



## Terms of Service

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### 1. INTRODUCTION.

These Terms of Service constitute the agreement between ManhattanVirtuals, Inc. (MVI) and the user of MVI's communications services and any related products or services. This agreement governs both our service and any MVI-approved or MVI-provided devices used with our service. It applies to all lines on each MVI account. MVI Inc. is sometimes referred to as "we," "us," "our," or "MVI" and the user is sometimes referred to as "you," "your," or "user," or "customer".

By subscribing to or using our service, you agree to these Terms of Service. All information linked to these Terms of Service is part of it.

### 2. EMERGENCY SERVICES - 911 DIALING.

- 2.1 911 Dialing.  
MVI 911 dialing is different than traditional 911 service.
- 2.2 MVI 911 Disclosure Agreement.  
[Click here to see the current form of the MVI 911 Disclosure Agreement.](#)

#### 911 DISCLOSURE DURING SUBSCRIBE

MVI 911 service is different from traditional wireline 911 and cellular/wireless 911, but it is a safe and reliable means of emergency dialing that may differ depending on where you are located, and the device used, when using your MVI service.

MVI customers have access to Enhanced 911 (E911). With E911 service, when you dial 911 your MVI phone number and registered address is sent to the local emergency center serving your location, and emergency operators have access to this information in order to send help and call you back if necessary. With basic 911, when you dial 911, local emergency operators answering the call may not see your MVI telephone number or your registered address. The emergency center may not be equipped to receive, capture or retain your MVI telephone number and registered address, so you must be prepared to give them this information. Until you give the operator your phone number, he/she may not be able to call you back or dispatch help if the call is dropped or disconnected, or if you are unable to speak. Once local emergency centers are capable of receiving our customers' information, we automatically upgrade customers with basic 911 to E911 service.

We require you to provide the physical address where you will be using our service for 911 purposes. For E911 and basic 911, this address is used to route 911 calls to your local emergency center. When you initially provide your physical address. You will receive an email letting you know when 911 service is activated.

If you move this device to another location, you must update your address. You may register only one location at time. If you do not update your location, your 911 calls may be sent to an emergency center near your old address. When you update your location, it can take several hours to activate 911 service at the updated address. You will receive an email letting you know when 911 service is activated at the updated address.

Please note that our 911 Dialing service will not function in the event of a broadband or power outage or if your broadband, Internet Service Provider (ISP), or MVI phone service is terminated.

3. CUSTOMER SERVICE.

We offer varying types and levels of customer service depending on a number of factors, including the service you are using and the problems you are experiencing. For more information on our customer service, please review the "Help" section of our web site [www.ManhattanVirtuals.com](http://www.ManhattanVirtuals.com). We assume no obligation to provide support services for any third party products or services, or for problems with our service caused by third party products or services. Unless you have entered into a separate services agreement with us, we may change the customer service options at any time.

4. MONEY BACK GUARANTEE.

We offer a money back guarantee, less Set-Up fees, if you terminate your service within 30 days from your subscription date. The subscription date is the date you order service or the date we successfully process your payment, whichever is later. It is not the day you receive the equipment you ordered or the first day you use the service.

4.1 Intentionally Left Blank

4.2 Intentionally Left Blank

4.3 We have the right to disconnect or revoke our 30 day money back guarantee for all customers at any time, without prior notice.

5. SERVICE

5.1 Service Distinctions.

Our service is not a telecommunications service, and we provide it on a best efforts basis. There are important distinctions between a telecommunications service and our service. Our service is subject to different regulatory treatment than a telecommunications service. This treatment may limit or otherwise affect your rights of redress before regulatory agencies. Our service requires a high speed broadband connection. Events beyond our control may affect our service, such as power outages, fluctuations in the Internet, your underlying ISP or broadband service, or maintenance. We will act in good faith to minimize disruptions to your use of and access to our service.

5.2 Residential/Individual Use of Service and Device.

If you subscribe to our residential service plans, we provide you with service and the device solely for normal residential, non-commercial use. If you subscribe to a service plan which permits use of more than one device with the same voice line, the basis for assessing such use will not change.

5.3 Small Business Plans.

If you subscribe to any of MVI 's small business plans, we provide our service and the device to you solely for use as a small business user or domestic business traveler. In the event MVI in its sole discretion allows you to provide the equipment, then you are responsible for supplying, operating, and supporting the standard SIP based Customer Premise Equipment for use with the service. As the subscriber and operator or administrator of this equipment, you are responsible for maintaining the security of the equipment, including but not limited to the physical and network security elements of your device.

5.4 Inconsistent with Normal Use.

If you use the service or the device in a way that is inconsistent with the normal use for your service or plan, you will be required, at MVI 's sole discretion, to pay the rates for the service or plan that would apply to the way you used the service or device, or terminate the plan. For example, if you subscribe to one of our residential service plans, and you are notified that your usage is inconsistent with normal residential use, you may thereafter be required to pay our higher rates for commercial service for all periods in which your use of our service or the device was inconsistent with normal residential use. More than 4,000 minutes per line per month for unlimited residential calling and more than 8,000 minutes per line per month for unlimited small business calling will not be considered normal use. The creation or use of related multiple accounts or excessive residential lines to circumvent these levels shall also be considered inconsistent with normal use. Usage over these levels or other inconsistent use will result, in MVI 's sole discretion, in immediate mandatory transfer to another appropriate plan, suspension or termination of service. You acknowledge that if your service is terminated under this provision, you are subject to all applicable termination charges.

5.5 No 0+ or Operator Assisted Calling;

May Not Support x11 Calling. Our service does not support 0+ or operator assisted calling, including, without limitation, collect calls, third party billing calls, 900, or calling card calls. Our service may not support 311, 511, and other x11 services in one or more service areas. Our service does support specified dialing such as 911 and 411, which are provided for elsewhere in these Terms of Service.

5.6 No Directory Listing.

The phone numbers you get from us will not be listed in any telephone directories. However, any phone numbers you transfer from your local phone company may be listed.

5.7 Incompatibility With Other Services.

- (a) Non-Voice Equipment Limitations. You acknowledge that our service may not be compatible with all non-voice communications equipment, including but not limited to home security systems, medical monitoring equipment, certain versions of TIVO, satellite television systems, PBX, Centrex, other private telephone networks, or computer modems. You waive any claim against MVI for interference with or disruption of these services and equipment, as well as any claim that MVI is responsible for any disruption to your

business, if applicable.

(b) Certain Broadband, Cable Modem, and Other Services.

You acknowledge that our service presently is not compatible with AOL cable broadband service and certain versions of TiVO. There may also be other services with which our service may be incompatible. Some providers of broadband service may provide modems that prevent the transmission of communications using our service. We do not warrant that our services will be compatible with all broadband services and expressly disclaim any express or implied warranties regarding the compatibility of our service with any particular broadband service.

5.8 Passwords

You will be asked to create a password in order to gain access to your account information on-line or when contacting a MVI agent by phone. You agree to keep all passwords and account information confidential and are solely responsible for any liability or damages resulting from your failure to maintain that confidentiality, and for all activities that occur under your password. You must immediately notify us if you suspect any breach of security such as loss, or unauthorized disclosure or use of your password and account.

5.9 Changes to Service Plans

Your service plan includes terms and conditions such as monthly service allowances and features, and the charges associated with those allowances and features, all as described in the materials made available to you on your subscription date. You acknowledge that your service plan is also subject to these Terms of Service. Our service is subject to our business policies, practices and procedures, which we can change at any time without notice. Unless otherwise prohibited by applicable law, we can also change the terms and conditions of your service plan (such as features and prices) at any time, with or without notice. If we do give you notice, it may be provided on your account web page or monthly bill, in a newsletter, in a mailing, by e-mail, or other communication permitted under applicable law.

5.91 Virtual Office Plans

For all customers subscribing to Virtual Office Plans or in any way utilizing our office location based services including but not limited to; Mail receipt and forwarding, conference room or Workstation access; telephone and/or computer access INITIAL TERM OF SERVICE IS ONE YEAR.

(a) The whole of the business center remains the property of its owner and remains in the owner's possession and control. Customer acknowledges that this Agreement creates no tenancy interest, leasehold estate or other real property interest in Customer's favor with respect to the virtual office program. This Agreement is personal to Customer and cannot be transferred to anyone else. The Owner may transfer the benefit of this Agreement and the owner's obligations under it at any time.

(b) (ii) FEES

(c) Pre-Paid Fees: For 12 Month Term Customers who select 12 Month Pre- Pay option if offered by MVI in its sole discretion, upon purchase and activation, and 90 Days prior to each subsequent Renewal Start Date, Customer shall pay to MVI the Monthly Fees for the following 12 Month period in total. Should Customer fail to pay in advance for the 12 Month renewal period at least 90 Days prior to the end of the initial term, MVI will terminate the Agreement at the end of the initial term. For Customers who do not Pre-Pay for the initial term, the initial Monthly Fee for the first month ("Pre-Paid Fees") must be provided to MVI prior to, or at the time of, purchase as assurance for the faithful performance and observance by Customer of the terms, covenants, conditions and provisions of this Agreement. If Customer abandons the virtual office program before the End Date or if in the renewal period, before the "Renewal End Date," Customer will not be reimbursed any amount of Pre-Paid Fees except as where stated otherwise herein.

(d) Service Deposit: Upon purchase, if requested by MVI in its sole discretion, Customer shall pay to MVI a service deposit ("Service Deposit") as set forth in plan which shall be used to offset any fees Customer may owe (i) when Customer vacates the premises, or (ii) if Customer has not used the virtual office service at any time except as where stated otherwise herein. The balance of the Service Deposit shall be returned to the Customer either (i) within 60 days after the End Date if this Agreement is not renewed or (ii) within 60 days after the final Renewal End Date if this Agreement is renewed. Customers who select the 12 Month Pre-Pay option are not required to provide a security deposit. Should Customers who select the 12 Month Pre Pay option not pay for any renewal of this Agreement at least 90 Days prior to the end of this Agreement, MVI shall continue to service the account through the end of the initial term or any pre paid renewal term provided the Customer does not have a balance due. Should Customer have an outstanding balance Company may suspend service prior to the end of the term. Failure to pay any outstanding balance will result in the termination of the Agreement and MVI and owner shall have no liability for any loss encountered by the Customer as a result of this action.

(e) MVI will accept mail on Customers behalf. MVI will only accept mail that includes the name of the individual(s) and or Company(s) listed in configuration information at time of purchase, or otherwise updated by Customer in writing or using the MVI online portal.

(f) Upon termination of this Agreement Customer acknowledges that the telephone numbers assigned to Customer at the commencement of the Agreement remain the property of the MVI and may only be transferred subject to the prior fulfillment of all terms & conditions herein.

(g) Upon termination of the Agreement MVI shall, as a courtesy, forward mail to an address specified by Customer on a monthly basis via United States Postal Service. Company will withhold this service if the Customer has a remaining balance at the end of their term. MVI will not forward any items weighing in excess of 0.3 lbs unless Customer has made previous arrangements with MVI or paid for this service in advance.

(h) MVI will use the email address provided by Customer at time of purchase any invoices and any other communications from Company. Customer must ensure an accurate and valid email address is registered with the MVI at all times.

6. LENGTH OF SERVICE.

6.1 Service Term.

Initial term is ONE YEAR, unless otherwise indicated in Plan when purchased, or (12 months). Your service term refers to the period of time for which we will bill you in advance (for example, monthly, 1 year, etc.). Your first service term begins on the subscription date, which is the date you first ordered

service or the date we successfully process your payment, whichever is later. It is not the day you receive the equipment you ordered or the first time you use the service. Your service will continue until canceled by you or by us as provided for herein. Please note that the obligations of this agreement begin on your subscription date and are indefinite.

#### 6.2 Automatic Renewal.

After initial Term, your service term automatically renews for successive 1 year terms unless you call us at 1-212-531-6200 or email [billing@ManhattanVirtuals.com](mailto:billing@ManhattanVirtuals.com) to cancel your service at least 30 days before the end of your then current service term. The renewal begins on the day after the last day of your service term. All standard terms and conditions apply to all renewal periods indefinitely.

#### 6.3 Other Commitments.

If you made a commitment as part of a promotional or plan benefit (such as an equipment upgrade, a free month of service, free installation, a rebate, or other incentive), unless otherwise specified in the offer you received, your commitment begins on the earlier of the day that you use the new equipment or accept the promotion or benefit. We will disclose the length of the commitment as part of the promotion or plan.

#### 6.4 Our right to disconnect.

We have the right to suspend or discontinue service generally, or to disconnect your service, at any time. In addition, we reserve the right to immediately disconnect your service at any time without notice:

Lawful or inappropriate use, non payment, violations of laws of jurisdiction, inconsistent usage, tampering of any sort. Our action or inaction under this section does not constitute any review or approval of your action or use or content.

#### 6.5 Fees upon disconnection.

- (a) Disconnection by you. If you attempt to disconnect service a minimum of 30 days prior to the end of your then current service term, you will be responsible for all the charges for remainder of your then current term, including unbilled charges, per phone number.
- (b) Disconnection by us without a reason. If we discontinue service generally, or disconnect your service without a stated reason, you will only be responsible for the charges that have accrued through the date of the disconnection, including a pro-rated portion of the final service term charges, and any recovery fees.
- (c) Disconnection by us with a reason. If we disconnect your service for any of the reasons listed in section 6.4 above, you will be responsible for all charges through the end of your current service term, including unbilled charges, plus any disconnection and any recovery fees.
- (d) All charges owed at the time of disconnection will be immediately payable. We will pursue collection for unpaid amounts on disconnected accounts and may report these unpaid charges to credit bureaus.

#### 6.6 Number Transfer or "Port" on Service Disconnection.

- (a) Accounts not carrying any monetary balance and not in contract shall be permitted to port 212 number away from MVI, provided All outstanding balances and Any/All Early Termination Fees are paid in advance, only then shall port be permitted. If you ask your new service provider to port a number from us, and we receive your request from the new service provider, we will terminate our service for that number upon successful completion of the port. Once your service is terminated and the port is completed, you will remain responsible for all charges and fees through the end of that billing cycle, including any cancellation fees. If a port is unsuccessful for any reason, your service and your agreement with us will not terminate, you will remain an MVI customer, and you will continue to be responsible for all charges and fees associated with your MVI service.
- (b) Multiple-line Accounts. If you request your new service provider to port a number from us and you have multiple numbers assigned to your account and/or additional devices such as the WiFi or Softphone on your account, you are required to inform us of your intent to terminate all the services on your account, prior to the successful completion of the requested port or we will select the most appropriate billing plan

#### 6.7 Termination of Service.

In order to terminate your service, you must contact our Billing Department, via email or telephone, at the following [Billing@ManhattanVirtuals.com](mailto:Billing@ManhattanVirtuals.com) or Tel: 212-531-6200. We are available to assist you Monday-Friday 9:00 a.m. – 5:00 p.m. Eastern Standard Time. All standard terms & Conditions shall apply. Please note that simply returning your device to us, without notifying our Customer Care Department that you wish to terminate service and without receiving a return authorization number from us, will not terminate your service and you will remain responsible for all costs and fees associated with your account.

### 7. DEVICES

#### 7.1 Devices purchased from a retail provider.

- (a) Return of Device. Except as provided in the limited warranty found in Section 7.1(b) below; All device returns are subject to our prior written return authorization.
- (b) Limited Warranty from MVI for retail customers only. We will provide a limited warranty on the device only for manufacturing defects for a period of 1 year from your subscription date. This retail customer limited warranty does not apply to any defect or failure other than a manufacturing defect. Without limiting the generality of the warranty, it does not apply to any defect caused by damage in transit, retailer handling, or your handling of your device. Some States do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to you. For returns subject to this retail customer limited warranty, the following conditions must be satisfied:

we receive your device, in its original condition, reasonable wear and tear excluded, together with the original packaging, all parts, accessories, and documentation;

before returning your device to us, and within 1 year from your subscription date, you need to obtain a valid return authorization number from our Customer Care department which you can reach at 212-531-6200; and [www.ManhattanVirtuals.com](http://www.ManhattanVirtuals.com), you pay all costs of shipping your device back to us.

- 7.2 Devices received from us.
- (a) Limited Warranty. Except as set forth in these Terms of Service, if you received a device from us and the device included a limited warranty from another person (such as the manufacturer) at the time you received it, you should read the separate limited warranty document you got with the device for information on the limitation and disclaimer of certain warranties. We will provide a limited warranty on the device only for manufacturing defects for a period of 1 year from your subscription date. Some States do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to you.
- (b) Repair or replacement. Your only remedy for any breach of any limited warranty or other breach of any duty regarding a device is to get a repaired or replacement device by following our return procedures. This limited warranty applies in place of the limited warranty included with the device if the included limited warranty is less favorable to you than this warranty.
- (c) Service Cancellation. If you cancel your service within the money back guarantee period, you may obtain a credit for the amount paid for the device, if you return your device to us according return procedures within 30 days.
- (d) Receipt of damaged devices. If you receive cartons or devices that are visibly damaged, you must note the damage on the carrier's freight bill or receipt and keep a copy. You must also keep the original carton, all packing materials, and parts in the same condition in which you received them from the carrier. You must then contact our customer care department immediately at 212-531-6200).
- (e) Ownership and Risk of Loss. You will own your device and bear all the risk of loss, theft, or damage. This risk is from the time we ship your device to you until the time you return it to us according to this agreement.
- 7.3 Tampering with the Device.  
You may not change the electronic serial number or equipment identifier or encryption keys or other authentication or technical data of your device or perform a factory reset of your device without first getting our written consent.
- 7.4 Prohibited Devices.  
You are prohibited from using MVI services with any devices other than MVI -approved devices received from retailers or from us.
- 7.5 Disclaimer.  
Other than express warranties for the device in the documentation that comes with your device and the retail customer limited warranty in this agreement, following the term of the limited warranty, we make no warranties of any kind, express or implied, and specifically disclaim, following the term of the limited warranty, any warranty of merchantability, fitness of the device for a particular purpose, title or non-infringement, or any warranty arising by usage of trade, course of dealing, or course of performance, or any warranty that the device or any firmware or software is "error free" or will meet your requirements. This section does not limit any disclaimer or limitation of warranty in the documentation provided with your device. Device warranties do not apply to Business Plus customers.

This warranty gives you specific legal rights, and you may also have other rights which vary from State to State.

## 8. FEES, TAXES, AND OTHER CHARGES.

- 8.1 Fees and charges.  
Fees and charges are based on the agreement you make at the time of purchase and otherwise as MVI duly notify's you otherwise. These fees and charges may change from time to time. We may introduce new products and services at special introductory pricing. At our discretion, we may change introductory pricing. Where required by law, we will send notification of invoices to your email address on file with us. We reserve the right to bill you more frequently if you owe us more than \$25.
- 8.2 Billing increments.  
We bill usage charges in full minute increments. We round partial minutes up to the next full minute.,  
We bill fractional usage charges in full cents. See our rate schedules on our website for current prices.
- 8.3 Taxes  
State and local governments may assess taxes, surcharges, or fees, or all of these, on your use of our service. These charges may be a flat fee or a percentage of your MVI charges and may change without notice. These charges are based on the rates applicable to the address you provided to us. You are responsible for all applicable taxes, fees, or charges for your subscription, use, or payment for our service or your device. These amounts are in addition to the payment for your service or devices. We will bill these charges to your payment method according to the terms in this agreement. If you are exempt from payment of any of these taxes, you must provide us with an original certificate that satisfies the legal requirements attesting to tax-exempt status. Tax exemption will only apply from the date we receive your certificate. Manhattan Virtuals, Inc. c/o Connectivity Services, Inc. Attn: Tax Manager, 1140 Broadway, Fl-6, NY 10001
- 8.4 Payphone Charges.  
If you use our "Toll Free Plus" feature, or any toll free feature that we offer in the future, we will recover from you any charges imposed on us either directly or indirectly for toll free calls made to your number. We may recover these amounts by means of a per-call charge, rounded up to the next cent, or in any

other way we decide is appropriate for the recovery of these costs.

- 8.5 Charges for Directory Calls (411).  
We will charge you \$0.99 for each call you make to MVI directory assistance except, and only to the extent, that such calls are expressly included in the fee for a service plan that you have selected.
- 8.6 Activation Fee.  
We will charge you a one-time activation fee of up to one month of service for residential and business accounts and any other activation fee that may apply to the particular features or service that you select.
- 8.7 Disconnection Fee.  
You will be charged a disconnection fee of the remaining months in your term times the monthly recurring fee, subject to state and local laws.
- 8.8 Recovery Fee.  
If you disconnect service based on a commitment before the end of the commitment period, you agree to pay us the applicable recovery fee. A recovery fee is equal to the difference between the price you paid and the regular price of the good, service, or other benefit you received. Any recovery fees are cumulative and are in addition to any other amounts you may owe us, including any disconnection fees.
- 8.9 No Credit Allowances or Refunds for Prepaid Service Plan Customers.  
Subject to our money back guarantee and law, we will neither credit nor refund any service fees or any other amounts you pay for any prepaid service plans.
- 8.10 No Credit for Non-Usage or Misdialing  
Neither non-usage of the service nor misdialing while using the service entitle you to a credit for, or refund of, any portion of a payment made to us.

## 9. BILLING AND PAYMENT.

- 9.1 Billing.  
SERVICE IS A CREDIT CARD BILLED SERVICE ONLY, BILLED MONTHLY IN ADVANCE. VALID CREDIT CARD MUST BE ONFILE AT ALL TIMES TO AVOID INTERRUPTION OF SERVICE.  
Update your credit card information here : [www.ManhattanVirtuals.com](http://www.ManhattanVirtuals.com), "MYACCOUNT" Section.

We will bill you for each term of service. When you subscribe to our service, you must give us a valid email address and a payment method that we accept. We reserve the right to stop accepting your payment method or your payments. You must advise us at once if your payment method expires, you close your account, your billing address changes, your email address changes, or your payment method is cancelled and replaced on account of loss or theft. Except for usage-based charges, we will bill in advance to your payment method all charges, fees, taxes, and surcharges for each service term. We will bill monthly as due immediately usage-based charges and any other charges which we decide to bill as due immediately. Bills will be sent to the email address on record.

- 9.2 Payments.  
You authorize us to bill your credit card for all fees recurring and non-recurring, as required and due in advance of the service period and based on usage during any given period in increments as small as \$25 each. At any time valid credit card is not available, service interruption will occur and full balance due. This authorization will remain valid until 30 days after you terminate our authority to charge your payment method or your account. We will then charge you any disconnection fee and any other outstanding charges and disconnect your service.
- 9.3 Collection.  
If we disconnect your service, you will remain liable to us for all charges under this agreement and all the costs we incur to collect these charges, including, without limitation, collection agency fees, reasonable attorneys' fees, and arbitration or court costs.
- 9.4 Notices.  
You agree to promptly update your account information whenever your personal or billing information changes (including, for example, your name, address, e-mail address, telephone number, and credit/debit card number and expiration date). Update information in "MYACCOUNT" Section online at [www.Manhattanvirtuals.com](http://www.Manhattanvirtuals.com)
- You acknowledge and agree that MVI will be sending you information regarding your service, including via e-mail, over the Internet. If notices are sent by us to the last email address provided by you, you agree that we have provided sufficient email notice and you waive any rights to assert failure of notice.
- You understand that it is difficult for us to distinguish between credit and debit cards. You agree to waive your rights under Regulation E to receive 10 days advance notice from us regarding the amount that we will debit from your account. While we may send you messages about your billing from time to time, we are not obligated to do so. We may change or cease our messages at any time without notice to you.
- 9.5 Billing Disputes.  
If you want to dispute any MVI charges on your statement, you must notify us within 7 days after you receive your statement from your bank or credit card issuer. If you do not dispute the charges within 7 days, you waive any right to contest the charges. [billing@ManhattanVirtuals.com](mailto:billing@ManhattanVirtuals.com) or call: 212-531-6200

## 10. PROHIBITED USES; UNLAWFUL USES AND INAPPROPRIATE CONDUCT.

- 10.1 Lawful purposes only.  
You may use our service and your device only for lawful, proper and appropriate purposes. You may not use our service or your device in any way that is illegal, improper or inappropriate.

threatening,	In addition, you shall not use our service or your device for	and, you shall not use our service or your device to
abusive,	auto-dialing	impersonate another person;
harassing,	continuous, or extensive call forwarding	send bulk unsolicited messages;
defamatory,	Inbound/outbound centralized or distributed call center activity	use robots, data mining techniques, or other automated devices or programs to catalog, download, store, or otherwise reproduce or distribute information from our service or use any automated means to manipulate our service;
libelous,	telemarketing (including charitable or political solicitation or polling)	
deceptive,	fax or voicemail broadcasting, or	use our service to violate any law, rule, or regulation;
fraudulent,	fax or voicemail blasting	violate any third party's intellectual property or personal rights; or
invasive of another's privacy, or any similar behavior		exceed your permitted access to our service.

10.2 Monitoring.

We may monitor the use of our service for violations of this agreement. We may remove or block all communications if we suspect a violation of this agreement, or if we think it necessary in order to protect our service, or MVI , its parent, affiliates, directors, officers, agents, and employees from harm.

10.3 Providing information to authorities and third parties.

If we believe that you have used our service or your device for an unlawful purpose, we may forward the relevant communication and other information, including your identity, to the appropriate authorities for investigation and prosecution. You consent to our forwarding of any such communications and information to these authorities. In addition, we may disclose your name, telephone number, credit card information, and other personal information, any communications sent or received by you, and any other information that we may have about your account, including but not limited to, types of service, length of service, MAC address(es), IP address(es), email address(es), registered 911 address, and all other account information, as follows:

- (i) in response to law enforcement or other governmental agency requests;
- (ii) as required by law, regulation, rule, subpoena, search warrant, or court order;
- (iii) as necessary to identify, contact, or bring legal action against someone who may be misusing the service, the device, or both;
- (iv) to protect MVI 's rights and property; or
- (v) in emergency situations where disclosure of such information is necessary to protect MVI customers or third parties from imminent harm.

10.4 Use of Service and Device by Customers Outside the United States.

Although we encourage you to use our service to call foreign countries from the United States and to use our service as you travel, the services are only offered and supported in the United States. Our service is designed to work generally with unencumbered high-speed internet connections. However, if the high-speed internet connection you are using is not within a MVI service area or your ISP or broadband provider places restrictions on using VoIP services, we do not claim that they will allow you to use our service. You will be solely responsible for any violations of local laws and regulations or violations of ISP and broadband provider terms of service because of your use of our service.

10.5 No Transfer of Service.

You may not resell or transfer your service or your device or provide a telephone service to anyone else by using your MVI service or features of your MVI service without first getting our written consent.

10.6 No Alterations or Tampering.

If you copy or alter or have someone else copy or alter the firmware or software of the device in any way that facilitates a compromise of your service, you are responsible for any charges that result. You may not attempt to hack or otherwise alter or disrupt our service or make any use of our service that is inconsistent with its intended purpose.

10.7 Theft of Service.

You may not use or obtain our service in any manner that avoids MVI policies and procedures, including an illegal or improper manner. You will notify us immediately at 212-531-6200 or billing@ManhattanVirtuals.com if your device is stolen or if you believe that your service is being stolen, fraudulently used, or otherwise being used in an unauthorized manner. When you notify us of one of these events, you must provide your account number and a detailed description of the circumstances of the theft, fraudulent use, or unauthorized use of service. If you fail to notify us in a timely manner, we may disconnect your service and levy additional charges on you. Until you notify us, you will be liable for all

use of our service using a device stolen from you and any stolen, fraudulent, or unauthorized use of our service whether or not it involves a stolen device.

10.8 Unauthorized Usage of Device; Firmware or Software.

Except as stated for Business Plus customers, you have not been granted any license to use the firmware or software we use to provide our service or that we provide to you in providing our service, or that is embedded in your device, other than a nontransferable, revocable license to use the firmware or software in object code form (without making any modification to it) strictly according the terms and conditions of this agreement. You also agree that you will use your device exclusively for our service. We will not provide any passwords, codes, or other information or assistance that would enable you to use your device for any other purpose. We reserve the right to prohibit the use of any interface device that we have not provided to you. You warrant that you possess all required rights, including software or firmware licenses, or both, to use any interface device that we have not provided to you. You may not reverse compile, disassemble, or reverse engineer, or otherwise attempt to derive the source code from the binary code of the firmware or software.

11. LIMITATION ON WARRANTIES, REMEDIES AND LIABILITY.

11.1 AS IS Services.

You agree that our services are provided "as is," except to the extent provided below.

11.2 No Warranties on Service.

We make no warranties, express or implied, including but not limited to, any implied warranties of merchantability, fitness of the service or device for a particular purpose, title or non-infringement or any warranty arising by usage of trade, course of dealing or course of performance. In addition, we do not warrant that the service or device will be without failure, delay, interruption, error, omission, degradation of voice quality, or loss of content, data, or information. Neither MVI nor its officers, directors, employees, affiliates or agents, or any other service provider or vendor who furnishes services, devices, or products to the customer for our service will be liable for unauthorized access to our or your transmission facilities or premises or equipment or for unauthorized access to, or alteration, theft, or destruction of, customer's data files, programs, procedures, or information through accident, fraudulent means, devices, or any other method, regardless of whether such damage occurs as a result of MVI's or its service provider's or vendors' negligence. Statements and descriptions concerning our service or device, if any, by MVI or MVI's agents or installers are informational and are not given as a warranty of any kind.

11.3 Device Warranties and Limitations (See Section 7)

11.4 No Credit Allowances for Interruption of MVI Service.

We will not give you credit for any interruption of MVI service, including international calling services.

11.5 Limitation of Liability.

We will not be liable for any delay or failure to provide service, including 911 Dialing, at any time or any interruption or degradation of voice quality that is caused by any of the following:  
Third Party omission, Equipment Failure, Equipment modification, Force majeure, equipment shortage, equipment relocation, loss of power, outages, acts or omissions, or other causes outside our control.

11.6 Disclaimer of Liability for Damages.

In no event will MVI, its officers, directors, employees, affiliates or agents or any other service provider who furnishes services or devices to you in connection with our service be liable for any damages, including but not limited to personal injury, wrongful death, property damage, loss of data, loss of revenue or profits, or damages arising out of or in connection with the use or inability to use a device or the service, including inability to access emergency service personnel through the 911 dialing service or to obtain emergency help. These limitations apply to claims founded in breach of contract, breach of warranty, product liability, tort, and any and all other theories of liability. These limitations apply whether or not we were informed of the likelihood of any particular type of damages.

Some States do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you.

11.7 Disclaimer of 911 Liability.

We disclaim all responsibility for the conduct of local emergency response centers and the national emergency calling center. We do not have any control over any local emergency response center. Therefore, we are not responsible for whether they answer calls using our 911 dialing service, how they answer these calls, or how they handle them. We rely on third parties to assist us in routing 911 dialing calls to local emergency response centers and to a national emergency calling center. We are neither liable nor responsible if the data used by a third party to route calls is incorrect or produces an erroneous result. Neither MVI nor its officers or employees may be held liable for any claim, damage, or loss, fine, penalty, cost, and expense (including, without limitation, attorneys fees) by, or on behalf of, you or any third party or user of our service, relating to our service, including, without limitation, 911 Dialing, or your device.

11.8 Limit on total liability.

Our total liability under this agreement will not exceed the service charges for the affected time period. MVI will not be responsible for third party fees or charges, including but not limited to, banking fees, overdraft fees, cellular phone or other wireline charges, technician charges, or other similar charges.

12. INDEMNIFICATION AND WAIVER OF CLAIMS.

- 12.1 **Indemnification.**  
You shall defend, indemnify, and hold harmless MVI , its officers, directors, employees, affiliates and agents, and any other service provider who furnishes services to you for our service, from any and all claims, losses, damages, fines, penalties, costs, and expenses (including, without limitation, attorneys fees) by, or on behalf of, you or any third party or user of our service, relating to our service, including, without limitation, 911 Dialing, or your device(s), or use of our service by you or others using your account (whether or not such usage is expressly authorized by you).
- 12.2 **Waiver of Claim or Causes of Action.**  
You waive all claims or causes of action arising from or relating to our 911 dialing service unless the claims or causes of action arise from our gross negligence, recklessness, or willful misconduct.
- 12.3 **Content.**  
You are liable for all liability that may arise from the content transmitted to any person, whether or not you authorize it, using your service or device(s). You promise that you and anyone who uses your service and all your and their content comply at all times with all laws, regulations, and written and electronic instructions for using our service and the device.
- 12.4 **Account Information.**  
You are liable for all liability that may arise from your failure to provide true, accurate, current and complete information and to maintain and promptly update such information. If you provide any information that is, or we have reasonable grounds to suspect is, untrue, inaccurate, misleading, not current or incomplete, we may suspend or terminate or refuse any and all current or future use of the service, or any portion thereof. .
13. **MISCELLANEOUS LEGAL CONSIDERATIONS.**
- 13.1 **Governing Law.**  
The law of the state of New York will govern this agreement as well as the relationship between you and us, except to the extent such law is preempted by or inconsistent with applicable federal law. Because this agreement is a transaction in interstate commerce, the Federal Arbitration Act ("FAA"), and not state arbitration law, shall govern the interpretation and enforcement of the arbitration provision in Section 14, unless otherwise agreed to or requested by MVI in its sole discretion.
- 13.2 **No Waiver of Rights.**  
Our failure to exercise or enforce any right or provision of this agreement will not constitute a waiver of the right or provision. MVI reserves all of its rights at law and equity to proceed against anyone who uses its services or device illegally or improperly. All determinations by MVI under these Terms of Sale and exercise of its rights are made and done in our sole and absolute discretion.
- 13.3 **Survival.**  
The provisions of this agreement that by their sense and context are intended to survive the termination or expiration of this agreement shall survive.
- 13.4 **No Third Party Beneficiaries.**  
If you are not a party to this agreement, you do not have any remedy, claim, liability, reimbursement, or cause of action. This agreement does not create any third party beneficiary rights.
- 13.5 **Legal Age.**  
You promise that you are of legal age to enter into this agreement and that you have read and understand fully its terms and conditions.
- 13.6 **Entire Agreement.**  
This agreement, including any future modifications to its terms, and the rates for services found on our web site constitute the entire agreement between you and MVI . This agreement governs your use of our service, and the use of our services by the members of your household and your guests and employees. This agreement supersedes any prior agreements between you and MVI . It also supersedes all prior or contemporaneous statements, understandings, writings, commitments, or representations concerning its subject matter.
- 13.7 **Severability.**  
If any part of this agreement is legally declared invalid or unenforceable, all other parts of this agreement will remain valid and enforceable. This invalidity or non-enforceability will not invalidate or render unenforceable any other portion of this agreement.
14. **DISPUTE RESOLUTION AND BINDING ARBITRATION.**  
It is important that you read this entire section carefully. This section provides for resolution of disputes through final and binding arbitration before a neutral arbitrator instead of in a court by a judge or jury.
- 14.1 **Arbitration.**  
MVI and you agree to arbitrate any and all disputes and claims between you and MVI . Arbitration means that all disputes and claims will be resolved by a neutral arbitrator instead of by a judge or jury in a court. This agreement to arbitrate is intended to be given the broadest possible meaning under the law. It includes, but is not limited to: disputes and claims arising out of or relating to any aspect of the relationship between you and MVI , whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory; disputes and claims that arose before this or any prior agreement (including, but not limited to, claims relating to advertising); disputes and claims that may arise after the termination of this agreement; disputes and claims that are currently the subject of individual litigation; disputes and claims that are currently the subject of purported class action litigation in which you are not a member of a certified class; and disputes and claims concerning the scope of this arbitration provision. References to "MVI , " "us" and "you" include our respective subsidiaries, affiliates, agents,

employees, predecessors in interest, successors and assigns, as well as all authorized or unauthorized users or beneficiaries of the service under this agreement or any prior agreements between you and MVI .

- 14.2 **Informal Resolution of Disputes.**  
Our customer care department can resolve most customer concerns quickly and to the customer's satisfaction. If you have a dispute or claim against us, you should first contact the MVI customer care department by telephone at 212-531-6200 or by email at [billing@ManhattanVirtuals.com](mailto:billing@ManhattanVirtuals.com) . In the event your dispute or claim is not resolved to your satisfaction, you may seek to have that dispute or claim resolved as set forth below.
- 14.3 **Formal Notice of Disputes.**  
A party who intends to seek arbitration must first send to the other party a written Notice of Dispute.
- (A) A Notice of Dispute to MVI must be sent to MVI :
- (1) by certified mail addressed to: Manhattan Virtuals, c/o Connectivity Services, Inc., Attn: Chief Legal Officer, 1140 Broadway, Floor 6, NY 10001; or
- (2) by email addressed to [billing@ManhattanVirtuals.com](mailto:billing@ManhattanVirtuals.com)
- (B) A Notice of Dispute to you must be sent to you
- (1) by certified mail at the last mailing address that you registered with MVI ; or
- (2) by email addressed to you at the last email address you registered with MVI .
- (C) The Notice of Dispute must
- (1) describe the nature and basis of the dispute or claim; and
- (2) set forth the specific relief sought.
- (D) If you and MVI do not reach an agreement to resolve the dispute or claim within thirty (60) days after the Notice of Dispute is received, you or MVI may commence an arbitration proceeding. You may download or copy a form to initiate an arbitration proceeding from the AAA website: <http://www.adr.org/si.asp?id=2062>. The amount of any settlement offer made by you or MVI shall not be disclosed to the arbitrator until after the arbitrator determines the amount, if any, to which you or MVI is entitled.
- 14.4 **Arbitrator and Arbitral Rules.**  
The arbitration shall be administered by then Arbitration Association ("AAA"). You may contact the AAA by telephone at 1-800-778-7879, by email at [Websitemail@adr.org](mailto:Websitemail@adr.org), or by mail at 335 Madison Avenue, Floor 10, New York, New York 10017. The arbitration shall be governed by the AAA's Commercial Dispute Resolution Procedures and Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules"), as modified by this Agreement. The AAA Rules are available at [www.adr.org](http://www.adr.org) or by calling the AAA at 1-800-778-7879.
- 14.5 **Location and Procedure of Arbitration.**  
Unless you and MVI mutually agree otherwise, all hearings conducted as part of the arbitration shall take place at a location, convenient to you, in the county or parish of your billing address. If your claim is for \$5,000 or less, you or MVI may request that the arbitration be conducted solely on the basis of documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing as established by the AAA Rules. If your claim is in excess of \$5,000, the right to a hearing will be determined by the AAA Rules.
- 14.6 **Fees and Costs.**  
If you cannot afford it, MVI will advance all arbitration filing fees and arbitrator's costs and expenses upon your written request given prior to the commencement of the arbitration. You are responsible for all additional costs that you incur in the arbitration, including, but not limited to, attorneys or expert witness fees. If the arbitration proceeding is decided in MVI 's favor, you shall reimburse MVI for the fees and costs advanced to you. If the arbitration proceeding is decided in your favor, you will not be required to reimburse MVI for any of the fees and costs advanced by MVI . If the party elects to appeal an award, the prevailing party in the appeal shall be entitled to recover all reasonable attorneys' fees incurred in that appeal. Notwithstanding anything to the contrary in this arbitration provision, MVI shall pay all fees and costs which it is required by law to pay.
- 14.7 **Waiver of Jury Trial.**  
You and MVI agree that, by entering into this agreement, you and MVI are waiving the right to a trial by jury.
- 14.8 **Waiver of Class Actions.**  
You and MVI agree that the arbitrator may award relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. You and MVI agree that you and MVI may bring claims against the other only in your or its individual capacity, and not as a plaintiff or class member in any purported class or representative proceeding. You and MVI agree that, unless you and MVI agree otherwise, the arbitrator may not consolidate more than one person's or entity's claims, and may not otherwise preside over any form of a representative or class proceeding. Despite §13.7 or any other provision in this agreement to the contrary, if this specific waiver of class actions provision, or any portion thereof, is found to be unenforceable, then the entirety of this dispute resolution and binding arbitration provision shall be null and void.
- 14.9 **Statute of Limitations:**  
You must contact us within one (1) year of the date of the occurrence of the event or facts giving rise to a dispute (except for billing disputes which are subject to section 9.5 of the agreement), or you

waive the right to pursue a claim based upon such event, facts, or dispute.

14.10 Exceptions to Arbitration Agreement:  
You and we agree:

- (a) you may take your dispute to small claims court, if your dispute qualifies for hearing by such court;
- (b) if you fail to timely pay amounts due, we may assign your 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;
- (c) you or we may take any disputes over the validity of any party's intellectual property rights to a court of competent jurisdiction;
- (d) any dispute related to or arising from allegations associated with fraudulent or unauthorized use, theft, or piracy of service may be brought in a court of competent jurisdiction; and
- (e) either you or we may seek any interim or preliminary relief from a court of competent jurisdiction, necessary to protect the rights or property of you or MVI , pending the completion of arbitration.

14.11 Modification of Arbitration Provision.  
Despite §15 or any other provision in this agreement to the contrary, if MVI makes any substantive change to this arbitration provision, you may reject any such change and require MVI to adhere to the language in this provision.

15. CHANGES TO THIS AGREEMENT.

We may change the terms and conditions of this agreement from time to time. By subscribing to our service, you agree that we may provide to you by use of electronic communications required notices, agreements, and other information concerning MVI , including changes to this agreement. We may give you notice of a change by posting the change on the home page of MVI .com, on your account web page or monthly bill, in a newsletter, by e-mail, on the relevant web page of the applicable service, or by other permitted communication. Such notices will be considered given and effective on the date posted. These changes will become binding on you on the date they are posted and we are not required to give you further notice in order for you to continue using our service. By continuing to use the service after revisions are in effect, you accept and agree to all revisions. If you do not agree to the changes, you must terminate your service immediately. Termination charges will not be applicable to termination of service due to increases in price or other material changes if your account is in good standing and you call us to terminate within 30 days after posted notice of the change. When posted, this agreement supersedes all previously agreed to electronic and written terms of service, including, without limitation, any terms included with the packaging of your device. It also supersedes any written terms provided to retail customers with retail distribution, including, without limitation, any written terms in the packaging of your device. If you want to withdraw your consent to receive notices electronically, you must discontinue your use of MVI services. If you continue to use our service, we will consider this your acceptance of any changes.

16. PRIVACY

MVI Service uses, in whole or in part, the public Internet, the public switched telephone network, and third party networks to transmit voice and other communications. MVI is not liable for any lack of privacy which you may experience from using our service. Please refer to our Privacy Policy for additional information, such as how we use your information and how you can opt out of receiving marketing messaging.

- (a) You authorize us
  - (i) to investigate and/or review your credit history, including requesting a consumer report, both when you sign up for our service and at any time after you sign up, for any purpose, including, but not limited to, your initial qualification for an account, your continued compliance with the terms of your account and general customer base evaluation purposes not specifically associated with your account; and
  - (ii) to share credit information about you with credit reporting agencies. Upon your request we will inform you whether or not we have requested a consumer report, and if a report was requested, the name and address of the consumer reporting agency that furnished the report, and
- (b) In addition, if you receive MVI LIVE ANSWER AND NYC MAIL , whether as part of a plan that you have selected or as part of a trial, you authorize us to share your voicemails and mail where applicable) with human operators.

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17. EXPORT CONTROLS

You agree to comply fully with all relevant export laws and regulations of the United States, including but not limited to the U.S. Export Administration Regulations, administered by the Department of Commerce, Bureau of Industry and Security. You also expressly agree that you shall not export, directly or indirectly, re-export, divert, or transfer any portion of our service or any direct product to any destination, company,

or person restricted or prohibited by U.S. export controls.

18. COPYRIGHT AND TRADEMARK; COPYRIGHT INFRINGEMENT; DIGITAL MILLENNIUM COPYRIGHT ACT (DMCA) NOTICE.
- 18.1 Our website content, our materials, services, logs, service marks and trademarks are protected by trademark, copyright, or other intellectual property laws, and international treaty provisions. Infringement by you may result in civil or criminal prosecution.
- 18.2 Third parties may make materials available using our service. These third parties are not within our control. We do not review the content posted on our service to see if it includes illegal or impermissible content, nor are we under any obligation to conduct any review. However, we respect the copyright interests of others. It is our policy not to permit materials we know infringes another party's copyright to remain on our service. If you believe any materials on our service infringes a copyright, you should give us written notice to:

Manhattan Virtuals c/o Connectivity Services, Inc.  
Legal Dept.  
1140 Broadway, Fl 6  
NY NY 10001