



## 4VOICE LLC Service Agreement

### Contents

1.	<b>TERMS AND CONDITIONS.</b>	2
2.	<b>4VOICE SERVICES.</b>	2
3.	<b>TERM.</b>	3
4.	<b>BILLING, CHARGES AND PAYMENT.</b>	4
5.	<b>TAXES AND FEES.</b>	6
6.	<b>EMERGENCY SERVICES.</b>	6
7.	<b>PROHIBITED USES.</b>	7
8.	<b>PRIVACY.</b>	8
9.	<b>CONFIDENTIAL INFORMATION/NON-DISCLOSURE.</b>	8
10.	<b>BREACH.</b>	9
11.	<b>INDEMNIFICATION.</b>	9
12.	<b>DISCLAIMER OF CONSEQUENTIAL DAMAGES.</b>	9
13.	<b>WARRANTY AND LIABILITY LIMITATIONS.</b>	10
14.	<b>EXPORT COMPLIANCE.</b>	10
15.	<b>SOFTWARE COPYRIGHT.</b>	10
16.	<b>SURVIVAL.</b>	11
17.	<b>NOTICES.</b>	11
18.	<b>FORCE MAJEURE (EVENTS BEYOND OUR CONTROL).</b>	11
19.	<b>GOVERNING LAW / RESOLUTION OF DISPUTES.</b>	11
20.	<b>ASSIGNMENT.</b>	12
21.	<b>ENTIRE AGREEMENT.</b>	12
22.	<b>EXHIBIT A.</b>	13



## 4Voice LLC Service Agreement

This agreement ("Agreement") is between 4Voice LLC with offices located at 1095 Broken Sound Parkway NW, Suite 201, Boca Raton, FL 33487 ("4Voice") and an End User identified below ("End User"). Any Services or products ("Services") provided by 4Voice to End User shall be governed by the terms and conditions herein. By purchasing the Services, End User agrees to be bound by these terms and conditions. Please read these terms and conditions carefully. They affect the legal rights between End User and 4Voice by, among other things, requiring (1) mandatory arbitration of disputes; (2) End User obligation and responsibility when using services; (3) service limitation and (4) limiting 4Voice's liability under the agreement.

### 1. **TERMS AND CONDITIONS.**

- 1.1. The terms and conditions stated herein are in lieu of and replace any and all terms and conditions set forth in any documents issued by End User, including, without limitation, purchase orders and specifications. Any additional, different, or conflicting terms and conditions on any such document issued by End User at any time are hereby objected to by 4Voice, and any such documents shall be wholly inapplicable to any sale made or service rendered hereunder and shall not be binding in any way on 4Voice. No waiver or amendment to this contract or these terms and conditions shall be binding on 4Voice unless made in writing expressly stating that it is such a waiver or amendment and signed by an officer of 4Voice.
- 1.2. **CHANGES TO THE AGREEMENT, SERVICES OR PLAN.** 4Voice reserves the right to make changes to the terms and conditions of this Agreement, the Services and/or the plan ("Change of Service"). In the event of a Change of Service, 4Voice will notify the End User by email to the registered contact.

### 2. **4VOICE SERVICES.**

- 2.1. During the Term of this Agreement, and subject to all of the terms and conditions herein, 4Voice (i) agrees to provide to End User Services including telephone and other services stated herein and in Exhibit A, (ii) hereby grants End User access to the Services as defined in Section 2.2 for use by the number of extensions and minutes set forth Exhibit A, for End User's own internal business purposes which shall be deemed to include activities End User may perform on behalf of its End User's clients or customers and (iii) grants End User the right to use any documentation provided with the Service ("Documentation").
- 2.2. This agreement covers one or more of the following Services provided by 4Voice to the End User:
  - (i) Basic phone service for incoming and outgoing phone calls to or from End User's phone equipment including standard features as described in 4Voice's website – [www.4voice.net](http://www.4voice.net) ("Basic Service")
  - (ii) Toll free service for incoming calls to End User 's toll free phone numbers ("Toll Free").
  - (iii) International calling to international land-line or mobile numbers from End User 's phone equipment ("International Calls").
  - (iv) Conference services (Conference Bridges) to connect 2 or more users in dedicated audio conference rooms.
  - (v) Fax service including both analog fax adapters and e-fax services.
  - (vi) Phone numbers, both local and toll-free.
  - (vii) Call recording and other premium features as applicable.
  - (viii) 911 Emergency Service, subject to limitations as described in this agreement.
  - (ix) Automated Dialer Services.
  - (x) Virtual Number Services



- 2.3. **TELEPHONE NUMBERS.** End User is not to use any assigned telephone number (“Number”) with any other device other than the 4Voice Equipment, without the express written permission of 4Voice. On termination of Service, End User has full authorization to transfer or port the Number to another provider at its sole discretion after notifying 4Voice that a port or transfer will be intended. 4Voice shall not prevent or obstruct such transfer so long as the End User has no unpaid or accrued charges at time of transfer.
- 2.4. **UNAUTHORIZED PORT OUTS.** End User acknowledges and agree that telephone or facsimile numbers may be ported out from End Users Services or an account due to acts or omissions of third parties, and it may be difficult or impossible for 4Voice to: (i) prevent such port-outs; (ii) retrieve numbers ported-out of an account; or (iii) port such numbers back into an account. 4Voice has no responsibility or liability due to such port-outs.
- 2.5. **LIMITATIONS:**
- (i) **ELECTRICAL POWER.** End User acknowledges that the services will not function in the absence of electrical power.
  - (ii) **INTERNET ACCESS.** End User acknowledges that the services will not function if there is an interruption of End User's broadband or high-speed internet access service.
  - (iii) **SERVICE AVAILABILITY.** The End User acknowledges and agrees that the products or services, including without limitation the Phone Services, may not be available one hundred percent (100%) of the time.
- 2.6. **NON-VOICE SYSTEMS.** End User acknowledges that the Services are not set up to function with automated systems such as but not limited to home security systems, medical monitoring equipment, TTY equipment, and entertainment or satellite television systems. End User has no claim against 4Voice for interruption or disruption of such systems by the services.
- 2.7. **EQUIPMENT.** In order to deliver service, 4Voice shall provide and End User shall purchase equipment consisting of routers, network switches, phones and other components (“Equipment”). End User may supply one or more components of the solution. 4Voice's liability for delivery shall cease, and all risk of loss or damage shall pass to End User upon delivery. 4Voice shall provide a twelve (12) month manufacturer's warranty from the date of purchase of Equipment from 4Voice for defects other than normal wear and tear.
- 2.8. **RATE CHANGES.** 4Voice may periodically change prices for Services, such as Toll free and International Calls. During the current term 4Voice will not change pricing for Basic Service (Non-metered). 4Voice may change prices, plans, taxes or fees with advance notice. In the event of a change, 4Voice will notify End Users of any changes via their billing notice.
- 2.9. **CREDITS.** End User acknowledges and agrees that the Services are provided "as is, where is." Credit allowances for interruption of the Services may only be provided on a case-by-case basis at the sole discretion of 4Voice and shall be the End Users sole remedy for any Phone Service interruptions or other issues with the Services. In no case, will an activation fee be credited after thirty (30) days from the initial purchase of the Services for a plan change or cancellation.
3. **TERM.**
- 3.1. The term of this Agreement ("Term") begins on the latter of date of first invoice or date of Service Activation and is valid for ninety (90) days from this date. If service remains in effect after the ninety (90) day Term, the agreement will renew automatically for successive thirty-six (36) month Terms without further action by End User. End User may cancel services by providing written notice at least thirty (30) days prior to the end of the current Term. End User agrees to pay for Services for the duration of the current Term. Expiration of the Term does not alleviate End User of responsibility for paying all unpaid or accrued charges due hereunder.
- 3.2. **SERVICE CHANGES.** End User may request a change in Service at any time by providing written notice to 4Voice. Any additional Services added during a calendar month shall be pro-rated based on the number of days billed during that month. For any removal of Services during a calendar month, this will only become effective the following month.



- 3.3. **SERVICE REDUCTION.** End User may request a reduction in Service at any time during the contract. Revised charges shall be effective the following calendar month.
- 3.4. **TERMINATION.**
- (i) End User agrees to provide 4Voice with thirty (30) days' notice of termination prior to the end of the current Service Term. End User shall be responsible for the full-service fees for the 30-day period following such notification. End User will receive a final invoice from 4Voice reflecting charges accumulated through to date of disconnect. No disconnection fees will be applied if End User complies with 30 days' notice.
  - (ii) 4Voice reserves the right, at its sole discretion, to suspend, terminate or change the Services for cause, including without limitation, misuse of the Services in any way (refer to Section 7), End User's breach of this Agreement, End User's failure to pay any sum due hereunder or suspected fraud. 4Voice reserves the right to determine, at its sole discretion, what constitutes a cause for termination of Services and End User agrees that 4Voice's determination is final and binding on End User. 4Voice may require an activation fee to change or resume a terminated or suspended account up to a maximum of \$100.00.
- 3.5. **EARLY TERMINATION.** In the event End User requests early termination of service (prior to the end of current Term) or fails to provide written notice thirty (30) days prior to end-of-current Term, 4voice may charge a disconnect fee for each extension or phone number associated with End User services. Disconnect fee shall be a maximum of \$10.00 per extension and \$2.00 per phone number. End user shall be responsible for standard service charges through the end of the current Term, including toll charges or other usage-based fees, and past due balances that are applicable. All disconnect fees, service charges and past due balances for the complete term and outstanding service or equipment balances shall be payable on date of disconnect. Early termination due to a rate change or a modification to the service agreement, that is declined by the End User shall not be subject to any penalties. End User may terminate the agreement for such cause with a 30-day written notice and shall only be responsible for any charges through to the end of the 30-day notice period.
- 3.6. **EQUIPMENT, PHONE NUMBERS AND WEB PORTAL DISCONTINUANCE.** Upon expiration, cancellation or termination of the Services, End User shall return all equipment owned by 4Voice and shall relinquish and discontinue use of any Numbers, voice mail access numbers and/or web portals assigned to End User by 4Voice or its vendors, unless End Users have transferred their numbers to their new provider.

#### 4. **BILLING, CHARGES AND PAYMENT.**

- 4.1. **SERVICE CHARGES.** The End User is responsible for paying all charges for End User account, including but not limited to toll-free, local, long distance, international minutes, additional feature charges, 411 and operator assisted charges, and directory assistance charges, and for all Taxes, surcharges, and fees imposed on End User or 4Voice as a result of End Users use of the Services. 4Voice reserves the right to charge termination and transfer fees consistent with the terms and conditions and as provided in this service Agreement. Charges are billed on first day of each month or first day of service activation. First month's service fee shall be prorated to take into account any partial month that may occur as the result of the date the monthly fees are initiated. Monthly service fees are paid in advance of each month's service, toll charges and other usage based charges are billed at end of each month's service. Billing notices are sent via electronic email to the contacts specified by the End User. It is the responsibility of the End User to provide 4Voice with current contact information.
- 4.2. **TOLL-FREE/INTERNATIONAL CALLING & OUTBOUND CALLING.** The duration of each call is to be calculated in one-minute increments and rounded up to the nearest one-minute increment for any fraction of minutes used. If the computed charge for a call includes a fraction of a cent, the fraction is rounded up to the nearest whole cent. If the computed charges for taxes



and surcharges include a fraction of a cent, the fraction is rounded up to the nearest whole cent. When End User dials an international phone number, charges may apply regardless of whether the party on the other line answers the call. Calls made by an End User to an International mobile, rather than landline, or premium rate telephone number may result in higher charges.

- 4.3. **EQUIPMENT CHARGES.** Installation, Equipment and non-recurring charges are due upon completion of initial installation or activation of any additional equipment.
- 4.4. **PAYMENT, DUE DATE & LATE/NON-PAYMENT.** Regular billing begins on the 1<sup>st</sup> of every month and payment is due by the 20<sup>th</sup> of respective month. In the event End User fails to make payment in full before the due date, a Late Fee payment will be assessed at \$25.00. An additional interest charge of 1.5% per month will accumulate on unpaid balances until End Users account is current. Should End User have a billing dispute, End User must provide notice to 4Voice in writing within ten (10) days of the invoice date with a detailed explanation of the disputed invoiced amount, and End User shall pay the undisputed portion as and when due, or End User waives any objection and further recourse. If 4Voice determines that a disputed charge was billed correctly, payment shall be due from End User within five (5) days after 4Voice advises End User that the dispute is denied.

Written statements disputing charges must be sent to:

Billing  
4Voice LLC  
1095 Broken Sound Parkway NW, Suite 201  
Boca Raton, FL 33487

or- [billing@4Voice.net](mailto:billing@4Voice.net)

- 4.5. **INSUFFICIENT FEES/RETURNED FEES.** Payments returned to End User for insufficient funds and any associated NSF fee will be assessed a charge of \$25.00. Payment must be paid by due date to avoid any other fees. 4Voice will notify End User of declined credit card charges. End User must provide updated payment information before the payment due date.
- 4.6. **SUSPENSION FOR NON-PAYMENT.** If any charges for the Services are due but unpaid for any reason including, but not limited to, non-payment or declined Credit Card charges, 4Voice may suspend or terminate the Services. All accrued charges shall be immediately due, plus any late fee, and service termination shall not be removed until payment in full is received by 4Voice. A fee may be charged to activate a suspended account. No suspension or termination of the Services or of this Agreement shall relieve End User from paying any amounts due hereunder.
- 4.7. **CREDIT TERMS.** All Services provided to End User and covered by the Agreement shall at all times be subject to credit approval or review by 4Voice. End User will provide such credit information or assurance as is requested by 4Voice at any time. 4Voice, in its sole discretion and judgment, may discontinue credit at any time without notice or require a deposit. If End User's financial condition cannot be verified or is otherwise unacceptable to 4Voice, 4Voice may establish certain credit measures including but not limited to setting toll usage limitations and requiring deposits or irrevocable letters of credit as a condition to providing Service. The provisions of this Section 4.7 are independent of, and in addition to, such other rights and remedies as 4Voice may have at law or in equity or otherwise for any breach of this Agreement by End User.
- 4.8. **DISCOUNTS.** From time to time in its sole discretion, 4Voice may offer promotions or discounts of activation or other fees. Any promotion or discount codes must be requested by End User upon purchase of the Services.
- 4.9. **METHOD OF PAYMENT.** 4Voice accepts checks, EFT (Electronic Fund Transfer) and credit card payments. By providing check or credit card account information to 4Voice, End User authorizes 4Voice to charge that account for all amounts due and payable hereunder in respect of the Services and Equipment ordered by End User, and End User agrees to notify 4Voice promptly of any change to such information. 4Voice, in its reasonable discretion, may discontinue or limit



End User's check/credit account, and at any time, require a deposit or bank guarantee check, or place a limit on the amount of charges that End User can incur before making payment.

## 5. TAXES AND FEES.

- 5.1. **SALES AND SERVICE TAX.** All prices for Services advertised or otherwise listed on 4Voice materials are exclusive of any local, state, or Federal taxes, fees or surcharges ("Taxes"). End User agrees to pay all such Taxes and similar liabilities that may now or hereafter be levied on Services, Equipment and related software by any federal, state, local, or international law or regulation, as well as any administrative and recovery fees and charges levied on the Services by 4Voice, whether or not mandated by law or regulation, unless End User provides 4Voice with an appropriate exemption certificate. Should 4Voice pay or be required to pay such liabilities (including any Taxes that were due but not charged or previously collected), End User agrees that 4Voice may charge and invoice End Users as applicable, for such payments upon receipt of an invoice and showing of indebtedness to 4Voice. If any amounts paid for Services, Software or Equipment are refunded by 4Voice, applicable taxes may not be refundable.
- 5.2. **TAX JURISDICTION.** 4Voice will determine End Users Tax jurisdiction in a manner specified by local and state authorities. This maybe the primary service address, billing address or other addresses, as determined by 4Voice.
- 5.3. **FEES.** 4Voice is required to pay regulatory and other fees, such as Universal Service Fees, End User will be charged proportional rates of these fees to recover costs assigned to 4Voice.

## 6. EMERGENCY SERVICES.

- 6.1. 4Voice provides 911 Emergency ("E911") calling service for all End User phones located at their PRIMARY SERVICE address for the End User, and located inside the United States. End user acknowledges 911 service may not function outside the primary service address.
- 6.2. End User acknowledges that 4Voice's only mechanism for routing 911 calls to the correct Emergency Call Center is the physical location currently registered for the account. End User acknowledges and understands that any enhanced location information passed to an emergency operator by 4Voice will be based upon the physical location provided to 4Voice by End User.
- 6.3. End User also acknowledges that E911 services has certain characteristics that distinguish it from traditional, legacy, circuit-switched 911 service. These characteristics may make E911 services unsuitable for some End Users. Because End User circumstances vary widely, End Users should carefully evaluate their own circumstances when deciding whether to rely solely upon 4Voice's E911 service. End User acknowledges that it is End User's responsibility to determine the technology or combination of technologies best suited to meet End User's emergency calling needs, and to make the necessary provisions for access to emergency calling services (such as maintaining a conventional landline phone or wireless phone as a backup means of completing emergency calls). The following characteristics distinguish E911 service from traditional, legacy, circuit-switched 911 service.
  - (i) \*\* E911 service will not function if End User's phone fails or is not configured correctly or if End User's service is not functioning for any reason, including, but not limited to, electrical power outage, broadband service outage, or suspension or disconnection of service because of billing or other issues. If there is a power outage, End User may be required to reset or reconfigure the equipment before being able to use the phone service, including for E911 purposes.
  - (ii) \*\* After initial activation of the E911 service and following any change of and update to End User's physical location, there may be some delay before the automatic number and location information is passed to the local emergency service operator. This information is typically populated into E911 databases prior to service activation, but no guarantee can be made that the automatic number and location information will be activated within this schedule.



- (iii)\*\* The local emergency service operator receiving E911 Emergency Service calls may not have a system configured for E911 services or be able to capture and/or retain automatic number or location information. This means that the operator may not know

the phone number or physical location of the person who is making the E911 call. Due to technical factors in network design, and in the event of network congestion on the network, there is a possibility that a 911 call will produce a busy signal or will experience unexpected answering wait times and/or take longer to answer than 911 calls placed via traditional, legacy, circuit-switched telephone networks.

- (iv)\*\* **If End User does not correctly identify the actual location where the origination of the call is located at the time of activation of the service, E911 communications may not be directed to the correct local emergency operator.**

- 6.4. End User acknowledges and understands that 4Voice will not be liable for any service outage and/or inability to dial 911 or any other emergency telephone number using the phones or to access an emergency service operator due to the 911 dialing characteristics and limitations set forth in this agreement. End User agrees to defend, indemnify, and hold harmless 4Voice, its officers, directors, employees, affiliates and agents and any other service provider who furnishes services to End User in connection with the services, from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without limitation, reasonable attorney fees) by, or on behalf of, End User or any third party or user of the service relating to the failure or outage of the service, including those related to 911 dialing.

## 7. PROHIBITED USES.

- 7.1. Any use of the Services or any other action that causes a disruption in the network integrity of 4Voice or its vendors, whether directly or indirectly, is strictly prohibited and could result in termination of the Services at the sole discretion of 4Voice.
- 7.2. End User understands that neither 4Voice nor its vendors are responsible for the content of the transmissions that may pass through the Internet and/or the Services. End User agrees that it will NOT use the Services in ways that violate laws (including but not limited to laws prohibiting transmission of unsolicited fax advertisements), including without limitation the CAN-SPAM ACT of 2003, the Telephone Consumer Protection Act, and Do Not Call Implementation Act of 2003, all as amended, nor infringe the rights of others, or interfere with the users, services, or equipment of the network.
- 7.3. End User agrees and represents that it is purchasing the Services and/or the Equipment for its own internal use only, and shall not resell, transfer or make a charge for the Services or the Equipment without the advance express written permission of 4Voice. 4Voice's Service plans are for reasonable use of End User only. Such use shall not include certain activities including, but not limited to, any autodialing, continuous or extensive call forwarding, continuous connectivity, fax broadcast, fax blasting, telemarketing (including without limitation charitable or political solicitation or polling), call center operations, junk faxing, fax spamming, calling/faxing any person (through the use of distribution lists or otherwise) who has not given specific permission to be included in such a process or any other activity that would be inconsistent with reasonable business usage.
- 7.4. End User shall not transmit through the Service any unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene or otherwise objectionable material of any kind or nature. End Users further agree not to transmit any material that encourages conduct that could constitute a criminal offense, give rise to civil liability or otherwise violate any applicable local, state, national or international law or regulation. Any use found to be inconsistent with this restriction will result in termination of the Service.
- 7.5. 4Voice reserves the right to immediately terminate or modify the Services of any End User using unlimited calling plans if 4Voice determines, in its sole discretion, that End User is not using the unlimited calling plans for End User's reasonable business use. End User agrees to defend,



indemnify and hold 4Voice, its affiliates and its vendors harmless from any claims or damages resulting from prohibited use of the service.

- 7.6. 4Voice reserves the right to determine, at its sole discretion, what constitutes misuse of the Services and End User agrees that 4Voice's determination is final and binding on End User.

## 8. **PRIVACY.**

- 8.1. 4Voice Services utilizes the public Internet and third-party networks to provide fax, voice and video communication services. Accordingly, 4Voice cannot guarantee the security of fax, voice and video communications of End User.
- 8.2. 4Voice is committed to respecting an End User's privacy. Once End User chooses to provide personally identifiable information, it will only be used in the context of the End User's relationship with 4Voice. 4Voice will not sell, rent, or lease End Users' personally identifiable information to others. Unless required by law or subpoena or if End User's prior permission is obtained, 4Voice will only share the personal data End User provides with other 4Voice entities and/or business partners that are acting on 4Voice's behalf to complete the activities described herein. Such 4Voice entities and/or national or international business partners are governed by 4Voice's privacy policies with respect to the use of this data.
- 8.3. 4Voice reserves the right to use personally identifiable information to investigate and help prevent potentially unlawful activity that threatens either 4Voice or any company affiliated with 4Voice. Moreover, upon the appropriate request of a government agency, law enforcement agency, court or as otherwise required by law, 4Voice may disclose personally identifiable information.
- 8.4. Notwithstanding the above, End User hereby grants to 4Voice a non-exclusive, non-transferable (except in connection with an assignment of this Agreement) license to copy, store, record, transmit, display, view, print and use any data, information or other materials of any nature whatsoever provided to 4Voice by End User in the course of implementing or using the 4Voice Service ("End User Data"), solely to the extent necessary to provide the 4Voice Services to End User. Except as expressly provided in this, End User grants to 4Voice no right, title, interest, or license in the End User Data, and End User hereby reserves for itself and its licensors all rights in and to all End User Data.

## 9. **CONFIDENTIAL INFORMATION/NON-DISCLOSURE**

- 9.1. **Treatment of Confidential Information.** During the Term of this Agreement and for three (3) years thereafter, each party (the "Receiving Party") shall (i) treat as strictly confidential all Confidential Information disclosed by the other party (the "Disclosing Party"), (ii) not disclose, disseminate, distribute, or transfer such Confidential Information to any third party without the express written consent of Disclosing Party, (iii) not use such Confidential Information except solely for the purpose of its performance under this Agreement and (iv) protect the Confidential Information by using at least the same degree of care as the Receiving Party uses to protect its own confidential information of like nature to prevent any unauthorized access, use, dissemination, or publication of such Confidential Information, but in no event less than reasonable care. The Receiving Party further agrees to disclose Disclosing Party's Confidential Information only to its employees and consultants with a need to know such Confidential Information to perform their work responsibilities and agrees to require such employees and consultants to execute nondisclosure agreements containing protections substantially similar to the restrictions herein. The Receiving Party shall promptly notify the Disclosing Party in writing of any unauthorized access, use, dissemination, or publication of such Confidential Information of which it becomes aware.
- 9.2. **Limitations.** Confidential Information does not include information which as evidenced in writing by the Receiving Party (i) is known to the Receiving Party, without any confidentiality restriction, at the time of disclosure by the Disclosing Party, (ii) is publicly known or becomes publicly known and made generally available through no wrongful act of the Receiving Party or any third party, (iii) has been rightfully received by the Receiving Party, without any confidentiality



restriction, from a third party who is authorized to make such disclosure and not otherwise in violation of this Agreement, (iv) is disclosed generally to third parties by the Disclosing Party without any confidentiality restriction or (v) was independently developed by the Receiving Party without any use of the Confidential Information as evidenced by Receiving Party's ordinary business records. Upon prior written notice to the Disclosing Party, the Receiving Party may disclose Disclosing Party's Confidential Information as (i) is required by law or regulation to be disclosed, but only to the extent and solely for the purpose of such required disclosure or (ii) is required by order of a court or other governmental body, but only to the extent and solely for the purpose of such required disclosure. The Receiving Party agrees to assist the Disclosing Party (at the Disclosing Party's expense) in all proper ways to limit or prevent the disclosure of such Confidential Information.

- 9.3. Return of Confidential Information. The Receiving Party will return or destroy (at the Disclosing Party's election) all Confidential Information (including all copies) received from the Disclosing Party within its possession, custody, or control, promptly upon termination or expiration of this Agreement or upon the earlier written request of the Disclosing Party. At the request of the Disclosing Party, after such return or destruction, the Receiving Party shall certify in writing that such return or destruction has been accomplished.

## 10. BREACH.

- 10.1. In the event of End User's breach of the terms of the Agreement, including without limitation, failure to pay any sum due hereunder, End User shall reimburse 4Voice for all reasonable attorney, court, collection and other costs incurred by 4Voice in the enforcement of 4Voice's rights hereunder and 4Voice may keep any deposits or other payments made by End User.

## 11. INDEMNIFICATION.

- 11.1. End User agrees to indemnify, defend and hold harmless 4Voice and its affiliates, employees, directors, officers, representatives, subcontractors, interconnection service providers, suppliers and agents ("4Voice Indemnified Parties") from and against all demands, claims, actions or causes of action, assessments, losses, damages, liabilities, costs and expenses, including, without limitation, interest, penalties and reasonable attorneys' fees and disbursements (collectively, "Claims"), to the extent any such Claim is asserted by a third party against any 4Voice Indemnified Party, directly or indirectly, by reason of or resulting from any End User failure to perform an obligation under this Agreement or any action or inaction of End User or its employees or agents that is illegal or constitutes negligence or intentional misconduct, or as a result of: (i) claims for libel, slander, infringement of copyright or unauthorized use of trademark, logo, trade name or service mark arising out of use of any Service; (ii) claims for patent infringement arising from combining or connection of facilities to use 4Voice's network; (iii) claims for damage to tangible property and/or personal injuries (including death) arising out of the negligence or willful act or omission of End User; and (iv) claims that the content or the actions of End User violate any law or regulation.
- 11.2. 4Voice agrees to indemnify, defend and hold harmless End User and its affiliates, employees, directors, officers, and representatives, ("End User Indemnified Parties") for and against all Claims to the extent any such Claim is asserted by a third party against any End User Indemnified Party, directly or indirectly, by reason of or resulting from any 4Voice failure to perform an obligation under this Agreement or any breach of this Agreement or any action or inaction of 4Voice or its employees or agents that is illegal or constitutes negligence or intentional misconduct.

## 12. DISCLAIMER OF CONSEQUENTIAL DAMAGES.

- 12.1. In no event, shall 4Voice or its vendors be liable for any special, incidental, indirect, punitive or consequential damages or for any damages, including but not limited to loss of data, loss of revenue or profits, or arising out of or in connection with the use or inability to use services or



products provided hereunder whether due to a breach of contract, breach of warranty, the negligence of 4Voice or its vendors or otherwise.

**13. WARRANTY AND LIABILITY LIMITATIONS.**

13.1. **WARRANTY.** 4Voice makes no warranties, express or implied, including, but not limited to, any implied warranties of merchantability or fitness for a particular purpose. Neither 4Voice nor its vendors will be liable for unauthorized access to 4Voice's or End User's transmission facilities or premise equipment or for unauthorized access to or alteration, theft or destruction of End User's data files, programs, procedures or information through accident, fraudulent means or devices, or any other method, regardless of whether such damage occurs as a result of 4Voice's or its vendors' negligence.

13.2. Equipment that is supplied by 4Voice is subject to manufacturer's warranty and restrictions. 4Voice shall pass through to End User a twelve (12) month warranty on Equipment (or, if applicable any extended warranty procured by 4Voice), if permitted by the manufacturer. 4Voice will facilitate warranty replacement but shall be exempt from all other warranty liabilities.

13.3. **LOST, STOLEN, ALTERED OR BROKEN EQUIPMENT.** End User shall not modify the Equipment in any way without the express written permission of 4Voice. End User shall not use the Equipment except with the Services provided hereunder. Except as otherwise provided for hereunder, End User is responsible for all lost, stolen or broken Equipment and may be required to purchase a replacement to continue service. Replacement charges will be based on the fair retail price of the new equipment at time of replacement, plus applicable shipping costs and taxes. End User shall immediately notify 4Voice of any lost or stolen Equipment, which includes equipment purchased from 4 Voice and/or purchased by End User directly working with 4Voice service, and shall cooperate with 4Voice in all reasonable aspects to eliminate actual or potential unauthorized use of the Equipment. At 4Voice's sole option, failure to report lost or stolen equipment in a timely manner will cause End User to be responsible for all service fees accrued until the time that 4Voice is informed of the loss or theft and can affect a termination of the Services.

13.4. **LIMITATION OF LIABILITY.** 4Voice will not be liable for consequential, incidental, indirect, exemplary, punitive or special damages, including, but not limited to, loss of business, profits, information or other commercial or economic loss, regardless of the form of action, whether such damages are based on breach of contract, tort (including negligence or otherwise) even if 4Voice has been notified of the possibility of such damages. 4Voice's liability to End User for any other damages due to failures in the service arising from its negligence or breach of the agreement shall be limited to the charges for the service affected by the failure for the period of such failure.

**14. EXPORT COMPLIANCE.**

14.1. End User agrees to comply with U. S. export laws concerning the transmission of technical data and other regulated materials via the Services. End User agrees to comply with applicable local, state and federal regulations governing the locality in which the Equipment and Services are used.

**15. SOFTWARE COPYRIGHT.**

15.1. Any software used by 4Voice to provide the Services and any software provided to End User in conjunction with providing the Services are protected by copyright law and international treaty provisions. End User may not copy the software or any portion of it. End User shall not (i) attempt to or knowingly permit or encourage others to attempt to copy, develop a competing product, alter, modify, adapt, translate, prepare derivative works from, decompile, reverse engineer, disassemble, or otherwise attempt to derive computer source code from any 4Voice software or Hosted Services; or (ii) rent, sublicense, transfer or grant any rights in the Hosted Services or the 4Voice software in any form to any third party. End User shall promptly notify 4Voice in writing of any attempt to copy, alter, modify, adapt, translate, prepare derivative works from, decompile, reverse engineer, disassemble, or otherwise attempt to derive computer source code from any 4Voice software or Services. End User shall provide reasonable assistance and cooperation to 4Voice to enforce any breach or violation of this paragraph 15.



**16. SURVIVAL.**

16.1. The provisions of section 4, 9, 10, 11, 12, 13, 17 and 19 shall survive any termination of the Agreement.

**17. NOTICES.**

17.1. 4Voice communicates with End Users primarily via email. Notices to End User shall be sent to the email address specified by End User at the time of registration for the Services or as subsequently specified by End User ("Email Address"). End User is responsible for notifying 4Voice of any Email Address changes. End User agrees that sending a message to the Email Address is the agreed upon means of providing notification. Email is used to communicate important information about the Services, billing, changes to the Services and other information. The information is time-sensitive in nature. It is required that End User read any email sent to the Email Address in a timely manner in order to avoid any potential interruption in the Services provided hereunder. Notices may be sent for issues relating but not limited to changes in plan terms, critical system updates and other information affecting End User. If End User does not send 4Voice notification of their desire to terminate this agreement or use of the Service within ten (10) business days following notification sent by 4Voice, End User is deemed to have accepted and consented to change reflected in the notice. If End User does not consent to changes specified within the notice and wishes to terminate service, conditions as specified in Section 3 shall apply.

**18. FORCE MAJEURE (EVENTS BEYOND OUR CONTROL).**

18.1. Neither party shall be liable for any delay in performance directly or indirectly caused by or resulting from acts of God, fire, flood, windstorm, hurricane, accident, riot, war, government intervention, embargoes, strikes, labor difficulties, equipment failure, late delivery by suppliers.

**19. GOVERNING LAW / RESOLUTION OF DISPUTES.**

19.1. **Mandatory Arbitration.** Please read this provision carefully. It means that, except as noted below, End User and 4Voice will arbitrate any disputes or claims in any way related to or concerning the agreement, or the provision of services or products to End User, including any billing disputes ("claim"). Claims shall be submitted to final, binding arbitration before the American Arbitration Association ("AAA"). This agreement to arbitrate also requires End User to arbitrate claims against other parties relating to services or products provided or billed to End User if claims are asserted against 4Voice in the same proceeding. Arbitration will be conducted under the AAA's published commercial arbitration rules and supplemental procedures for consumer-related disputes, which are available by visiting its web site at [www.adr.org](http://www.adr.org). The AAA has a fee schedule for arbitrations. End User will pay the published share of the arbitrator's fees and administrative expenses ("Fees and Expenses"). End User and 4Voice agree to bear their own other fees, costs, and expenses, including those for any attorneys, experts, and witnesses. The AAA Supplemental Procedures for Consumer-Related Disputes provide that unless a hearing is requested, disputes will be resolved based on written submissions and no personal appearance is required. If End User requests an arbitration hearing, that hearing will take place in Palm Beach, Florida. As a limited exception to the agreement to arbitrate, End User and 4Voice agree that: (a) End User may file Claims in small claims court in Palm Beach, Florida if the Claims qualify for hearing by such court; (b) if End User fails to timely pay amounts due, 4Voice may assign the account for collection, and the collection agency may pursue in court claims limited strictly to the collection of the past due debt and any interest or cost of collection permitted by law or the Agreement; and (c) any Claim filed as a class action is not subject to arbitration but instead must be filed in the state courts located in Palm Beach, Florida or in the United States District Court for the Southern District of Florida.

19.2. **Prefiling Notice of Claim.** Before instituting arbitration or suit, End User agrees to provide 4Voice with an opportunity to resolve the claim by sending a written description of the claim to 4Voice at the address above. If 4Voice is not able to resolve the claim within 30 days of receipt of notice, then End User or 4Voice may initiate arbitration or suit as described in Section 19.1



19.3. Governing Law. The Agreement and the relationship between End User and 4Voice shall be governed by the laws of the State of Florida without regard to its conflict of law provisions. To the extent court action is initiated to enforce an arbitration award or for any other reason consistent with Section 19.1, End User and 4Voice agree to submit to the personal and exclusive jurisdiction of the courts within the state of Florida, and waive any objection as to venue or inconvenient forum. The failure of 4Voice to exercise or enforce any right or provision of the Agreement shall not constitute a waiver of such right or provision. If any provision of the Agreement is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the Agreement remain in full force and effect. End User agrees that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service or the Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred.

20. **ASSIGNMENT.**

20.1. Notwithstanding the above, either party may assign this Agreement to a successor in interest in the event of a merger, acquisition or a sale of substantially all of its assets to a third-party entity without the prior written consent of the non-assigning party, provided that the assigning party delivers notification within thirty (30) days to the non-assigning party following such merger, acquisition or sale.

21. **ENTIRE AGREEMENT.**

21.1. The terms and conditions of this Agreement, along with pricing referenced in Exhibit A, constitute the entire agreement with regard to this sale and expressly supersede and replace any prior or contemporaneous agreements, written or oral, relating to the Services. This agreement shall be binding upon the heirs, successors, and assigns of 4Voice and End User. When End User accepts this Service Agreement, End User represent and warrant that: (i) End User possesses the legal right and capacity to enter into the agreement with 4Voice and to perform all of End User's obligation thereunder; (ii) End User is of legal age to enter into this Agreement; (iii) End User has full power and authority to execute and deliver any agreement documents and to perform all of End User's obligations thereunder; (v) if End User accepts on behalf of an organization, End User is informing 4Voice that End User is authorized to bind that organization, and references to "End User" in this Service Agreement expressly includes without limitation the entity End User represents; and (iv) End User shall be bound by the agreement.

IN WITNESS, whereof the parties have executed this Agreement as of the date first above written.

**END USER**

**4Voice, LLC.**

By: \_\_\_\_\_  
[Signature]

By: \_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Printed Name]

Harold Forman  
[Printed Name]

\_\_\_\_\_  
[Title]

CFO  
[Title]

\_\_\_\_\_  
[Date]

\_\_\_\_\_  
[Date]

\_\_\_\_\_  
[Company Name]

4 Voice LLC  
[Company Name]