and/or local area network ("LAN") upon which the Service relies. Network-related outages also may occur, and service restoration intervals may vary from those associated with traditional telecommunications service.
- Failure or poor performance of Customer's Internet access service and/or routers, switches, or other Customer equipment, with effects including but not limited to loss of circuit connectivity, high jitter, latency, or packet loss.
- Communications from analog modems may have protocol interaction issues when used over Service technology (due to their handshake and error-checking rules) and cannot be assured to be of the same quality as other communications.
- Modems may not be used on the Service (except with Codec G.711) without silence suppression.
- Fax transmission is highly dependent on Customer's facsimile device, its ability to disable error correction, and other factors.
- Alarm lines (whether or not they use modems) are wholly unsupported on the Service (with respect to both service and wiring, without limitation).
- All inside wiring and special construction at each of Customer's sites.

4.6 Geographic Coverage. The Service described herein is provided only to Customer locations within the U.S. Mainland and Hawaii, though the Service may not be available at every location. Customer is prohibited from extending the Service beyond the U.S. Mainland and Hawaii.

4.7 Service Restrictions. Customer understands and agrees that its use of the Service is restricted in the following manner:

- Customer shall use the Service in accordance with all applicable federal, state, and local laws and regulations.
- Customer shall not modify the TMMN-installed configuration without the previous written consent of TMMN.
- At any given time, Customer may only place as many concurrent calls as the number of users or standard trunks it has purchased.
- Customer shall not, unless otherwise approved in writing by TMMN, utilize the Service in any outbound call center environment or telemarketing service or in connection with any similar such application.
- Customer shall not use the Service for fax broadcasting, fax blasting, or continuous or extensive call forwarding.
- Customer's design shall not be configured with more than 8:1 oversubscription (i.e., no more than eight DID's per simultaneous call).
- Customer shall not, unless otherwise approved in writing by TMMN, utilize auto-dialers or any similar type of device in connection with the Service.
- Customer shall not use the Service in any other way that, in TMMN's sole and reasonable determination, is improper or jeopardizes the ability of TMMN or its service partners, suppliers and affiliates to provide services to other customers.

Customer expressly acknowledges that any violation of the foregoing restrictions on its use of the Service may result in the immediate suspension or termination of the Service without notice.

4.8 Call Origination Information. Customer acknowledges that TMMN classifies local and long distance calls to determine appropriate rate allocation (i.e., local or interstate). TMMN bases this classification on the information in TMMN's systems identifying each call's originating location. As accurate information regarding the origination point of calls is necessary to make the appropriate rate allocation, it is a material condition of these Terms of Service that Customer provide TMMN with accurate

information reflecting its calls' originating location. Customer shall defend, indemnify and hold TMMN harmless with respect to any third-party claims arising out of Customer's delivery of call origination information to TMMN or to such third parties.

4.9 TMMN Equipment. As part of the Service, TMMN offers Customer different types of Service-related equipment – IP phones, analog adapters, switches, routers, etc. – that can be purchased (“customer premise equipment” or “CPE”) or in some cases rented (“TMMN Equipment”) from TMMN at Customer's option.

4.9.1 Purchased Equipment or lease with dollar buyout. Subject to the CPE Terms, Customer may purchase CPE to use with the Service from TMMN at the rates set forth in the Agreement.

4.9.2 Rented Equipment. At all times, title to any equipment provided by TMMN on a leased with no buyout basis as part of the Service will remain with TMMN. Customer shall (i) maintain the TMMN Equipment and any associated software, systems, cabling and facilities in accordance with the reasonable instructions of TMMN as may be given from time to time; (ii) not modify, relocate, or in any way interfere with the TMMN Equipment unless expressly authorized by a representative of TMMN to do so, and (iii) not cause the TMMN Equipment to be repaired, serviced, or otherwise accessed except by an authorized representative of TMMN.

(a) Entry by TMMN Representatives, upon reasonable request, to Customer premises or service locations to repair or maintain the Service or TMMN Equipment will discharge TMMN from its service obligation. Upon termination or expiration of the Agreement, Customer will return the TMMN Equipment to TMMN at TMMN's expense in the manner set forth in the CPE Terms referenced above .

(b) Maintenance. With respect to the TMMN Equipment only, TMMN will provide the following maintenance services (“Maintenance Services”): (i) use commercially reasonable efforts to isolate any problems with the TMMN Equipment that resides on Customer's site and send a Technician to Customer's site if necessary or (ii) replacement of affected components if TMMN, in its sole discretion, determines that any TMMN Equipment that resides on Customer's premises needs to be replaced; such component to be replaced with a component in good working order and of like kind and functionality from a manufacturer of TMMN's choice at the time of replacement.

(c) Normal Use Limitation. Maintenance Services only apply to problems arising out of the normal use of the TMMN Equipment and do not apply if the TMMN Equipment is damaged as a result of the negligence or willful misconduct of any non-TMMN party. If repair and/or replacement is required because of damage caused by any non-TMMN party's negligence or willful misconduct, Customer will be charged time at the rates specified above in Rates and Charges for field

services installation to repair the TMMN Equipment, plus the replacement cost of TMMN Equipment requiring replacement.

4.10 LNP. Customer can arrange to port its numbers using LNP (Local Number Portability) at the same time the Service is made available for use, or delay LNP for up to 10 days afterwards. However, billing for the Service will commence in accordance with Section 4.11, below.

4.11 Billing Initiation. Billing for the Service will begin when the Service is available for use.

4.12 Field Services – General. Customer must provide access to the facility necessary to complete the field services work.

- Any delay due to inaccessibility to required areas will count against the time required to perform the field services.
- All necessary site preparation will be completed by Customer, unless otherwise mutually and expressly agreed, prior to TMMN's performance of the required activities. Any delay on-site due to lack of preparation will be considered out of scope.
- TMMN is not responsible for work stoppages that occur as a result of waiting for Customer call-backs, releases, or other activities of a similar nature.
- TMMN is not responsible for data backup, loss, or retrieval associated with performance of field services.
- Customer is responsible for damaged or inoperable equipment resulting from instructions delivered by Customer or its end users. TMMN does not share in this responsibility unless such damage or inoperability is proximately caused by the negligence of TMMN or its agents.
- Any malfunctions, faulty conditions, inoperable equipment, mislabeled circuits, inactive circuits/extensions, poor workmanship and all other abnormal conditions discovered in work areas during the performance of field service are not TMMN's responsibility or the responsibility of the Technician to detect, troubleshoot, repair, or recommend action.

4.13 Field Services – Dispatch. The Technician will schedule a three-hour arrival window with Customer's PC no later than two business days from the date of scheduled arrival at Customer's site.

- The Technician will break down any boxes for the equipment installed, and clean up wire, plastic, paper or any trash left from

the dispatch. The Technician will dispose of all debris into Customer's dumpster, if available.

- If the Technician determines that the field services cannot be performed successfully, a failure report describing the reason(s) for the failure will be provided to Customer's end user at the affected site.

4.14 Field Services – Assumptions. Installation and Activation. A field service dispatch for installation and activation assumes up to three hours on-site. Each additional hour will be billed in fifteen (15) minute increments. All charges will be based on prices described in Rates and Charges, above.

4.14.2 Move-Add-Change-Delete. A field service dispatch for Move-Add-Change-Delete assumes up to two hours on-site. Each additional hour will be billed in fifteen (15) minute increments. All charges will be based on prices described in Rates and Charges, above.

4.14.3 Access to CPNI. Customer's use of the Service may enable access to Customer Proprietary Network Information ("CPNI"). As a condition of such access, Customer agrees:

- To execute a "Designation Of Customer TMMN Administrator(s) With CPNI Authorization" form provided by TMMN (see Appendix II), designating in the form one or more Customer "Administrators" authorized to access CPNI and to identify end-users authorized to access CPNI either directly or via an online application, if applicable; and
- To cooperate with TMMN's reasonable authentication and security procedures for access to CPNI, including, without limitation, password resets and re-authentication of authorized end-users.

4.15 911 – Emergency Calling. The FCC's requirements regarding "interconnected VoIP" are addressed in Appendix I (E-911 – Emergency Calling Terms and Conditions) attached hereto.

4.16 DISCLAIMER OF WARRANTY AND LIMITATION OF LIABILITY. THE SERVICE IS PROVIDED AS-IS WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT ALLOWED BY LAW, TMMN DISCLAIMS ALL WARRANTIES, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. IN NO EVENT SHALL TMMN, ITS SERVICE PARTNERS, SUPPLIERS OR AFFILIATES BE LIABLE (WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE) FOR ANY DIRECT, CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL PUNITIVE OR OTHER DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES

FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR OTHER PECUNIARY LOSS) ARISING OUT OF THIS AGREEMENT OR THE USE OF OR INABILITY TO USE THE SERVICES EVEN IF TMMN HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN THE EVENT A COURT OF LAW OR ARBITRAL TRIBUNAL AWARDS DIRECT DAMAGES, WHETHER OR NOT IN ACCORDANCE WITH SECTION 4.17 BELOW, CUSTOMER HEREBY EXPRESSLY AGREES THAT DIRECT DAMAGES SHALL NOT EXCEED THE EQUIVALENT OF SIX MONTHS OF FEES AND RATES PAYABLE TO TMMN UNDER THE AGREEMENT.

4.17 DISPUTE RESOLUTION. TMMN AND CUSTOMER EXPRESSLY AGREE TO ARBITRATE ANY AND ALL DISPUTES ARISING FROM THE AGREEMENT, THESE TERMS AND SERVICES OR THE CPE TERMS. ANY SUCH ARBITRATION SHALL BE HELD IN NEW YORK, NEW YORK AND ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION (“AAA”) IN ACCORDANCE WITH THE AAA RULES THEN IN FORCE. ANY ARBITRATION SHALL TAKE PLACE ON AN INDIVIDUAL BASIS. CUSTOMER HEREBY WAIVES ANY RIGHT TO SEEK OR PURSUE ARBITRATION ON A CLASS BASIS.

4.18 Neither party will be deemed to be negligent, at fault or liable in any respect for any delay or failure in performance, including the interruption of service, resulting from acts of God, war, accidents, labor disputes, strikes, power interruptions or outages or any other cause beyond the reasonable control of the party delayed; provided, however, that such acts or events do not relieve Customer of its obligation to make payments for invoiced amounts. In no event will TMMN be obliged to provide credits for service interruptions to TMMN communication services provided to Customer as a result of any act or failure to act under these Terms and Conditions or the CPE Terms.

4.19 Indemnification. Customer agrees to hold harmless, indemnify and defend TMMN, its officers, directors, employees, service partners, suppliers and other affiliates from and against any losses, damages, fines and expenses (including reasonable attorneys’ fees) arising out of or relating to any claim that Customer has violated the Agreement, these Terms and Conditions or the CPE Terms.

4.20 The parties expressly acknowledge that the limitations of liability, disclaimers and indemnification obligations set forth above reflect a conscious allocation of risk between the parties and that the price of TMMN’s services would be higher if TMMN accepted greater obligations or risks.

4.21 No Assignment. Customer shall not assign the Agreement without TMMN’s prior written consent. Any such purported assignment made without first obtaining the required consent shall be null and void.

Appendix I
E-911 – Emergency Calling
Terms and Conditions

1. Requirement. A provider of “interconnected VoIP service” is required by the Federal Communications Commission to route emergency 911 calls in conjunction with such VoIP service where such 911 calling is available. “Interconnected VoIP service” means the VoIP service (1) enables real-time, two-way voice communications; (2) requires a broadband connection from the end user’s location; (3) requires IP-compatible CPE; and (4) permits end-users generally to receive calls that originate on the PSTN and to terminate calls to the PSTN. 911 emergency calling service laws may also apply to Customer and it is solely Customer’s responsibility to understand and comply with such laws.

2. E-911 Routing. Enhanced 911 calling (“E-911”) enables end-users to access an appropriate public safety answering point (“PSAP”) by dialing 911 with Automatic Number Identification (“ANI”) and Automatic Location Identification (“ALI”) displayed at the PSAP. The ANI may be the calling party number (“CPN”) or the billing telephone number (“BTN”) depending on Customer’s configuration. Pursuant to FCC requirements, Text My Main Number, Inc. enables the routing of E-911 calls only in locations where such 911 calling is available and only in the limited circumstances described below. An end-user’s ability to access an appropriate PSAP depends on the type, configuration and location of the phone used. Furthermore, much like access to 911 emergency service via traditional PSTN local service, access to a PSAP will be unavailable if Customer’s access circuit or local gateway fails.
 - 2.1. ANI/ALI. E-911 provided via the Service will pass ANI and the registered primary service address of that ANI as ALI. If the Service is provided to a campus environment where all buildings have the same service address and rate center, then Customer acknowledges and agrees that when 911 is dialed, the call will be routed to the appropriate PSAP based on the primary service address of the calling ANI.

 - 2.2. Other Access Limitations. Common events that can limit access to E-911 via the Service include but are not limited to:
 - 2.2.1. Loss of Electric Service. A loss of electric service will interrupt the Service. Customers are urged to implement a battery backup system to ensure the Service is accessible in the event of a power outage.

 - 2.2.2. Loss of Broadband Service. The Service will be interrupted if the attendant broadband connection is not available.

 - 2.2.3. Failure of Equipment. The malfunction or failure of equipment, software or hardware necessary for end-to-end Internet functionality (e.g., routers, IP phones, analog gateways, etc.) can limit access to E-911.

- 2.2.4. Failure to Register New Location of Equipment. TMMN is able to provide access to E-911 only at the end-user's registered primary service location. If a VoIP phone is used at a location other than at the end-user's registered primary service location, E-911 will not be available.
 - 2.3. End-User Notice Requirements. Customer represents and warrants that it will notify all of its end-users of the Service (i) of the interaction and/or limitations of E-911 with the Service as set forth herein, (ii) what procedures such end-users must follow for registering a new location prior to moving an IP phone or soft-phone, and (iii) the effects of re-registration of end-user addresses on existing end-user office phones and E-911. Customer shall be solely responsible for any third party claims and liability arising from Customer's failure to so notify its end-users.
3. E-911 and Text My Main Number, Inc. Multitelephony Service and Collaboration Service
 - 3.1. PSAP Routing. If an phone connected to the Service is moved to a new location, Customer or its end-user must submit a change order prior to moving the phone. If Customer or its end-user fails to submit such a change of location order or moves an IP phone outside TMMN's E-911 service area, Service may be suspended until Customer informs TMMN of the change or moves the IP phone back within TMMN's E-911 service area.
 - 3.2. Change in Registered Location. Customer's end-users who want to use a Service enabled IP phone or soft-phone other than at its current registered location or IP address must issue an order to change the location address or IP address associated with that phone. Turning the power to a phone off and then back on, or unplugging it and then plugging it back in may indicate to Text My Main Number, Inc., via a change in IP address, that the phone may have been moved. Text My Main Number, Inc. may, but is not obligated to, monitor the IP phone's IP address.
 - 3.3. Effect of Change in Registered Location. Customer's end-users who use a phone at a Customer facility for which the Service has been enabled, but for which the ANI has been registered at another location, will still be able to place outbound 911 calls; however, such calls will be directed to the correct PSAP for the ANI, not necessarily for the PSAP serving the Customer facility at which the phone is located.
4. Provider Parity. For purposes of 47 U.S.C. 615a (Service provider parity of protection) and with respect to the provision of the Service, TMMN is an IP-enabled voice service provider.

Appendix II

Designation of Customer Service Administrator(s) with CPNI Authorization

Customer

Signature: _____

Name:

Title:

Date:

- C. Administrator Access to CPNI and Designation as CPNI Authorizer for Users. On behalf of itself and its affiliates, the Customer named above, through its authorized representative's signature, hereby designates the individuals listed below or in an attachment containing the same data elements, as Service Administrators, with the authority to designate end users authorized to access CPNI of Customer and its affiliates, as specified below (collectively "Administrators") for Text My Main Number, Inc. Business Services and Residential Services. Customer will so designate as Administrators all representatives who are authorized to manage Customer's use of TMMN Service, including through the online applications made available by Text My Main Number, Inc. to Customer for its use. This designation, and any subsequent additions or removals of Administrators, will be effective within a reasonable period after Text My Main Number, Inc. has received a signed writing with the content set out above. Administrators are authorized to access the Customer Proprietary Network Information ("CPNI") * of Customer and its affiliates.
- D. User Access to CPNI via Online Applications. Customer representatives ("Users") designated by Administrators as authorized to access online applications made available by Text My Main Number, Inc. in connection with the Service are also authorized to access the CPNI of Customer and its affiliates through those online applications. This Service-specific CPNI access authorization is independent of any general CPNI authorization or deauthorization, and this authorization is not withdrawn by the withdrawal of a general CPNI authorization. In order to withdraw the Service-specific CPNI authorization established hereby, a Customer Administrator must permanently withdraw the User(s) access to ICP and all other Service-related online applications that may provide access to CPNI.

* CPNI includes information about the quantity, technical configuration, type, destination, location, and amount of use of telecommunications or interconnected voice over Internet Protocol services purchased from Text My Main Number, Inc. or its affiliates that is made available to Text My Main Number, Inc. or its affiliates solely by virtue of your relationship with Text My Main Number, Inc. or its affiliates and related local exchange or toll billing information.

Appendix III
Customer Premises Equipment Terms

ARTICLE I
SERVICE DESCRIPTION

These Customer Premises Equipment Terms (the “CPE Terms”) outline the terms and conditions under which Text My Main Number, Inc. (“TMMN”) will provide leased equipment to you (“you” or “Customer”) in connection with the Voice over Internet Protocol Telephony Service (the “Service”) you have contracted to receive from TMMN.

Through its Customer Premise Equipment Catalog (“CPE Catalog”), TMMN makes available to its customers certain equipment necessary to utilize the Service, including telephones, conference phones and expansion modules. The following types of Customer Premise Equipment (“CPE”) service are available:

1.1 Purchase. “Purchase” means that TMMN will sell title of the CPE to Customer. After payment is made, the CPE belongs to Customer. CPE Maintenance Service is not included with CPE Purchase but may be purchased in conjunction with a CPE Purchase.

1.2 Purchase, Installation and Maintenance subject to third-party lease or direct lease with TMMN or Direct Lease with TMMN. “Purchase, Installation and Maintenance subject to third-party lease or direct lease with TMMN or Direct Lease with TMMN” means that TMMN will both sell CPE for Purchase, and provide Installation Service and Maintenance Service on that CPE, based on the understanding that Customer has entered into a leasing arrangement with a third-party, which is acceptable to TMMN, or with TMMN directly and under which Customer will transfer title of the CPE to the third-party or TMMN, as applicable, but will retain the right to possess, use, install and maintain the CPE.

1.3 Rental Service (Monthly). “Rental Service (Monthly)” means Customer will rent and TMMN will provide Customer with the use of CPE ordered through its CPE Catalog only for the period determined by the Section below titled “Service Term (Short)”. CPE Rental Service Monthly includes Maintenance Service. Customers ordering Rental Service (Monthly) also must order Installation Service.

1.4 Rental Service (Term). “Rental Service (Term)” means Customer will rent and TMMN will provide Customer with the use of CPE ordered through its CPE Catalog only for the period determined by the Section below titled “Service Term (Long)”. CPE Rental Service (Term) includes Maintenance Service. Customers ordering Rental Service (Term) must order Installation Service.

1.5 Installation Service. Installation Service means that TMMN will (a) mount the CPE on suitable Customer-provided receptacles, (b) connect the CPE to the appropriate interface with the related TMMN service, if applicable (e.g., the local exchange carrier’s service demarcation point), to a suitable Customer-provided interface with Customer’s network, and to a suitable Customer-provided source of electric power

(if applicable), and (c) verify that the CPE is operating with the related TMMN service. Standard Installation Service includes making connections to power sources and other interfaces only to the extent that such connections can be made with standard-length cables. Standard Installation Service is performed only during standard TMMN work hours. Installation Service is not available for Maintenance Takeover Service.

1.6 Maintenance Service. “Maintenance Service” means TMMN will do the following in a good and workmanlike manner:

1.6.1 Use commercially reasonable efforts to isolate any problems with the CPE and to restore service within the MTTR (as such term is defined below) following receipt of Customer’s notification that the CPE is inoperative.

1.6.2 Investigate usage difficulties reported by Customer and repair or replace, at TMMN’s sole discretion, any of the CPE which fails to meet the manufacturer’s published operating specifications.

1.6.3 Replace CPE if TMMN determines it needs to be replaced with equipment of like kind and functionality from a manufacturer of TMMN’s choice at the time of replacement (an “Exchange Unit”). Before replacing CPE, TMMN will attempt to contact Customer to schedule a mutually agreeable time to install the Exchange Unit. The replaced unit will be returned to TMMN inventory at TMMN’s expense. For CPE to which Customer holds title, upon replacement, Customer will obtain title to the Exchange Unit and TMMN will obtain title to the replaced CPE.

1.7 Maintenance Takeover Service. “Maintenance Takeover Service” means TMMN will provide Maintenance Service for CPE supplied by Customer (rather than ordered from TMMN) and identified in writing to TMMN (“Customer-Supplied CPE”). TMMN approval of Customer-Supplied CPE is required before ordering Maintenance Takeover Service.

1.8 Miscellaneous.

1.8.1 Mean Time to Repair. Equipment Mean Time To Repair (“MTTR”) is defined as the average time elapsed from the time a “CPE Trouble Ticket” is created because TMMN detects or is notified of a failure of CPE or other degradation in performance of the CPE covered by these CPE Terms (a “Failure”) until such time as the CPE’s performance is restored to standard functionality by replacing (either temporarily or permanently) or repairing the failed CPE.

1.8.2 MTTR Objectives. For Failures occurring at locations which are within a 60 mile radius of a TMMN authorized service center, the MTTR objective is to restore CPE to standard functionality within 48 hours after TMMN receives notice of a Failure, during normal 9-5pm business hours ET. For failures at all other locations in the U.S. Mainland, the MTTR objective is to restore CPE to standard functionality within 72 hours after TMMN receives notice of a Failure, during normal 9-5pm business hours ET.

Any time during which TMMN does not have immediate access to the CPE will not be counted in calculating MTTR.

1.8.3 Orders. Customer may order CPE service orally (to be confirmed in writing), by an unsigned writing, or by a signed writing, as specified below, each is an “Order”. For purposes of this section, writings include e-mail.

1.8.4 Signed orders. Customers may order CPE services through a signed writing.

1.8.5 Unsigned orders. Customers may order CPE services orally or through unsigned writings if the Order is confirmed. An Order is deemed confirmed if (a) TMMN sends to Customer written documentation of each specific item of CPE ordered, its current price, and the Customer location, and (b) Customer does not promptly notify TMMN that the documentation is not correct. Customer is bound by TMMN documentation of an Order that has been confirmed the same as it would be to an Order the Customer has signed.

ARTICLE II RATES AND CHARGES:

2.1 Purchase and Purchase, Installation and Maintenance subject to third-party lease or direct lease with TMMN or Direct Lease with TMMN. For Purchases and the Purchase element of Purchase, Installation and Maintenance subject to third-party lease or direct lease with TMMN or Direct Lease with TMMN, and Installation Service, Customer will be charged the Purchase rate stated on an Order, provided that rate is current – i.e., was first quoted within 45 days of the Order’s submission (a “Current Rate”). If the rate stated on an Order is not a Current Rate, a new Order with a Current Rate quote may be required. Rental Service (Monthly and Term) and Maintenance (including Maintenance Takeover) Service. For Rental Service (Monthly), Rental Service (Term), Maintenance Service, and Maintenance Takeover Service, Customer will be charged the rate stated on an Order (provided it is a Current Rate), except that after the expiration of any Service Term commitment selected by Customer with respect to a particular unit of CPE, TMMN may change the rates for Rental Service and Maintenance Service and will provide 30 days’ notice of any increase. Such notice may be provided under the standard notice provision of the relevant Signed Agreement, by invoice notice, or by posting the changes to the relevant parts of this Guide if applicable. If the rate stated on an Order is not a Current Rate, a new Order with a Current Rate quote may be required.

ARTICLE III TERMS AND CONDITIONS:

3.1 Customer’s Responsibilities. Customer must:

- use the CPE in conjunction with communications services or management services provided by TMMN;
- provide TMMN with access to the CPE during business hours;

- report detected CPE failures and provide information requested by TMMN, its contractors, or TMMN's designated point of contact, that is necessary or useful for TMMN to perform its obligations hereunder;
- provide TMMN and its contractors with access to Customer facilities, overhead and under floor cable ducts, installation sites and equipment as may be necessary or useful for TMMN to perform its obligations hereunder, including but not limited to the CPE;
- endorse Customer's name upon any Uniform Commercial Code filings reasonably necessary to protect the interests of TMMN, its contractors or assignees, if any, in the CPE. Consistent with this obligation, Customer hereby authorizes TMMN or its assignee to endorse Customer's name upon any such Uniform Commercial Code filings;
- obtain, as may be necessary, all permits, licenses, variances and other authorizations required by state and local jurisdictions for installation and operation of the CPE;
- provide adequate building, space, circuitry, and power in accordance with the standards established by TMMN for proper installation and operation of the CPE;
- provide back-up power to the CPE in the event of a power failure, interruption or outage, if Customer desires such back-up power;
- ensure that all of Customer's electronic files are adequately duplicated and documented at all times. TMMN and its contractors are not responsible or liable for Customer's failure to adequately duplicate or document files or for data or files lost during the course of performance of Maintenance Service;
- provide a well-lighted and safe working area that complies with all local safety standards and regulations for TMMN employees and contractors;
- provide TMMN employees and contractors with proper security clearances as required. If security passes are required for the TMMN employee or contractor or the equipment brought with such person, Customer must be available to provide all required badges, passes, etc. at the time the TMMN employee or contractor arrives at the site;
- ensure that any failed unit of CPE is free of any encumbrances at the time of the exchange, and remove all external attachments or objects from the unit of equipment to be replaced before the time of exchange. Customer gives up all rights to any such items not removed;
- execute a Letter of Authorization sufficient to provide TMMN with control of acquisition and management of Customer's access facility;

- not enter into any contract obligation or any other act or omission (either before or after agreeing to these CPE Terms) inconsistent with its obligations under these CPE Terms;
- maintain appropriate customer-specific configuration of any software (including appropriate upgrades or back-ups) related to CPE; and
- provide the following physical and electrical environment specifications for the CPE. These specifications reflect a normal industrial office environment within the U.S. Mainland, and are consistent with the requirements of the various manufacturers of CPE:
 - Operating Temperature. +40 to +100 degrees Fahrenheit; Rate of change of temperature not to exceed 15 degrees Fahrenheit per hour
 - Operating Relative Humidity. 20% to 55% Relative Humidity - non-condensing
 - Air Quality. Environment must be safe for equipment and technicians and must comply with applicable standards, ordinances and laws (including without limitation CPE manufacturer specifications, building codes and OSHA requirements).
 - Electricity. Phase Nominal Voltage Minimum Maximum:

▪ Single	120 vac	90vac	132 vac
▪ 1 – 2	208/240 vac	176/204 vac	227/264 vac
▪ 3	208 vac	176 vac	229 vac
▪ 3	480 vac	408 vac	528 vac
 - Frequency. Normal Commercial Power
 - AC Inrush Current. Fuses and Circuit Breakers - capable of handling instantaneous inrush current 10 times the rated input steady state current.
 - Electrical Outlets. There must be dual or quad standard NEMA L5-15R 3 prong electrical outlets located within 6 feet of the TMMN equipment racks for the exclusive use of the TMMN-provided CPE and TMMN service technicians. Each receptacle must provide power that meets the specifications under the subsection titled “Electricity” above and must be powered on a 24 hours a day, 7 days a week basis.
 - Floor Space. There must be sufficient floor space to accommodate the TMMN racks and/or cabinets that contain the CPE, with unrestricted access of 3 feet or more around all units to accommodate the TMMN service technicians and their test equipment.
 - Recommendation. Electrical isolation should be provided for sensitive electronic CPE by using motor generators or

UPS equipment in areas where heavy industrial equipment is used and/or there are frequent electrical storms.

3.2 Equipment. Except where explicitly stated otherwise, CPE may not be new but will be in good working order and will meet the specifications in the Order. TMMN may suspend normal operations of the CPE to inspect, test and/or repair it. TMMN will use reasonable efforts to perform such inspection, testing and repair without undue delay or undue impact to Customer's business.

3.3 Maintenance Service. TMMN has the exclusive right to maintain the CPE and may use third parties to do so. Customer acknowledges that it is Customer's responsibility to replace CPE (or to support the CPE) when it is no longer supported by the CPE manufacturer ("Unsupported CPE"). Maintenance Service and Maintenance Takeover Service for Unsupported CPE is limited to the level of service TMMN can provide using commercially reasonable efforts. Maintenance Service and Maintenance Takeover Service does not include or apply to the following:

- electrical work external to the CPE or the TMMN Network, or otherwise considered "in-house wiring";
- repair or replacement of failed CPE caused by factors outside of CPE or the TMMN Network, such as fire, accident, misuse, vandalism, water, lightning, or failure of its installation site to conform to TMMN's specifications;
- use of the CPE for other than the intended purpose;
- repair of damage caused by the maintenance or repairs performed by a person other than a TMMN employee or person authorized by TMMN;
- supplies, accessories, painting, or refurbishing of the CPE;
- relocation, alteration, additions, or removal of CPE, parts, or features not furnished by TMMN or use of CPE with other equipment that fails to conform to TMMN's specifications;
- cables and connectors between the CPE and any other equipment on Customer's premises after the expiration of the limited cable and connector warranty set forth in the Section of the CPE Terms below titled "Limitation of Liability and Limited Warranty"; and,
- power or back-up power to or from the CPE.
- configuration of software associated with the CPE; and
- network monitoring.

3.4 Service Availability Limitations. Systems and other constraints limit the availability of particular products and services under certain conditions. For example, Installation Service, Maintenance Service, and Maintenance Takeover Service is not generally available for IP phones (except that installation is available for IP phones ordered from TMMN at the same time as the related VoIP service with which they will be used). Accordingly, any requirement under the CPE Terms and a Signed Agreement for Customer to order maintenance (and installation) service from TMMN does not apply to IP phones when that service is not available.**Invoices.** Invoices may be issued by TMMN monthly or annually, as applicable. Monthly invoices will reflect one-twelfth (1/12) of the annual rate for service, where applicable. Customer may not withhold payment of any amount invoiced under the CPE Terms based on abatement, reduction, set-off, defense, counterclaim or recoupment in connection with any past, present or future claim Customer may allege against TMMN for charges not specifically covered in the CPE Terms or against the manufacturer of any CPE or any other third party.

3.6 Insurance. (This Section Applies to Rental Service (Monthly and Term) Only)

3.6.1 Customer shall maintain insurance, the kinds and in the amounts specified, with insurers of recognized responsibility, licensed to do business in the State(s) where Customer's obligations will be performed, and having at least: an A.M. Best's rating of A8, a Standard & Poor's ("**S&P's**") rating of AA, or a Moody's rating of Aa2. In accordance with the above, Customer shall maintain Commercial General Liability, Property and Casualty or other insurance coverage for damage to the CPE during such time as Customer bears the risk of loss for such CPE. The limits of such insurance must be no less than the replacement cost of the CPE. A combination of primary and excess/umbrella liability policies will be acceptable as a means to meet the limits specifically required hereunder. **THE REQUIRED MINIMUM LIMITS OF INSURANCE COVERAGE SET FORTH ABOVE DO NOT IN ANY WAY RESTRICT OR DIMINISH CUSTOMER'S LIABILITY UNDER THE TMMN CUSTOMER AGREEMENT.**

3.6.2 Customer will submit to TMMN a standard "Acord" insurance certificate (or comparable form acceptable to TMMN) signed by an authorized representative of such insurance company, certifying that the insurance coverage(s) required hereunder are in effect for the purposes of the CPE Terms. That insurance certificate must certify that no material alteration, modification or termination of such coverage(s) will be effective without at least 30 days advance written notice to TMMN .

3.6.3 All policies must name TMMN, its subsidiaries and affiliates, as Additional Insureds as respects Customer's liability under the CPE Terms.

3.6.4 Customer shall permit any authorized representative of TMMN to examine Customer's original insurance policies, upon request. If Customer at any time neglects or refuses to provide the insurance required under the CPE Terms, or if such insurance is cancelled or non-renewed, TMMN has the right to terminate the Agreement, or to pay the costs of securing substitute coverages and bill to Customer for those costs.

3.6.5 Customer's insurance will be considered primary and not excess or contributing with any other applicable insurance.

3.7 Moves. Customer shall not move or remove from the street address at which it is located, any item of CPE maintained under the CPE Terms without TMMN's prior written consent.

3.8 Title and Risk of Loss. Title to Rental Service (Monthly and Term) CPE remains with TMMN or its assignee. Title to each item of Purchase, and Purchase, Installation and Maintenance subject to third-party lease or direct lease with TMMN, CPE passes to Customer upon TMMN's receipt of full payment for such item of CPE. Customer bears the risk of loss or damage to both Rental Service (Monthly and Term) and Purchase (including Purchase, Installation and Maintenance subject to third-party lease or direct lease with TMMN) CPE after installation and while such CPE is located at an installation site and in the case of Rental Service (Monthly and Term) CPE, shall pay TMMN the reasonable and customary costs of repair or replacement of such CPE if loss or damage occurs. Customer shall provide notice of loss or damage to the CPE as soon as Customer receives notice of such loss or damage. Customer shall not do anything inconsistent with TMMN's or its assignee's interest in the CPE.

3.9 Order Changes. If the CPE needs to be changed to meet the requirements for interfacing with the TMMN communications service, Customer equipment, or systems, Customer agrees that it will (i) authorize TMMN to make such required CPE changes, (ii) authorize the TMMN to amend the Order to reflect such changes, and (iii) pay to TMMN any charges that may be incurred.

3.10 Limitation of Liability and Limited Warranty. These CPE Terms are subject to Sections 4.16, 4.17, 4.18, 4.19, and 4.20 of the Terms and Conditions to which these CPE Terms are attached.

3.10.1 TMMN warrants that Maintenance Service and Maintenance Takeover Service will be performed in a good and workmanlike manner. CUSTOMER'S SOLE REMEDY FOR A BREACH OF THIS WARRANTY IS FOR TMMN TO REPERFORM THE DEFECTIVE WORK. TMMN warrants that any cables and connectors between the CPE and any other equipment on Customer's premises that are provided by TMMN will be in good working order for a period of thirty (30) days after installation, excluding any failure of such cables and connectors caused by Customer's misuse or abuse.

3.11 Service Term.

3.11.1 Service Term (Short). This provision applies to the following CPE services under these CPE Terms: Purchase; Purchase, Installation and Maintenance subject to third-party lease or direct lease with TMMN; Rental Service (Monthly); Installation Service; Maintenance Service; and Maintenance Takeover Service.

(a) For Purchase and Installation (including those aspects of Purchase, Installation and Maintenance of Third-Party Leased

Equipment), the Service Term (Short) ends when the Purchase or Installation has been completed.

(b) For Maintenance Service (including that aspect of Purchase, Installation, and Maintenance of Third-Party Leased Equipment) and Maintenance Takeover Service, the Service Term (Short) for any particular unit of CPE automatically renews each month until terminated by either party under the following subsection, or until the end of the Term of the Signed Agreement, whichever occurs first.

(c) Either party may terminate the Service Term (Short) for a particular unit of CPE, with or without cause, effective 30 days after written notice of termination is given to the other party. Customer and TMMN may agree to terminate the provision of service under the CPE Terms sooner but Customer is responsible for all CPE service charges until the 30-day notice period has expired.

3.12 Service Term (Long). This provision applies to Rental Service (Term).

3.12.1 The Service Term (Long) for any particular unit of CPE begins on the date that TMMN starts billing for it and continues for the duration of the Service Term commitment selected by the Customer for that CPE, and thereafter automatically renews each month, until terminated by either party under the following subsection, or until the end of the Term of the Agreement, whichever occurs first.

3.12.2 After the expiration of the Service Term commitment selected by the Customer for a particular item of CPE, either party may terminate the Service Term (Long) for that CPE, with or without cause, effective 30 days after written notice of termination is given to the other party. Customer and TMMN may agree to terminate the provision of service under the CPE Terms sooner but Customer is responsible for all CPE service charges until the 30-day notice period has expired.

3.13 Termination.

3.13.1 In the event of termination under this Section, TMMN shall complete any Installation Service, Maintenance Service, or Maintenance Takeover Service underway, and Customer shall pay for TMMN's provision of such service, through the date of completion pursuant to the Section hereof entitled "Invoices".

3.13.2 If either party materially or repeatedly defaults in the performance of any of its duties or obligations under the CPE Terms or the general terms of the TMMN Customer Agreement, (an "Event of Default") and does not substantially cure such Event of Default within ten (10) days after being given written notice specifying the default, then the party not in default may, by giving written notice thereof to the defaulting party, terminate the CPE Terms with respect to any or all units of CPE, as of a date specified in such notice of termination.

3.13.3 Upon termination, TMMN has the right to exercise one or more of the following remedies, in addition to any other remedies TMMN may exercise, in law or equity. TMMN may:

- recover from Customer all amounts due and unpaid, and,
- repossess any CPE for which title has not passed to Customer.

3.13.4 Early Termination Fee. Upon termination prior to the end of a Service Term (Long) commitment selected by a Customer with respect to a particular unit of CPE, Customer will pay (i) an amount equal to the monthly recurring charges for the terminated service for each month remaining in the Service Term (Long) commitment selected by the Customer with respect to that CPE, and (ii) any and all credits received by Customer with respect to that CPE, in full, without setoff or deduction. The parties acknowledge that these payments are not a penalty but reasonably result from Customer's agreement to take or pay for the services and TMMN's reliance on that commitment in purchasing and pricing the CPE, the Service and all related services, among other factors. These payments are in addition to any other remedies available to TMMN.

3.13.5 Customer, at its sole expense, is responsible for removing all Customer-owned CPE from TMMN's terminal and depot locations as soon as reasonably practical after termination of the Agreement (with respect to the particular item(s) of CPE for which service is terminated).

3.13.6 Customer shall return all terminated Rental Service (Monthly and Term) CPE to TMMN in good condition and repair, reasonable and proper depreciation excepted (or otherwise dispose of the CPE as TMMN directs), to the following address, at Customer's expense, within five business days after the expiration or termination of the CPE Terms (with respect to the particular item(s) of CPE for which service is terminated), or the actual termination of service under the CPE Terms if Customer and TMMN have agreed to it occurring before the 30-day notice period has expired, whichever is sooner.

Text My Main Number, Inc.
1271 Avenue of the America's Suite 4300
New York, NY 10020
Phone: (800) 361-5230

Customer is liable for any loss or damage to the CPE resulting from theft, disappearance, fire or any other cause. For each item of such CPE not returned, for any reason, within the five (5) day period, Customer will be deemed to have purchased such CPE and shall pay TMMN the replacement cost, plus any additional costs incurred by TMMN in replacing the CPE.

3.14 Independent Contractor Status. TMMN's relationship to Customer in the performance of the CPE Terms is that of an independent contractor. Nothing contained in the CPE Terms may be deemed or construed as creating a partnership, joint venture or fiduciary relationship between TMMN and Customer.

