



LICENSE AND SERVICE AGREEMENT

This License and Services Agreement (the "Agreement") is entered into between Landvoice Data LLC, a Utah corporation d/b/a Landvoice "Landvoice" and the individual or entity submitting this form for enrollment as a licensee of Landvoice ("Licensee"). By enrolling as a Licensee, receiving or using the product ("Product") or services ("Services") available at www.landvoice.com (the "Website"), or any co-branded and/or linking site, the licensee shall be referred to herein as a "Customer". Customer agrees to be bound by the terms and conditions of this Agreement during the entire period of subscription purchased. Landvoice reserves the right to change the Terms of this Agreement from time to time at its sole discretion. Customer must accept any new terms and conditions in the updated form of this Agreement in order to continue a subscription beyond the initial subscription period. Customer agrees that payment for a new period of subscription shall constitute acceptance of any new terms and conditions which are contained in the updated form of this Agreement. This Agreement shall apply to all versions, distributions, deliveries, assignments, and uses of Product and Services, including leads and other data and information, as well as visits to and use of the Website, both now and in the future.

I. LICENSE GRANT

Subject to the provisions of this Agreement as well as the payment of all applicable license fees for the term of such license, Landvoice grants Customer and Customer accepts a limited, personal, nonexclusive, nontransferable, nonassignable License to use the Product and Services. Landvoice shall at all times remain the owner of the Product and reserves all rights with respect thereto except as otherwise specifically provided in this Agreement.

II. NUMBER OF AUTHORIZED USERS UNDER YOUR SUBSCRIPTION

UNAUTHORIZED USE SHALL RESULT IN YOUR IMMEDIATE OBLIGATION TO PAY LIQUIDATED DAMAGES TO LANDVOICE OF \$1,000 PER VIOLATION, as provided in Section V below. There shall be two types of Customers: (1) Individual Customers and (2) Office Customers. Enrollment as an Individual Customer entitles the named Customer ONLY to limited use, review, viewing, copying for restricted use of, or printing for restricted use of, the Product or use of any Service, subject only to the Client Exception described in Section IV below. Enrollment as an Office Customer entitles ONLY the individuals named on the Office Customer enrollment form (collectively "Office Customers," individually "Customer") to limited use, review, viewing, copying for restricted use of, or printing for restricted use of, the Product or use of any Service, subject only to the Client Exception described in Section IV below.

III. THIRD PARTY USE PROHIBITED

Customer shall NOT share, distribute, forward, copy to, permit use, or allude to, any Product or Service to or for the benefit of any third party (a party who is not a Customer), subject only to the Client Excep-

tion described in Section IV below. Customer shall take all precautions necessary to safeguard Customer's password and shall not share Customer's password with any other person, including without limitation a "Client of the Customer" (defined below). Customer shall take commercially reasonable steps to prevent misappropriation of any Product or Services in the possession of Customer by any third party, including without limitation any co-workers or associated real-estate professionals.

IV. CLIENT EXCEPTION

The limitation on the number of authorized users shall not apply to a bona fide client of the Customer, who (A) has entered into a written contract with the Customer, pursuant to which the Customer is entitled to receive compensation in the form of a fee or commission for the purchase, sale or rental of real property by the client of the Customer; and (B) has agreed and is bound in writing to be bound by the terms of this Agreement to the same extent as if such Client of the Customer were a Customer (a person satisfying (A) and (B), referred to herein as "Client of the Customer"). Customer may share Products and Services with any Client of the Customer, but under no circumstances shall Customer share Customer's password with Client of the Customer. Customer agrees to indemnify and hold harmless Landvoice with respect to any damages caused by any Client of the Customer who violates the terms and conditions of this Agreement and Customer shall be directly responsible for any misappropriation of Product or Services by either Customer or any Client of Customer.

Landvoice may seek from Customer, and shall be entitled to collect from Customer, the liquidated damages described below for any violation of this Agreement by Customer or any Client of the Customer, against Customer directly, regardless of the availability or condition of Client of the Customer.

V. LIQUIDATED DAMAGES

Customer and Landvoice agree that in the event Customer violates Customer's obligations under this Agreement, damages shall be difficult to ascertain and highly speculative, given the difficulty of ascertaining the precise value of the Product and Services in any given circumstance and the unknown degree of wrongful use once uncontained. Customer and Landvoice agree that, for purposes of this Agreement, a specific sum of One Thousand Dollars (\$1,000.00) is an appropriate estimate of the damages likely to be suffered by Landvoice due to each and every individual instance of misappropriation of Product or Service. Such sum shall be assessed for each and every distinct violation of this Agreement. A "distinct violation" shall be determined by treating separately each occurrence and each recipient of any misappropriated Product or Service of Landvoice, and for any occurrence which occurs at multiple times and on multiple days, each such time and/or day shall be separate occurrences.

VI. GENERAL DISCLAIMER

Although Landvoice has made reasonable efforts to ensure accurate information in its Product and Website, including the reliable acknowledgment of individuals listed on the National Do Not Call Registry (DNC), Landvoice assumes no responsibility for the accuracy of the information. Do Not Call compliance is solely the responsibility of the Customer. Landvoice is not responsible for any customer misuse, intentional or unintentional, of any data provided, including DNC data.

Landvoice provides this product, service and website content "as is" and without warranties of any kind, either express or implied, to the fullest extent allowed by law. Landvoice further disclaims all other warranties, including the implied warranties of merchantability and fitness for a particular purpose. Landvoice does not warrant uninterrupted or error free functions contained in this product, service or website or its content or that the website or its server are free of viruses or other harmful components.

Dialing, Texting, and Emailing Disclaimer

Customer agrees to comply with all laws, ordinances, regulations, and requirements of local, provincial, and federal governmental authorities governing dialing, autodialing, automatic dialers, emailing, and SMS texting including but not limited to the following web-

sites: www.ftc.gov - Federal Trade Commission, www.fcc.gov - Federal Communications Commission, www.donotcall.gov - National Do Not Call.

Customer agrees not to send any outbound sales calls, emails or text messages to recipients without an established business relationship or to consumers that have not consented to receiving such a broadcast. Customer agrees to provide the legally required contact information in any outbound campaign within the initial message. Customer agrees to use Do Not Call and opt-out features made available to customer within the application to immediately

mark/remove any and all individuals requesting Do Not Call status. Customer agrees to consult an attorney before dialing, emailing or texting any data for which customer is unfamiliar, or if legalities of contact remain

Customer agrees not to dial or text any life-line services, such as hospitals, fire, police, 911, or utility related telephone numbers.

VII. LIMITATION ON DAMAGES

Landvoice SHALL NOT BE LIABLE FOR DIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES RESULTING FROM THE USE OR INABILITY TO USE PRODUCT, SERVICES OR WEBSITE, WHETHER OR NOT Landvoice HAS BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES. THIS LIMITATION INCLUDES DAMAGES FOR NEGLIGENCE OR GROSS NEGLIGENCE. THIS PROVISION IS SUBJECT TO POSSIBLE LIMITATION UNDER STATE LAW.

VIII. INDEMNIFICATION

Customer agrees to indemnify and hold harmless Landvoice, at Customer's sole expense, against any claim, action, legal proceeding, damages, liability, settlements, expenses (including attorneys' fees) and other costs arising from a lawsuit brought by a third party relating to (i) breach of any of these terms by Customer; (ii) Customer's negligence or misconduct, or (iii) claims that any act or omission of Customer (other than mere possession of a Landvoice Product in the form supplied by Landvoice) has infringed the copyright, trademark, trade secret, patent, or other proprietary right of a third party.

IX. INTELLECTUAL PROPERTY

This Agreement grants to Customer ONLY a limited one-time license for personal use of the Product and Services. All Intellectual Property, including without limitation all copyrighted material, all trademarks, service marks, logos, or other corporate identification, all know-how, trade secrets and any other proprietary information of Landvoice remains the exclusive property of Landvoice.

Commercial resale, electronic extraction or reformatting of Product or Services or any information available on the Website or on any other co-branded website is strictly prohibited. Data mining, screen scraping, downloading or any other activity designed to obtain, re-use, reformat, re-sell the proprietary information of Landvoice or co-branded websites is strictly prohibited. Reposting, manipulation, display or other web-based presentation of data obtained through the Website or co-branded website on the Internet or through e-mail is strictly prohibited.

X. ACKNOWLEDGMENT OF TRADE SECRET STATUS

Customer acknowledges that all material furnished to Customer by Landvoice pursuant to the Services constitutes unpublished protectable confidential information and a "trade secret" within the meaning of the Utah Uniform Trade Secrets Act (Utah Code Sec. 13-24-2(4)).

XI. CONFIDENTIALITY

"Confidential Information" means any material, data, or information in whatever form or media that is provided or disclosed to Customer by Landvoice pursuant to the Service, except for any information that is: (a) publicly available or later becomes available other than through a breach of this Agreement; (b) known to Customer or its employees, agents, or representatives prior to such disclosure or is independently developed by Customer or its employees, agents or representatives subsequent to such disclosure; or (c) subsequently lawfully obtained by the Customer or its employees, agents or representatives from a third party which does not owe obligations of confidentiality to Landvoice. Customer shall exercise the same degree of care and protection with respect to the Confidential Information that it exercises with respect to its own Confidential Information, but in no event less than a reasonable degree of care. Customer shall not directly or indirectly disclose, copy, distribute, republish, or allow any Third Party to have access to any Confidential Information. Notwithstanding the above: (i) Customer may disclose Confidential Information to Client of the Customer in accordance with Section IV of this Agreement; and (ii) Customer may disclose Confidential Information if so required by law (including court order or subpoena), provided that reasonable notice is given to Landvoice and Landvoice gives its approval. Landvoice approval or disapproval shall be given within reasonable time, such time always to allow Landvoice to move for a protective order or other protective measure in a timely manner. If Landvoice fails to give its approval, Customer may disclose after obtaining a written opinion from counsel that such disclosure is required by law and all obligations of this Section X have been met.

XII. CUSTOMER REPRESENTATIONS

Any information provided to Landvoice by Customer is true, complete and accurate, does not represent Customer as someone else, does not falsely identify any third party, and does not violate any law, statute, ordinance or regulation.

Customer has funds available and/or adequate credit in the method of payment offered to satisfy the financial obligations incurred in subscription.

Customer has no plans or intentions to share Product, Services, or any Confidential Information or proprietary information of Landvoice with any third party in contravention with the terms of this Agreement. Customer hereby represents and acknowledges that in entering into this Agreement Customer did not rely on any representations or warranties other than those explicitly set forth in this Agreement. Customer has read this entire Agreement, understands it, and agrees to be bound by all terms and conditions stated herein.

XIII. GENERAL BILLING

Usage of Landvoice products and services constitutes customer's acceptance of Landvoice's billing policy. The following is Landvoice's billing policy with which all customers must comply:

All accounts are set up on a prepaid basis. Payment must be received by Landvoice before any billable product or service is provided/activated. Customers are required to keep a valid credit/debit card on file to charge for recurring monthly subscription fees, fax or voice broadcast service fees and all email overage fees.

All customers must pay by credit/debit card. Landvoice does not accept international checks.

Subscription billing is based on availability of products and services, not based on usage. However, Call Capture and voice broadcast service fees are usage based.

Customers are responsible for keeping all credit/debit card details and contact information current. This can be done by calling Landvoice directly at 888-678-0905

All recurring subscriptions are automatically invoiced and charged to the credit/debit card on file.

XIV. BILLING CYCLE

Credit/Debit Card Billing: All credit/debit cards are automatically charged on the customer's specific billing cycle date. If the credit/debit card is declined, Landvoice will attempt to charge the card on file for 30 days.

Late Fee: All accounts more than 30 days past due may be assessed a late fee. No fewer than three attempts to contact the customer will be made before any late fee is assessed.

Non-Payment Account Suspension Rights: Landvoice may terminate customer's subscription if the billing or contact information provided by customer is false or fraudulent. Landvoice has the option to suspend access to an account where any payment is due. Where an annual payment is uncollected, Landvoice may convert the subscription to an annual subscription billed monthly. Customer acknowledges and agrees that if the account is suspended, Landvoice is not liable to customer or any third party for any damages caused by the suspension of the account due to customer non-payment of fees.

Delinquent Accounts: All accounts past due may be disabled until balances are paid in full. When disabled, all access will be suspended and data will be unavailable.

Deactivation: After an account is delinquent 60 days, it may be cancelled due to non-payment. Once cancelled, the customer will not be able to recover any files until the account is current. Application data will be stored for 90 days post cancellation. After that, application data will not be available. The account record and delinquent balance will be submitted to a third-party collection service.

XV. FEES

Late Fee: Landvoice may assess a \$15.00 late fee for accounts with past due payments. **Chargebacks:** If a customer initiates a chargeback, Landvoice may assess a \$50.00 processing fee for each individual chargeback. **Returned Checks:** Landvoice may assess a \$50.00 processing fee on all returned checks.

Collections Fee: In the event an account is submitted to a third-party collections service, a \$15.00 processing fee may be assessed to the existing account balance. This fee is in addition to any other fees previously assessed on the account.

Interest: Any charges not paid when due are subject to interest at a rate equal to the lesser of: (i) one and one-half percent (1.5%) per month; or (ii) the maximum interest rate allowed by applicable law.

Should the customer have any dispute as to fees associated with the customer account, please contact Landvoice at 888.678.0905 within 90 days of the date of the activity that generated such dispute, and we will attempt to resolve the matter. Any and all refunds issued to resolve such a dispute shall be issued as credits to the customer account, but in no event shall there be any cash refunds. Disputes older than 90 days shall not be entitled to any refunds or credits.

XVI. SUBSCRIPTION BILLING

Invoices are generated and payments are collected at the beginning of each billing period. Customer billing periods typically begin on the day of the month in which customers purchase their Landvoice subscrip-

tion. Customers may cancel their subscriptions at any time. In the event of cancellation, customers will still have access to their applications through the end of their current billing period. Landvoice will not prorate any portion of unused subscription services. All subscription fees are nonrefundable unless the customer chooses to pay an Early Cancellation Fee. An Early Cancellation Fee is the greater of \$250 or \$20 per product being provided multiplied by the number of months remaining in the customer's subscription.

XVII. PAYMENT METHODS

Landvoice accepts payments via credit/debit card. Payment by any other means, such as by check, is on a per-customer basis and must be agreed to by Landvoice. Checks must be paid in U.S. dollars and issued from a U.S. bank. Payment by check is acceptable only for prepayment of six or twelve months of subscription services. Landvoice currently accepts American Express, MasterCard, Discover and Visa credit/debit cards.

XVIII. CANCELLATIONS

Cancellations must be done verbally through a Landvoice representative. Email requests to cancel an account does not constitute acceptance of any cancellation. Only verbal requests made with a Landvoice representative will create a cancellation request. Customers are encouraged to keep records of all cancellation communication. Cancellations will take effect on the last day of the billing period in which the cancellation request was received. Closing an account with Landvoice cannot be done by simply canceling the credit/debit card. Landvoice will continue to treat this as an open account and the billing cycle will continue, resulting in a past due account that may be turned over to a third-party collection service. It is imperative that account cancellation is done by speaking with a Landvoice representative to ensure account closure. Cancellation of an account does not dismiss outstanding invoices. At the time of cancellation, any outstanding balance must be settled. All cancelled accounts with an outstanding balance may be automatically turned over to a third-party collection service.

XIX. BILLING DISPUTES

As a current or prior customer of Landvoice, each customer agrees to provide Landvoice 30 days to attempt settlement of any billing dispute before disputing with any third-party credit/debit card Landvoice or bank. Landvoice must be the first option in billing disputes. Should Landvoice receive a chargeback from a third-party credit/debit card Landvoice or bank on the customer's behalf before Landvoice has been given a chance to resolve the issue, Landvoice has the right to collect on the rendered services and any fees associated with those disputes. Regardless

of the outcome of the chargeback, Landvoice retains the right to collect on any rendered services or fees that are due. Landvoice will submit any disputed amounts to a collection agency. Once a chargeback has been received, Landvoice will immediately suspend the account until the matter is resolved. Landvoice reserves the right to terminate the service agreement for any Customer at any time at its sole discretion. Obligations of Customer under this Agreement shall survive for a period of three years following termination of this Agreement. Notwithstanding the previous sentence, any protection afforded the intellectual property rights of Landvoice, including without limitation any copyrightable works, any trademarks, and any trade secrets shall remain binding upon Customer for the longest period of time allowed by law and shall be perpetual if allowed by law.

XX. AUTHORIZATION FOR PAYMENT

By signing up for any direct service provided by Landvoice and by providing either credit card, debit card or ACH transaction information, Customer consents to the subsequent recurring billing for services/access provided by Landvoice on an ongoing basis. Such recurring billing shall continue until such time as the Customer cancels the service in accordance with the cancellation policy.

XXI. PRIVACY

Unless specifically noted when the information is obtained, Landvoice will not disclose information that personally identifies its Customers, customers and clients available to third parties outside of Landvoice and its controlled subsidiaries and affiliates without your consent with the exception of: (1) circumstances in which Customer linked to the Website or subscription form from another Website or (2) information other than information used to subscribe to services which Customer transmits to or posts on this Website. For more information, please see the Landvoice Privacy Policy available for all users at the Website.

XXII. ARBITRATION

Binding Nature: Any claim or controversy arising out of or relating to this Agreement must be submitted and settled as set forth in this section. Customer EXPRESSLY WAIVES ANY LEGAL RIGHT OR PRIVILEGE TO PARTICIPATE IN A CLASS ACTION OR ANY OTHER CONSOLIDATED PROCEEDINGS.

Escalation Procedure. If any individual party to this Agreement alleges that any other party to this Agreement has breached or may breach any of the terms of this Agreement, then the party alleging breach shall inform the other party or parties of their breach in writing pursuant to the notice provisions of this Agreement. Upon receipt of such

notice, the allegedly nonperforming party shall have ten (10) days to cure the alleged breach. If the parties do not agree that effective cure has been accomplished by the end of the ten (10) day period, then the parties shall meet in person and confer in good faith to resolve the dispute within fifteen (15) days of the expiration of the prior ten (10) day period. If the parties do not agree that effective cure has been accomplished by the end of the fifteen (15) day period, then either Landvoice or an individual Customer may file an action for arbitration. **Filing of Claim:** If, after the above procedures, the dispute remains unresolved, then the dispute shall be submitted to the office of the American Arbitration Association located in Salt Lake City, Utah, said arbitration to be administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules in effect at the time of the arbitration and the laws of the State of Utah governing such arbitrations. Each individual Customer must file a separate claim for arbitration, even if the basis for such claim is substantially similar to that of another Customer. **NO CONSOLIDATION OR CLASS TREATMENT SHALL BE GRANTED IN SUCH ARBITRATION.** Such arbitration must be filed within twelve (12) months of the first accrual of the cause of action, and the parties agree that the statute of limitations for any cause of action brought pursuant to, in connection with, or relating to the provision of the Services or any other subject matter of this Agreement shall be twelve (12) months from the first accrual of the cause of action. **General Rules.** An arbitrator shall have the authority to arbitrate disputes between Landvoice and ONE individual Customer only. The arbitration shall be heard and decided no later than seven (7) months after the notice of arbitration is filed with the American Arbitration Association. The arbitrators shall hear and determine any preliminary issue of law asserted by a party to be dispositive of any claim, in whole or in part, in the manner of a court hearing a motion to dismiss for failure to state a claim or for summary judgment, pursuant to such terms and procedures as the arbitrators deem appropriate. No witness or party may be required to waive any privilege recognized under Utah law. The hearing shall not last longer than one (1) days unless all parties agree otherwise, with time to be divided equally between Customer and Landvoice. In the event of such arbitration each party shall select an impartial arbitrator and the parties' impartial arbitrators shall select a chief arbitrator from a list provided by the American Arbitration Association. **Discovery:** For good cause shown, the arbitrators may permit each side to serve no more than ten (10) document requests (including subparts) and ten (10) interrogatories (including subparts) on the opposing parties. For good cause shown, the arbitrators may permit each side to subpoena no more

than three (3) witnesses for testimonial depositions (each deposition not to exceed two (2) hours of examination by the party who has subpoenaed the witness). Any discovery as set forth above shall be governed by the Federal Rules of Civil Procedure and the precedents applicable to cases brought in the United States District Court for the District of Utah. No other discovery shall be permitted except by written agreement of all parties. The parties and the arbitrators shall treat all aspects of the arbitration proceedings, including, without limitation, discovery, testimony, and other evidence, briefs, and the award, as strictly confidential and not subject to disclosure to any third party or entity, other than to the parties, the arbitrators, and the American Arbitration Association. The arbitrators must give full effect to the applicable law and to all terms of this Agreement, and are specifically divested of any power to render decisions in derogation thereof or ex aequo et bono. Decision: The arbitrators shall issue written findings of fact and conclusions of law, the decisions of the arbitrators will be binding and conclusive upon all parties involved, and judgment upon any decision of the arbitrators may be entered in the highest court of any forum, federal or state, having jurisdiction thereof.

XXIII. MISCELLANEOUS

No Partnership or Agency: Customer understands and acknowledges that no joint venture, partnership, employment, or agency relationship exists or is created between Customer and Landvoice as a result of subscription to Product or Service or use of the Website. Assignment. Customer may not assign or transfer its interests, rights or obligations under this Agreement by written agreement, merger, consolidation, operation of law, or otherwise, without the prior written consent of Landvoice. Any attempt to assign this Agreement by Customer shall be null and void. Landvoice may assign its interest and obligations under this Agreement at its sole discretion. Governing Law: The contents of Product, Service and Website and any claims related to them are governed by the laws of the State of Utah, without reference to its conflict of laws rules. Customer consents to the exclusive jurisdiction of the state and Federal courts located in Salt Lake County, Utah, and Customer waives to the fullest extent allowed by law the defense of an inconvenient forum to the

maintenance of any action or proceeding. Customer waives any right to trial by jury with respect to any claim or controversy arising out of or relating to this Agreement. Attorneys' Fees: In the event of any breach of this Agreement, Landvoice, if the prevailing party, shall be entitled to reimbursement of all of its costs and expenses, including reasonable attorneys' fees, incurred by Landvoice in connection with such dispute, claim, or litigation, including any appeal therefrom. For purposes of this Section, the determination of which party is to be considered the prevailing party shall be decided by the court of competent jurisdiction or independent party (i.e., mediator or arbitrator) that resolves such dispute, claim, or litigation. Injunctive Relief: If Customer breaches or threatens to breach Section II, III, IV, IX, X or XI, Customer agrees that Landvoice will be irreparably harmed and shall be entitled to apply to a court of competent jurisdiction for an injunction compelling specific performance by Customer of its obligations under this Agreement without the necessity of posting bond.

Severability. If any of the provisions of this Agreement shall be invalid or unenforceable under the laws of the jurisdiction where enforcement is sought whether on the basis of a court decision or of arbitral award applicable to the entire Agreement, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement but rather the entire Agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions and the rights and obligations of Licensor and Customer shall be construed and enforced accordingly. Entire Agreement: The above terms and conditions of this Agreement constitute the entire and only agreement between Customer and Landvoice on the matters described. BY CLICKING "Customer ACCEPTS THESE TERMS AND CONDITIONS," Customer ACCEPTS AND IS BOUND BY ALL THE TERMS AND CONDITIONS OF THIS LICENSE AND SERVICES AGREEMENT.

ND: 4821-3664-2049, Ver3