

VOIFONE SMS TERMS OF SERVICE

Last updated November 10, 2018

PLEASE CAREFULLY READ ALL THE TERMS AND CONDITIONS BELOW BEFORE YOU ORDER PRODUCTS OR SERVICES. THESE TERMS OF SERVICE COVER SERVICES OF VOIFONE CARRIER, LLC LISTED UNDER THE INTRODUCTION BELOW. ACCORDINGLY, ONLY THE TERMS OF SERVICE APPLICABLE TO THE SERVICE(S) OR PRODUCT(S) YOU PURCHASE OR OTHERWISE UTILIZE ARE APPLICABLE TO YOU. ALL PURCHASES ARE NON-REFUNDABLE AND ARE GOVERNED BY OUR PUBLISHED REFUND POLICY. COMPLIANCE WITH THESE TERMS OF SERVICE IS REQUIRED OF EACH USER. IF YOU ARE NOT OF LEGAL AGE TO ENTER INTO THIS CONTRACT, IF YOU ARE NOT WILLING TO BE BOUND BY THE TERMS HEREIN, OR IF YOU ARE OTHERWISE UNABLE TO BE A PARTY TO THIS AGREEMENT, YOU SHOULD PROMPTLY EXIT FROM OUR WEBSITE WITHOUT MAKING A PURCHASE. WE RESERVE THE RIGHT TO REFUSE SERVICES TO ANYONE IN OUR SOLE AND ABSOLUTE DISCRETION.

THIS AGREEMENT, by and between Voifone Carrier, LLC (a Utah limited liability company, hereafter Voifone or Company), and the Voifone User (hereafter "User") who buys or uses any service provided by the Company, is hereby bound by these Terms of Service. Any User who is not of legal age to contract or who does not agree with all Terms cited herein should leave the site immediately and not purchase any of Company's products and/or services.

INTRODUCTION: Voifone is the tradename for a group of communications services provided by the Company, including but not limited to Voifone Carrier, an IP-authenticated wholesale VoIP switching and aggregator platform/service for commercial use. In addition to Voifone Carrier service, this Agreement incorporates and covers the following additional services:

1. Voifone Communicator™, a VoIP calling platform designed for business and consumer calling, which includes PBX switching capabilities and softphone applications for users,
2. Voifone SMS™, a bulk SMS platform, designed for commercial use, including API for commercial customers.
3. Voifone CRM™, a Customer Relationship Management platform integrated with Voifone Communicator, Voifone SMS and Voifone Email Services,,
4. Voicaster™, a unified communications platform that includes Voifone Broadcast, bulk SMS, bulk FAX and bulk Email.
5. Ranking Trainer™, a knowledge commerce system designed to train Company's Affiliates and others in online marketing techniques to enhance their selling capabilities,

The tradenames constitute Intellectual Property ("IP") owned by the Company and are used to designate various communications services provided by the Company. Any individual, company or entity using any portion of our website(s) and/or our services certifies their agreement to the Terms of Service ("TOS") presented here, plus any future modifications or changes. The company's [Refund Policy](#) is hereby incorporated into the TOS as if fully presented herein. All [additional TOS which are not covered on this page](#) but which may apply to the SMS services and/or any other service(s) from the Company on Company websites or any subdomain or related service of Company, which is purchased and/or operated by User are hereby incorporated as if fully set forth herein. All Users, which include but not limited to Customers, Associates, Members, Users and others (hereafter "Users") agree it is their responsibility to refer to the TOS page published on the Company's various websites and other agreements for services provided to User on a regular basis to stay up to date and remain in compliance with the TOS. Modifications are made by the Company to the TOS on an irregular basis. All Users agree that posting the date of last modification at the top of this page constitutes sufficient notice to User of such modifications, and User agrees to be bound by all such modified provisions of the TOS and associated policies, agreements and/or links upon the Company's posting of such updates. If User does not agree to any such modification(s) User agrees to discontinue using Company's service(s) within thirty (30) days of such modification. Continuing more than thirty (30) days after any modification(s) indicates User's agreement to such changes. No warranty is given, implied or guaranteed that the services provided by Company are suitable for User's purpose. No performance guarantee or result is guaranteed other than the operability of our services subject to the limitations of the TOS.

SECTION I: SMS SERVICES

1. Scope of Agreement

Company shall provide access to its SMS messaging services to its Users (hereafter "Users") under the conditions enumerated herein. By registering an account on our website, the User agrees with the terms specified in this Agreement. The Agreement is deemed established as soon as the username and password required to use Company's services have been displayed on screen or sent by Company to the User via e-mail. If offerings or specifications exist on our website which are contradictory to these terms, these terms shall prevail.

2. Usage of International SMS

a. **Authorization and Authentication**

After the User has completed the online registration or the Company has registered the User's account, a username and password will be confirmed and sent to the User via e-mail. When the User logs in for the first time, User may be required to verify their mobile number by typing in the code that was sent to their mobile by SMS. This login information serves as one of multiple identification methods of the User to Company. The User agrees that all website activities which can be traced to their username and password are deemed as having been performed by the User and are legally binding for them. The User is responsible for careful use and storage of the username and password. Company recommends changing the assigned password when first using the service; additionally, Company urges the User to change the password regularly and take other appropriate measures to prevent misuse or theft of login information.

b. **Risks**

The User agrees that, by definition, access to the Internet, the Mobile Network and other communication media is associated with risks concerning authentication, data security, privacy, availability of services, reliability of transmission etc. The User agrees to bear full and exclusive responsibility arising from such risks and consequences of the User's usage of Company services. The User agrees that all website activities which can be traced to the User's username and password are deemed as having been performed by the User and are legally binding for the User.

c. **Limitation of Liability**

The services and all information, products and other content (including third party information, products and content) included in or accessible from this web site, are provided "as is" and are subject to change at any time without notice to the User. To the fullest extent permitted by law, Company disclaims all representations and warranties (express, implied and statutory, including but not limited to the warranties of merchantability and fitness for a particular purpose, and non-infringement of proprietary rights) as to the services provided and all information, products and other content (including third party information, products and content) that is included in or accessible from this web site. In no event shall Company or any of its affiliates or content providers be liable for any damages whatsoever, including but not limited to any direct, indirect, special, consequential, punitive or incidental damages, or damages for loss of use, profits, data or other intangibles, or the cost of procurement of substitute goods and services, arising out of or related to the use, inability to use, unauthorized use, performance or non-performance of this web site or the services.

d. **Permitted Use of Software**

Company provides its SMS software in the format of Software-as-a-Service ("SaaS"). User is permitted to use Company's SMS SaaS as it exists at the time of each use. Alteration of the software or use of the software for any purpose other than its intended purpose, including use of any such software on any other web site or networked computer environment, is absolutely prohibited. User shall not decompile, reverse-engineer or otherwise tamper with Company's software; any such activity is a material breach of this Agreement.

3. Copyright & Trademarks

Company respects the intellectual property of others, and we ask our Users to do the same. Company may, in

appropriate circumstances and in its sole judgment, terminate the accounts of Users who violate the intellectual property rights of itself and/or others.

- a. The Company name and logo are trademarks of Company. Company's software is copyrighted and owned by the Company. All other trademarks that appear within Company SaaS service are trademarks of their respective owners. Partners of Company may also have supplementary proprietary rights in the content that they offer through the service of the Company software. The User may not change, publish, transmit, partake in the transfer or sale, create imitative works, or in any way exploit, any of the Content, in whole or in part.
- b. Software made available by Company, including any files, images incorporated in or generated by the software, and data accompanying the software (collectively, the "Software") are licensed to User by Company pursuant to a license agreement governing the Software. Company does not transfer title of the Software to User. User may not redistribute, sell, decompile, reverse engineer, disassemble, or in any other way reduce the Software to a human-readable form.

4. **General Terms of Service**

The Company operates independent websites and provides SMS and other services to Users as described on the Company's websites.

a. **Access to Company's SMS SaaS**

Company uses its best efforts to provide SMS services on the website 24 hours a day, 7 days a week, 365 days a year. To use the service, the User must obtain access to the World Wide Web, either directly or through devices that access web-based content and pay any service fees associated with such access. All Company fees are payable in advance, prior to credits being activated. In addition, the User must provide all equipment necessary to make such connection to the World Wide Web, including a computer and modem or other access device.

i. **Delivery**

The User acknowledges that Company delivers SMS messages via major telecommunications companies and mobile network providers and can therefore only influence the delivery of the transmitted SMS messages within the technical constraints imposed by the above-mentioned providers. SMS messages submitted via Company will be transferred to the addressed mobile recipients within variable times as dictated by the congestion in the destination network, provided that the recipient's phone is switched on and located in an area covered by their subscribed mobile network provider. Delivery of 100% of SMS messages is not guaranteed. Company will do its best to deliver each requested message but cannot be held responsible for issues beyond its control i.e. network failures/delays, underlying carrier and/or mobile operator failures/delays, other technical failures etc. outside of Company's control. User is charged only when Company is charged by its underlying carrier(s) and/or mobile operator(s).

ii. **Fees, Pricing and Payment**

Fees. In consideration for the use of Company's services, the User shall pay to Company a fee for every SMS message sent through Company system at the applicable rate then in effect. Company may from time to time offer limited time "Free Trial" or similar promotions during which no transaction fees or reduced transaction fees shall apply. Such promotions are intended for User to test the capabilities of the Service and/or for casual, personal use only. During such promotions, all provisions of this Agreement shall remain in full force and effect.

1. Fees Payable in Advance. Failure to pay in advance and maintain a positive balance in User's account will result in suspension of the services. Payment in advance and/or the term "Load", refers to a payment that is made within a reasonable time to allow Company to add the SMS credits to the User's account before User's account balance reaches zero.
2. Payment and Net Amount Applied. Transaction fees are due and payable at or before the time Company delivers SMS message(s) to the destination networks of the User's recipients, via every method of delivery based upon the billing plan selected

by Company. Payment shall be deemed to have been made as soon as the fee is available in Company's bank account. Company shall apply the net amount it receives from User to User's account. The Net Amount is defined as the amount received by Company after deducting any credit/debit card discount fees, bank wire fees and/or other fees associated with Company's receipt of User's payment(s). Such Net Amount is the amount which is added to User's account after User's payment is available in Company's financial institution.

3. Payment Increases. The User acknowledges that Company depends on various telecommunications networks and institutions for the delivery of its messages and that Company may adjust its prices and offering, should the prices be adjusted due to reasons which are not in Company's control. Company undertakes to notify the User of such adjustments in writing, prior to implementing such adjustments. Should there be a cost increase of 50% or more AFTER the User has added funds to User's account, Company will do its best to notify the User as soon as possible prior to such an increase which will be applicable to the credits that are still available in the User's account. User agrees to monitor Company's pricing as shown after logging into User's online portal for all price increases lower than 50% of the existing price. Within this notification period the User may decide to continue with the service and the said increase, or to suspend the service. The Company's [Refund Policy](#) shall control the use of funds remaining in User's account subsequent to User's termination. Any payments received by Company must be used within 180 days from the date on which it was purchased. Company may extend this period on a case-by-case basis at its sole discretion. Unused payments remaining in User's account more than 180 days after payment has been received by Company may, in Company's sole discretion, inure to Company and are non-refundable.
4. Refunds for SMS message credits. There are no refunds. In the event Company provides free credit for sending messages to User, the User understand under no circumstances will Company "refund" any such free credits.
5. Credit-based billing. In the event Company provides a credit account to Customer and allows Customer to pay after delivery of services, Company reserves the right to increase its pricing commensurate with its own judgment of the credit risk to Company for extending such credit account. The terms of credit account shall be established by a separate written agreement between the Parties.

5. User's Liability

a. **Disruptions and Damages**

If the User causes damages or disruptions of the website or system applications of Company, the User becomes liable for all direct and incidental consequences and associated costs and the User shall compensate Company at the expense and responsibility of the User.

b. **SMS Content, Legal Compliance and Liability**

The User assumes full responsibility for the content of SMS messages transmitted by themselves or by a third party on their request. The User agrees to abide by all laws and regulations applicable to the content and intent of SMS messages transmitted by them. The User specifically agrees to comply with all provisions of the Mobile Consent Rule of the FCC (Federal Communications Commission) for all USA destinations, the EU GDPR (General Data Protection Regulation) for all European Union destinations and comply with all rules and regulations for all other jurisdictions and destinations including all applicable International laws and regulations.

The User assumes liability for all consequences and costs arising out of breaches of such regulations. The User must ensure that their SMS delivery does not cause disturbance or harassment of a recipient or other third party. The User agrees to refrain from sending SMS messages containing offensive, violent, pornographic, or discriminatory, or otherwise illegal content. The User is not permitted to send SMS messages to recipients who have made clear that they do not wish to receive SMS messages or advertisements via SMS. The User agrees to indemnify and hold Company, and its subsidiaries, affiliates, officers, agents, co-branders or other partners, and employees, harmless from any claim or demand,

including reasonable attorneys' fees, made by any third party due to or arising out of content the User transmitted through the service, the User's use of the service, the User's connection to the service, the User's violation of any and all of Company's Terms of Service for its various service platforms, or the User's violation of any rights of another.

c. **Identification of SMS Originator**

Each SMS message transmitted must contain an existing and authorized User service phone number belonging to the User or authorized for use as such by the owner of the phone number. Company will not deliver SMS messages without originator information.

d. **Termination by Company**

The User agrees that Company, in its sole discretion, may terminate the User's account (or any part thereof) or use of the service, and remove and discard any content within the service, for any reason, including, without limitation, if Company believes that the User has violated or acted inconsistently with the letter or spirit of its Terms of Service. Company may also in its sole discretion and at any time discontinue providing the service, or any part thereof, with or without notice. The User agrees that any termination of their access to the service under any provision of these Terms of Service may be effected without prior notice, and acknowledges and agrees that Company may immediately deactivate or delete their account and all related information and files in their account and/or bar any further access to such files or the service. Further, the User agrees that Company shall not be liable to them or any third-party for any termination of their access to the service.

e. **Termination by User.**

The User is free to terminate or cancel this Agreement at any time, and for any reason provided User delivers a written notice of termination at least thirty (30) days prior to such termination.

f. **Financial Obligations of Company upon Termination and/or Cancellation**

In the event User has funds remaining in User's account after termination of services, the Parties acknowledge and agree that such funds are and were considered the property of Company upon payment of such funds and that no refund shall be due to User.

6. Property

All communication media and systems associated with Company's website and the underlying services remain the property of Company. By using the services, the User does not obtain any rights in the infrastructure, content or software associated with the services.

7. Severability

If any term of this Agreement is held invalid, illegal or unenforceable, the remaining portions shall not be affected. The User must comply with all laws, regulations, obligations and restrictions that apply to them. This Agreement may not be modified, except in writing signed by an authorized officer of Company. No failure or delay in enforcing any term, exercising any option or requiring performance, shall be a waiver of that or any other right.

8. Modification of Terms

Company may from time to time update, modify, and/or otherwise improve its services and products. Such changes often dictate that Company simultaneously modify Company's Terms of Service. As such, Company shall have the right to modify the terms of this Agreement and to change or discontinue any aspect or feature of the Company's service as it deems reasonably necessary. Such changes shall be effective immediately upon posting of such addition, change, or deletion on its website for general information and in its website legal section under the online Terms of Service. Any use by the User of the Service after any such change has been posted, shall constitute the acceptance of any such changes. If the User does not agree with any such changes, the Service may be canceled in accordance with the procedures for cancellation set forth in this Agreement. The User acknowledges its responsibility to review this Agreement, including the [Terms of Service posted on Company's website](#) from time to time and to be aware of any such changes.

9. Non-Circumvention

The Parties agree that a possibility exists that User may discover one or more of Company's ULC's (Underlying Carriers) during or after the term of this Agreement. User shall not circumvent the Company in any manner by establishing a direct working or business relationship with any such ULC before, during or within two (2) years

after the termination of this Agreement. User may not establish a working and/or relationship in which User does business with any of Company's ULC's (whether VoIP, SMS, other carrier or other vendor of Company). If User circumvents the Company by using information gained from the Company or gained as a result of the Company introducing User to its services, and directly pays and receives services directly from any of Company's ULC's, User shall pay Company the greater of what the Company would have received from User for Two (2) Years had no circumvention occurred or fifty percent (50%) of the total direct and/or indirect cash receipts paid by User to Company during User's entire history with the Company, whichever is greater.

- 10. Governing Law and Attorney's Fees.** This Agreement, and all transactions contemplated by this Agreement, shall be governed by, construed, and enforced in accordance with the laws of the State of Utah. The Courts of Tooele County shall be the proper venue for filing action pursuant to this and other Agreements between the Parties. Upon the entering of judgment of one party against the other, the prevailing party shall be entitled to recover all court costs, attorneys' fees and other expenses of litigation.
- 11. Entire Agreement and Electronic Signatures.** These Terms of Service, together with the written Policies, Refund Policy, User Agreement and other written agreements between the Parties contain the complete agreement between the parties and shall supersede all prior agreements concerning the subject matter of this Agreement. The User hereby certifies that no oral agreement between the parties is recognized as valid or enforceable. Any modifications to these Terms of Service and/or other agreements between the Parties must be executed in writing between the Parties to be considered valid and enforceable. The User hereby agrees to any modifications posted on the Company's website as valid and sufficient notice of a change to this Agreement. The parties represent and stipulate that neither of them has made any representations except as are specifically set forth in this Agreement and each of the parties acknowledges that they have relied upon their own judgment and independent investigation in entering into this Agreement. The Parties hereto agree that electronic signatures executed through a valid and recognized e-signing service constitute valid and enforceable signature(s) with respect to this and all other Agreements between Company and User.

SECTION II: ADDITIONAL SERVICES AND TERMS

- 1. VOIFONE COMMUNICATOR:** Voifone Communicator™ Users agree to be bound by the Terms of Service and any updates posted on the [Company's Voifone website](#). The Company provides its own proprietary softphone software in addition to some software which is provided under public domain license and/or GNU GENERAL PUBLIC LICENSE. Any software which is provided by the Company under the Company's own private copyright is entitled to all copyright protection for its intellectual property.
- 2. VOIFONE COMMUNICATOR MISCELLANEOUS TERMS:** The following miscellaneous terms apply to the Voifone Communicator service.
- a. Unlimited Service:** From time to time the Company may offer "unlimited" calling services for a monthly fixed subscription price. "Unlimited" does not mean "unreasonable". The Company reserves the right to limit the number and length of calls made by User. Voifone Communicator is intended for consumer use or small business usage. In the event the User's account usage reaches 65% in cost of the amount User has paid for a full month of calls, Company has the right to limit or terminate User's ability to call until the next payment has been received by Company from User. Company may also offer User an alternate billing plan which will ensure Company does not lose money on User's calls. User understands and agrees that User may not send calls with any form of automated dialing or calling software or equipment and that use of such software and/or equipment is grounds for immediate termination of User's account. Such usage constitutes a material breach of this agreement. In such case, User agrees that Company shall keep any unused balance in User's account as liquidated damages.
 - b. Price Changes:** Company has the right to modify its pricing at any time with or without notice to Customer. The Parties agree that it is the user's responsibility to be aware of prices and pricing changes by monitoring the Company's website and posted prices. The Parties agree that prices posted on the Company's public website are not necessarily always accurate and only serve as a sample of the Company's pricing. The Parties further agree that pricing shown on the Company's Voifone Communicator software, and/or within the User's online portal after logging into User's account, constitute

the official and accurate pricing.

- c. Misuse of Software and/or Service:** User understands and agrees he/she/it may not de-compile or reverse-engineer any of Company's software or make any attempt to do so. User further acknowledges that such software is the sole and exclusive property of Company and that User is granted a limited license to use such software and/or services under the terms expressed in this and in future updates to this agreement. User may not use Company's software and/or services in any manner which is not intended by Company.
 - d. Acceptable Use Policy:** Company does not warrant nor guarantee its services and/or software will be suitable for any particular purpose or specialty use by User. All software and/or services are provided on an "as is, where is" basis and as such, no guarantee or warranty is expressed by Company that its services will be functional 100% of the time. User understands and agrees that the nature of software and/or services such as those provided by Company is they can fail from time to time, and often such failure is due to circumstances beyond the control of Company because Company's services are delivered through the Internet, over which Company exercises no control.
 - e. Company's Right to Limit or Terminate:** Company retains the sole and exclusive right to terminate or limit User's access to its services with or without cause.
- 3. VOIFONE™ CRM SERVICES:** Customers who use the Company's CRM service agree to be bound by the terms of service in this section in addition to all other Terms of Service related to its CRM service. The Company does not warrant its CRM as suitable for any particular purpose by the User and disclaims any liability whatsoever to the user for the User's application, use, misuse, or any other condition relative to the User's activity while using the CRM. The Company agrees to provide a limited amount of online usage support free of charge in the form of "how-to" articles, tutorials and videos and/or ticket-based support, showing the user the procedures required to use the System. The Company may, at its own discretion, establish a User Forum where the Company's CRM users may add articles, hints, tips and post messages to and for other users in an effort to help the Voifone CRM™ community use this product. No free or unpaid support, other than the online documentation and/or forums is provided by the Company. The Company may at its sole discretion provide paid support for its CRM in the form of Service Level Agreements ("SLA"s). The Company provides the following SLA's for a fee. Fees are available in the Company's Customer Area and also on its [Ranking Trainer website](#). Following are the CRM SLA's provided by the Company:
- a. Basic SLA.** The Basic SLA provides trained Chat and/or Ticket Support Reps who can provide step-by-step walk through instructions, plus links to online video and written instructions regarding how to use and operate various features of the CRM. The usage assistance provided is limited to simple command structure elements, showing the User how to use SMS services, enter Leads, Contact, Vendors and Organizations; how to use the Calendar feature, basic concepts of CRM usage and management, how to use the email system, how to set up and manage multiple email accounts and similar usage issues. This SLA is available by pre-paying a batch of hours. Hours are tracked when a Support Rep is chatting with or working on behalf of the User and the time value is deducted from the User's account balance. Current pricing is available in the on this site or in the Ranking Trainer Customer Portal.
 - b. Silver SLA** All features of the Basic SLA are included in the Silver SLA. The Silver SLA includes instruction regarding the Settings area of the CRM for purposes of configuration and customization. Silver SLA customers also have access to remote assistance from our support reps. Remote Assistance is provided through one or more free remote assistance programs, such as Team Viewer (or others) in which our support rep logs into the customer's computer remotely for the purpose of instructing the user or performing configuration and/or other tasks on behalf of the User. Step-by-step walk through plus chat instruction is provided. The Silver SLA is available from the Customer Portal after the Customer logs in from the link provided on the Company's home page. This SLA is available by pre-paying a batch of hours. Hours are tracked when a Support Rep is chatting with or working on behalf of the User and the time value is deducted from the User's account balance. Current pricing is available in the Customer Portal.
 - c. Gold SLA** The Gold SLA includes all features of the Basic and the Silver SLA's but also includes branding, custom programming, free access to the Company's USA Business Database (when available)

for marketing purposes and phone support. Gold SLA customers purchase either a monthly or annual subscription for “unlimited” access to our Support Staff and/or programming staff, by phone, chat or email. “Unlimited” does not mean “unreasonable”. The Company does not formally track hours of usage for Gold SLA customers. However, the Company reserves the right to charge an additional fee in the event the Company discovers the customer’s Gold SLA usage exceeds 80% of the Company’s cost to deliver such services. Current pricing is available in the Ranking Trainer Customer Portal.

- 4. Regulatory Changes and Force Majeure.** The User hereby understands and acknowledges there are certain risks inherent with doing business with the Company, such as changes to International and domestic laws in the country of the User, governing telemarketing, voice broadcast, telecommunications, SMS, email marketing and similar activities that regulate our industry. The User further acknowledges that such changes are common place in the Company’s industry and that such laws and regulations undergo frequent changes. As such, the User agrees that any change to the law that renders any service delivered by the Company as undeliverable, or makes the service obsolete, or in any other way interrupts and/or prevents the Company from fully delivering the service(s) purchased by the User are beyond the control of either the User or the Company and do not give the User any right to refund or in any other manner make the Company liable to the User for any damages whatsoever. The User agrees that in such event, the User hereby accepts this as a risk of doing business with the Company and acknowledges that the Refund Policy is valid and that no refund shall be due in the event that failure to deliver any service(s) purchased by the User is due to regulatory change or any other event such as natural disaster, war, political unrest, accidental destruction of the facility(ies) controlling the Company’s hardware and software, or any other force majeure beyond the control of the Company.
- 5. Proof of Delivery.** The User hereby certifies that, for the purpose of satisfying delivery requirements of credit and debit card processors, as well as to satisfy the general requirement of delivery under this Agreement, Company has completed delivery when it completes the following for each type of service purchased by the User:
 - a. SMS Delivery:** Upon sending any SMS message, the Company has fulfilled its service requirement. The User understands and agrees that the Company has no control over the actual delivery of the User’s message(s) to the recipient after the User sends any message(s). The User further acknowledges and agrees that the SMS recipient’s mobile operator in every country controls final delivery of messages and as such, Company makes no guarantee or warranty of any kind that all or any percent of messages will be delivered or when such messages will be delivered.
 - b. Sender ID:** The User understands and agrees that all SMS messages are sent with a random Sender ID and as such, it is the responsibility of the Sender/User to place identifying information about the User within each SMS message sent, to ensure recipients know who sent the message(s).
 - c. Pre-Paid Minutes and Messages:** Upon receipt of funds by the Company and placing those funds into the User’s account where the User can see the account balance, the User hereby certifies that the Company has delivered the User’s purchase.
 - d. Membership Fees:** Upon sending a notification email confirming receipt of the User’s purchase, the User hereby declares that the User has received delivery of such Membership and/or license.
 - e. Hosted Services:** Upon sending a notification email confirming receipt of the User’s purchase, and upon the Company emailing login credentials to the hosted service(s) platform(s), the User hereby declares that the User has received delivery of such service, package and/or license.
 - f. SLA Packages:** Upon receipt by the Company of the Users payment for SLA hourly or other fees for SLA services, the Parties agree the fees have fully earned by the Company and have been delivered to the User.
- 6. FTC AND INTERNATIONAL LAW COMPLIANCE OF THE USER.** User hereby agrees to comply with all laws of the User’s jurisdiction plus International law and/or any laws and regulations in the jurisdiction where SMS messages, pre-recorded Voice Broadcast messages and emailed messages are delivered to recipients.
- 7. GENERAL USER POLICIES DNC (Do Not Call) COMPLIANCE.** When messages are sent to or within the USA, User must comply with and register with the FTC and obtain User’s own SAN (Subscriber Account Number) to

order voice broadcast services and or buy cell phone or landline phone lists and/or to deliver recorded messages and/or SMS messages. The Company can provide the registration service for User's SAN at no cost other than the required governmental fees to subscribe to the FTC account for the area codes User wishes to call. Company will advise User of these fees and User must pay them by adding funds to User's account or paying the invoice Company delivers. Many states have their own regulations with regard to DNC lists that are specific to their state. It is User's responsibility to check with User's own state government and ensure your compliance with those regulations. Company will scrub all voice broadcast lists to remove any numbers on the DNC list prior to starting any dialing campaign at no additional charge.

- 8. LIST PURCHASE:** From time to time, the Company provides Consumer and Business-to-Business (B2B) lists for marketing purposes. Occasionally, these lists may be provided without additional charge for paid Members unless Company selects specific SIC codes or makes other demographic selections such as number of employees, annual volume and specific geographical selections in addition to state selections. Pricing of lists and number of free lists to which the Member is entitled is governed by the terms of the Package and/or License which is purchased.
- 9. SERVICE LIMITATIONS AND COMPLIANCE WITH RULES AND REGULATIONS:** The Company may set numerical limits to the amount of transactions a User may send through our services. The User agrees to abide by all applicable local, state, federal, national and international laws and regulations and is solely responsible for all acts or omissions that occur under the User's account, including the content of the User's transmissions. By way of example, and not as a limitation, the User agrees not to:
 - a. Use Voicaster, SMS, Carrier or bulk Email services in connection with the delivery or transmission of unsolicited messages that would violate FTC rules or State regulations.
 - b. Create a false identity, caller id, or forged email address, or otherwise attempt to mislead others as to the identity of the sender or the origin of the message.
 - c. Impersonate any other person or entity or misrepresent your affiliation with any other person or entity
 - d. Use the Company's services to create or distribute any images, sounds, messages or other materials, which are obscene, harassing, racist, malicious, fraudulent or libelous, nor use the Company's services for any activity that may be considered or are unethical, immoral, or illegal.
 - e. Transmit through Voifone Carrier, LLC's services any unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene or otherwise objectionable material of any kind or nature.
 - f. Transmit any material that may infringe the intellectual property rights or other rights of third parties, including trademark, copyright or right of publicity.
 - g. Transmit any material that contains viruses, trojan horses, worms, time bombs, cancelbots, or any other harmful or deleterious programs.
 - h. Violate any U.S. or International law regarding the transmission of technical data or software exported from the United States through any of Company's various services
 - i. Interfere with or disrupt networks connected to the Service or violate the regulations, policies or procedures of such networks
 - j. Attempt to gain unauthorized access to Company's accounts, computer systems or networks connected to Voifone Carrier, LLC's SaaS, PaaS, mobile apps or other services through password mining or any other means.
 - k. Interfere with another User's use and enjoyment of our services or another entity's use and enjoyment of similar services.
- 10. UNLIMITED USE DOES NOT MEAN UNREASONABLE USE.** Users may not use any of Company's services in a manner that may interfere with other User's use of our services or disproportionately impact our resources. If we

determine, at our sole discretion, that the User's use of SMS, Voifone Communicator, wholesale VoIP termination services, email, CRM or other services is in violation of any of our Terms of Service, or in any other manner that we deem to be unreasonable or excessive, then we may interrupt or terminate the User's service, decline to renew the User's service, or offer the user a different service plan. Notwithstanding the foregoing, Voifone Carrier, LLC reserves the right to deny service or cancel existing service to anyone for any reason at any time, at the Company's sole and absolute discretion.

11. **COMPLIANCE WITH INTERNATIONAL, FEDERAL, STATE AND LOCAL REGULATIONS** The User shall be fully and solely liable for any SMS, auto-dialed voice, predictive-dialed voice, prerecorded audio, voice transmissions and/or email messages sent through Company's services and shall be fully responsible for compliance with applicable law. The User is fully and solely responsible to be aware of, understand, and comply with all of the rules and regulations applicable to the User's use of each and every service provided by Company including but not limited to Federal Trade Commission rules and regulations, Federal Communication Commission rules and regulations, National Do Not Call Registry rules and regulations and individual state Do Not Call rules and any applicable individual state, local and International regulations, plus all laws, rules and regulations of the country of the User plus all destination countries for User's messages, the Controlling the Assault of Non-Solicited Pornography and Marketing Act (the "CAN-SPAM ACT), along with any other federal, state, or local laws that may be applicable to users of Company's services. The User agrees not to violate these, or any other federal, state, or local law and represents and warrants that the User will not cause Voifone Carrier, LLC to violate these or other similar laws. The User understands that the Federal Trade Commission Telemarketing Sales Rule prohibits the unsolicited transmission without the express written consent of each recipient, of pre-recorded phone calls that are part of a plan, program or campaign which is conducted to induce the purchase of goods or services or charitable contributions. The Federal Trade Commission Telemarketing Sales Rule provides that calls may be permissible provided calls are placed only to consumers who have provided their prior expressed signed written consent directly to the User to receive such calls. The User agrees to maintain such express written agreement with each recipient and provide same to Company upon request. Use of Voifone Carrier, LLC services for the delivery or transmission of pre-recorded phone calls that are part of a plan, program or campaign which is conducted to induce the purchase of goods or services or charitable contributions not in compliance with applicable law is strictly prohibited. Notwithstanding the language contained in this paragraph calls initiated and placed by the User specifically to consumers who have provided the User with their prior expressed signed written consent to receive such calls as provided by the Federal Trade Commission Telemarketing Sales Rule at 16 CFR Part 310 and any amendments thereof shall not be deemed prohibited. The User understands that compliance with International plus USA federal, state and local law is solely the responsibility of the User. The User understands and agrees that if the User's use of any Voifone Carrier, LLC services includes initiating or receiving telephone calls to or from customers or donors then the User shall comply with all applicable federal, state and local laws including but not limited to laws pertaining to telemarketing. The User is fully and solely responsible to be aware of, understand, and comply with the anti-solicitation provisions of the Federal Telephone Consumer Protection Act of 1991, and any amendments thereto, at 47 U.S.C. §227, the Federal Communications Commission implementing regulations, at 47 CFR § 64.1200 et seq., the Federal Trade Commission's Telemarketing Sales Rule at 16 CFR Part 310 and any amendments and any similar laws, the Controlling the Assault of Non-Solicited Pornography and Marketing Act (CAN-SPAM ACT) and any other similar laws. The User agrees not to violate these, or any other applicable federal, state, or local anti-solicitation laws, and represents and warrants that its use of the Company's services will not cause the Company to violate these or other similar laws. The User agrees that it is the sole responsibility of the User to abide by any laws defined by the State or Federal Government in which Services will be applicable. The User understands and agrees that the Company will not be held responsible for damages to the User or any third party incurred due to the User's failure to abide by state and/or federal laws, agrees to hold harmless and indemnify the Company from any and all of User's wrongful acts and that the Company will seek indemnification from User for damages it sustains from the User's breach of this provision. The User/User agrees he/she/it is fully aware of the Telephone Consumer Protection Act of 1991, the Telemarketing Sales Rule, the Controlling the Assault of Non-Solicited Pornography and Marketing Act. The User may visit the Federal Communications Commission website at <http://www.fcc.gov> and the Federal Trade Commission website at <http://www.ftc.gov> and or refer to the appropriate State Attorney General's office or other applicable offices for rules and or regulations pertaining to the User's intended application and use of Voifone Carrier, LLC's Services.
12. **Effect of Partial Invalidity.** The invalidity of any portion of this Agreement shall not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the parties agree that the

remaining provisions shall remain in full force and effect.

13. **General Termination Provisions.** This Terms of Service Agreement shall be perpetual until terminated under the provisions of this section. The Company may, in its sole and absolute discretion, terminate this agreement with or without notice to the User in the event of one or more of the following actions by the User.
- a. Material breach of any of these Terms of Service by the User.
 - b. Insolvency or declaration of bankruptcy by the User.
 - c. Failure by the User to pay funds due for services purchased by the User.
 - d. Filing a claim or dispute with his/her/its debit or credit card issuer or PayPal requesting a refund, which is considered by the Parties a material breach of the Company's Refund Policy. In the event of termination due to any of the foregoing causes, the Company may retain any unused funds paid to it by the User as liquidated damages. The Company may additionally pursue any other remedies at law against the User it deems necessary in the event of User's breach of this Terms of Service Agreement. In the event of termination of the User's account, the Company shall restrict User from access to any of its password protected areas of its website(s) and is not required to provide any unused services. This Agreement may also be terminated at any time by executing a mutual separate written agreement between the Parties. The User may terminate his/her/its Terms of Service agreement with the Company at any time by delivering written notice emailed to the Company and paying a Termination Fee equal to a forfeiture of any and all unused funds for Leads and/or other services paid by the User. The User may not terminate this Agreement if he/she/it owes any funds to the Company.
 - e. Any unpaid amounts due to the Company by the User shall survive termination until paid in full. Any unpaid balance due to the Company by the User shall accrue Interest at the rate of 1.5% monthly on the unpaid balance until paid in full.