

MAGi7 Call Tracking Terms And Conditions

These Call Tracking Terms and Conditions ("Terms"), together with the terms set forth in any Order Form, constitute a legally binding and enforceable Service Agreement ("Agreement") between the Customer whose signature appears on the Order Form and MAGi7, a Tennessee corporation ("MAGi7"). These Terms shall be deemed incorporated by reference into the Order Form; provided, that if any provision of the Order Form conflicts with any provision of these Terms, the provision of the Order Form shall prevail.

1. RESTRICTIONS AND RESPONSIBILITIES

1.1 Equipment; Services; and Software. Customer shall be responsible for obtaining and maintaining any computer and phone equipment (and the like) and ancillary products (collectively, the "Equipment") needed to access and use the enhanced information and data services provided under this Agreement (collectively, the "Services"), which Services include, without limitation, the reporting and delivery of Customer's associated performance and user data in various media (collectively, the "Data"). Customer shall also be responsible for maintaining appropriate security safeguards in respect of property for which it maintains ownership, control, use under license and/or access, including without limitation, its Equipment, its Customer account, passwords and files, any Data acquired hereunder, any Confidential Information, access and all uses of the Services and Data through its Customer account or its Equipment. Customer shall be solely responsible for its use of the Customer Data (as hereinafter defined). Customer and its Clients (as defined below) will not (and will not cause any third party to), directly or indirectly: reverse engineer, decompile or disassemble the Services or any software, documentation or data related to the Services (collectively, "Software"); modify or create derivative works based on the Services or any Software; or copy (except for archival purposes), lease, distribute or otherwise transfer rights to the Services or any Software; or remove any proprietary notices or labels. The parties acknowledge and agree that Customer will be deemed responsible for each of its Clients, subcontractors, licensees, representatives, customers, agents and other Customer affiliates (collectively, "Customer Affiliates"), and their respective compliance with the terms of this Agreement.

1.2 Telephone Numbers. During the Service Term, subject to the terms of the Order Form and this Agreement, Customer may use the telephone numbers that are assigned to it by MAGi7 (collectively, the "MAGi7Numbers") for its own performance-tracking or other analytics purposes, or it may re-assign such MAGi7Numbers for the same limited use by any of its advertiser or merchant clients or other customers (collectively, "Clients"), for display or publication on their websites or publications (print, electronic, or otherwise) or such other media designated by Customer (collectively, "Customer Media") or Clients (collectively, "Client Media") from time to time in accordance with the terms set forth herein. Clients shall not have the right to re-assign the MAGi7Numbers or to use them other than as explicitly set out herein without the prior written consent of MAGi7. All MAGi7Numbers remain the property of MAGi7, pursuant to agreements with its various telephone carriers and vendors, and are made available to Customer solely for use in accordance with the terms and conditions of this Agreement. Upon expiration or termination of this Agreement, all rights of Customer to the use of the MAGi7Numbers and Services shall cease absolutely and Customer (i) shall, and shall cause its Clients to, take all reasonable steps thereafter to remove, amend or cancel all publications, advertisements, promotions and other items bearing any MAGi7Number; and (ii) shall not thereafter distribute or sell any Customer Media or other item whatsoever bearing any MAGi7Number. The parties acknowledge and agree that Customer's use of any MAGi7Numbers may be further limited by, among other factors, changes to telephone carrier terms, changes in carrier relationships, guidelines recommended by Federal, provincial or local regulators, or changes to applicable law and regulation from time to time. MAGi7 shall have the right upon written notice to Customer to exclude from this Agreement any individual Client Media or Customer Media.

1.3 Optional Recorded Call Services. Recording of calls is an optional Service which Customer may elect pursuant to an Order Form, online activation or other request accepted by MAGi7. Customer may elect not to use such optional Services. To the extent that Customer elects to use such product feature the Recorded Call Services Terms and Conditions shall apply to Customer and any Customer Affiliates, and are fully incorporated herein by reference:

1.4 Customer Agreements with Clients. If Customer is a publisher or agency that intends to offer use of the MAGi7Numbers or Services to its Clients, then Customer shall be responsible for all use of the MAGi7Numbers and Services by its Clients and shall have in place with each of its Clients, written contractual terms ("Client Terms") that shall: (i) contain a disclaimer of warranties substantially similar to those set out in Sections 5.2 and 5.3 below, on behalf of MAGi7 and its suppliers; (ii) contain a limitation of liability of MAGi7 and its suppliers substantially similar to those set out in Section 6 below; (iii) include representations and warranties from Client that Client is responsible for its use of the Services and in compliance with all applicable laws and regulations in its jurisdiction with respect to such Services (including, if applicable, Recorded Call Services (as defined herein)); (iv) include MAGi7 and its suppliers as indemnitees; (v) designate MAGi7 and its suppliers as third party beneficiaries of such provisions with a right to enforce such provisions against such Client; and (vi) only in the case that MAGi7Media Services are provided, contain appropriate licenses for Client's Business Content and Marks to be displayed and published by MAGi7 on MAGi7Media (in accordance with such subsection), as may be elected by Customer from time to time (email sufficing). Furthermore, Customer shall be responsible for all marketing materials, advertising and informational content, and any oral or written representation that Customer or Customer Affiliates may make to any current or potential Clients; and Customer shall neither make nor include in the Client Terms any representations or warranties on behalf of MAGi7 or with respect to MAGi7, its affiliates or the Services.

1.5 Customer Representations. Customer represents and warrants that: (i) it has full power and authority to enter into this Agreement; (ii) it has and will have, during the Service Term, all consents, approvals, licenses and permissions, necessary for such party to perform all of its obligations hereunder and for MAGi7 to exercise all of its rights hereunder; (iii) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms; (iv) it shall use the Services (and any Data acquired in connection therewith) in full compliance with all applicable laws and regulations and rules of any governmental or regulatory body, and including without limitation, those relating to advertising, privacy, marketing and telephone solicitation (for the avoidance of doubt, this shall include, without limitation, federal "Do-Not-Call" rules); (v) it shall (and shall cause its Clients to represent and warrant that they shall) obtain and maintain throughout the term of this Agreement, the full right and authority (including by way of any consents required under applicable law) for (a) the transfer of Personal Information to MAGi7 as contemplated hereunder and (b) any other collection, use, transfer, disclosure or other processing by MAGi7 of such information for the purposes contemplated under this Agreement; (vi) it has established proper procedures to protect the privacy of its Clients' and their customers' Personal Information, and otherwise comply with all applicable laws with respect to the Data acquired by Customer and Clients hereunder; (vii) in the event that MAGi7Media Services are provided, Customer has the right to use and grant such licenses and permissions to MAGi7 under this Agreement with respect to the use of the designated Business Content and Marks; and (viii) in the event that MAGi7Media Services are provided, none of the Business Content or Marks will (a) infringe or violate any right of any third party, including without limitation, copyrights, trademark rights, or other intellectual property rights; and rights of privacy, publicity or freedom from defamation; (b) violate any governmental law, rule or regulation, including without limitation, laws relating to obscenity and/or pornography, (c) contain any virus, worm, Trojan horse or other contaminating or destructive feature, or (d) contain any offensive material. Notwithstanding Section 1.6 of the Agreement, MAGi7 shall have no indemnity obligations to Customer (or its Clients, affiliates, employees, representatives or agents) for any Claim (as hereinafter defined) caused as a result of a breach by Customer or its Clients of the foregoing representations and warranties, and Customer shall indemnify MAGi7 for any Claim made or brought against MAGi7 which arise in such circumstances.

1.6 Indemnification. Each party (the "Indemnifying Party"), at its own expense, will indemnify, defend and hold harmless the other party (the "Indemnified Party") and the Indemnified Party's affiliates, employees, representatives and agents from and against any claim, demand, action, investigation or other proceeding, including but not limited to all damages, losses, liabilities, judgments, costs and expenses arising therefrom, brought by any third party against the Indemnified Party (collectively, an "Claim") to the extent that the Claim is based on, or arises out of an allegation that the Indemnifying Party's performance hereunder violates any applicable law, rule or regulation (except that Customer and Customer Affiliates shall be solely responsible for their use of any Recorded Call Services and for their use or disclosure of any information obtained through any Recorded Call Services) or infringes the rights of any third party, including but not limited to intellectual property rights. Customer at its own expense, will indemnify, defend and hold harmless MAGi7 and MAGi7's affiliates, employees, representatives and agents from and against any Claim for, including without limitation, libel, violation of right of privacy or publicity, copyright infringement, trademark infringement or other infringement of any third party right, fraud, false advertising, misrepresentation, product liability or violation of any law, statute, ordinance, rule or regulation throughout the world in connection with: (i) the Customer Data (as hereinafter defined) Business Content, Marks or Customer Media or contents therein; (ii) any Customer or Client use of Recorded Call Services in violation of the applicable terms and conditions; (iii) Customer or Client's breach of any term, condition, agreement, representation or warranty hereunder; (iv) Customer or Client's telemarketing or other marketing activities; or (v) Customer or Client's use of the Services, the Data, the MAGi7Numbers and the Confidential Information. Although MAGi7 has no obligation to monitor the Business Content provided by Customer or Customer's use of the Services, MAGi7 may do so and may remove any such content or prohibit any use of the Services it believes may be (or is alleged to be) in violation of the Agreement.

1.7 Reservation of Rights. This Agreement is not intended to, and shall not affect, ownership by either party of, or rights of either party in, any of its intellectual property rights, content, products and services, and nothing set forth in this Agreement shall be construed as the assignment or transfer of any ownership rights in any of the foregoing from one party to the other. Other than the express licenses set forth herein, nothing in this Agreement, and nothing in any statement made in connection with this Agreement, will be deemed a license (by implication, estoppel or otherwise) under either party's patent rights or other intellectual property rights. Any Data collected or created hereunder, during the Service Term and through the Customer's account, that is specific to and in a form identifiable with Customer, Client or their respective advertisers or merchant users is the intellectual property of Customer (collectively, the "Customer Data"), subject to MAGi7's non-exclusive right to use such Data in connection with the delivery of its Services and operation of its business, which may include, without limitation, analyzing and reporting Customer Data on an aggregated basis, and without identifying Customer as the source thereof and without disclosing Personal Information. For the avoidance of doubt, MAGi7 uses all Data collected in connection with its business and operations, which may or may not include certain aggregated Customer Data in an unidentifiable form, in connection with, including, without limitation, the delivery of its Services and conduct of its business and operations, advancing and improving existing products and services, creating new and enhanced product and services, and development of market and industry intelligence and expertise, all of which in such form shall be and remain the intellectual property of MAGi7 (collectively, "MAGi7Operations Data"). Neither party's performance according to the terms and conditions of this Agreement will in any way broaden the intellectual property rights of the other party. Both parties reserve all rights not expressly granted.

2. CONFIDENTIALITY AND CUSTOMER DATA.

2.1 Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose information relating to the Disclosing Party's business (hereinafter referred to as "Confidential Information" of the Disclosing Party). "Confidential Information" includes any non-public information of a Disclosing Party such as business plans, products, technical data, specifications, costs and expenses arising therefrom, brought by contracts, presentations, know-how, product plans, business methods, product functionality, services, data, customers, markets, competitive analysis, databases, formats, methodologies, applications, developments, inventions, processes, payment, delivery and inspection procedures, designs, drawings, algorithms, formulas, or information related to engineering, marketing, or finance. The Receiving Party agrees: (i) to take reasonable precautions to protect such Confidential Information, and (ii) not to use (except as expressly permitted herein) or divulge to any third person any such Confidential Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public without fault of the Receiving Party, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Confidential Information of the Disclosing Party or (e) is otherwise required to be disclosed by court order, law, regulation, securities exchange requirement, receipt of a criminal or civil subpoena, or written request from governmental authorities requesting information in connection with a criminal proceeding, or (f) any and all exigent circumstances involving individual or public health, rescue or safety. Notwithstanding the foregoing, MAGi7 shall have the non-exclusive right to use such Confidential Information in connection with the delivery of its Services and operation of its business, which may include, without limitation, reporting to MAGi7 customers and potential customers, on an aggregated basis, data related to and/or comprised of measures of the Services' performance, without identifying Customer as the source thereof and without disclosing Personal Information. Customer represents and warrants that all Personal Information received from MAGi7 will be used for marketing purposes only. Personal Information will not be used, in whole or in part, for purposes of establishing a consumer's eligibility for credit or insurance or for employment purposes. For purposes of this agreement "Personal Information" shall mean personally identifiable or other personal records or information. Without limiting any other provision of this Agreement, each party shall retain all right, title and interest in and to its Confidential Information, including all intellectual property rights inherent therein or appurtenant thereto. For the avoidance of doubt, the parties acknowledge and agree that Confidential Information includes Personal Information, including, without limitation, call-related, caller related and call-receiver related Personal Information that may be included in the Data processed under this Agreement.

2.2 All archived Customer Data shall be governed by the then-effective MAGi7 storage and deletion protocols for data, including, without limitation, maximum storage volumes, automatic and mandatory deletion protocols, maximum storage periods, among others. During the term of the Agreement, subject to the foregoing, Customer may access and retrieve such Customer Data for a period of up to six (6) months from date of initial storage. Notwithstanding the foregoing, unless otherwise limited or restricted by applicable law or regulation, MAGi7 may, but shall not be obligated to, maintain archived Customer Data following termination of the Agreement. Furthermore, in the event that MAGi7 in its reasonable professional discretion determines that such Customer Data may not be deleted due to any outstanding compliance or regulatory matters, MAGi7 reserves the right to maintain such storage until the matter has been resolved to its satisfaction. Each party shall comply with the applicable Agreement terms and applicable laws and regulations, as each may apply to the party and their respective obligations thereunder. Company may disclose any Customer Data to law enforcement or other governmental authorities upon receipt of request therefrom, without incurring any liability for such action. Customer acknowledges that Company may change its practices and limitations concerning storage of Customer Data, at any time and that notification of any such changes will be posted on Company's website or within Customer's administration pane, or sent by email. Customer further agrees that this feature is provided as a convenience to Customer only and Company has no responsibility or liability whatsoever for the deletion, loss, disclosure of, or failure to store, any messages and/or other communications maintained or transmitted by the Services.

3. PAYMENT OF FEES

Customer will pay MAGi7 the then applicable fees for the Services as set forth in the Order Form and the relevant Attachments (the "Fees"). Customer may be obligated to pay additional fees over the Term in the event that Customer requests any supplemental or custom Services not set forth in the Order Form. Upon the request of Customer, MAGi7 may provide a rate card for any supplemental or customized Services. Customer agrees to pay in full the additional Fees for supplemental or customized Services requested by Customer based on the MAGi7 rate card delivered to Customer, unless the parties otherwise agree pursuant to an amended set of terms in a mutually signed Order Form. Unless otherwise indicated, all dollar amounts referred to in this Agreement or the Order Form are in the lawful money of the United States of America. MAGi7 reserves the right to require a cash deposit as security payment for the Platform Services Fees. Furthermore, MAGi7 reserves the right to change the Fees or applicable charges and to institute new charges and Fees after the end of the initial Service Term or then current renewal term, upon thirty (30) days prior written notice to Customer (which may be sent by email). If Customer's use of the Services exceeds those Services set forth in the Order Form, Customer agrees to pay the additional fees that apply. Customer will make payment no later than thirty days after the end of the applicable month, or the Services may be terminated immediately by MAGi7. Any disputes with respect to such payment shall be made by Customer no later than five days after the end of the applicable month. Unpaid invoices are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection. Customer shall be responsible for all carrier fees, surcharges and taxes associated with Services, other than taxes based on MAGi7's net income.

MAGi7 Call Tracking Terms And Conditions

4. TERMINATION

4.1 Subject to earlier termination as provided below, the effective term of this Agreement (the "Service Term") shall first be for the period specified as the initial Service Term in the Order Form, and shall be automatically renewed for additional periods of the same duration, unless either party provides notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

4.2 Customer engaged in Month to Month contract with MAGi7 may terminate at any time, but must give 1 month's written notice via certified mail. This notice period will start from the 1st day of the month following the month that notice has been received by MAGi7. For example, notice given on January 20th will not become effective until February 28th. Annual contracts may be terminated at any time, but the remainder of the scheduled monthly fees will become due upon termination. Upon termination, MAGi7 will have no obligations of any kind to Customer.

4.3 Subject to the foregoing, upon termination hereof, at the request of the other party, each party shall return to the other party or destroy, and certify in writing as to such destruction, the other party's Confidential Information. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, indemnification, and limitations of liability.

5. DISCLAIMER

5.1 MAGi7 DOES NOT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES, INCLUDING, WITHOUT LIMITATION, REGARDING THE LEVEL OR NUMBER OF IMPRESSIONS OF OR CALLS ON ANY ADVERTISEMENT OR PROMOTION, THE TIMING OR PLACEMENT OF DELIVERY OF SUCH IMPRESSIONS AND/OR CALLS, OR THE AMOUNT OF ANY REVENUE TO BE EARNED BY CUSTOMER UNDER THIS AGREEMENT. COMPANY AND ITS VENDORS SPECIFICALLY DISCLAIM ANY AND ALL WARRANTIES AND MAKE NO REPRESENTATIONS WITH RESPECT TO THE AVAILABILITY, ACCURACY, SECURITY, USEFULNESS, INTEROPERABILITY OR CONTENT OF CONSUMER DATA.

5.2 EXCEPT AS EXPRESSLY PROVIDED HEREIN THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE" AND MAGi7 DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. MAGi7 MAY IN ITS SOLE DISCRETION REMOVE ANY DATA FROM ITS SERVERS AT ANY TIME FOR ANY REASON.

6. LIMITATION OF LIABILITY

EXCEPT WITH RESPECT TO A PARTY'S INDEMNIFICATION OR CONFIDENTIALITY OBLIGATIONS HEREUNDER, NEITHER MAGi7 AND ITS SUPPLIERS, ON THE ONE HAND, NOR CUSTOMER, ON THE OTHER HAND, SHALL BE LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY: (A) FOR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE; (C) FOR ANY MATTER BEYOND SUCH PARTY'S REASONABLE CONTROL; OR (D) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID BY CUSTOMER TO MAGi7 FOR THE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY. NOTWITHSTANDING THE FOREGOING, ANY FAILURE OF CUSTOMER OR ITS CLIENTS TO COMPLY WITH APPLICABLE LAW OR REGULATION SHALL NOT BE COVERED BY THE FOREGOING LIMITATION OF LIABILITY.

7. GOVERNMENT MATTERS

Customer may not remove or export from Customer's jurisdiction or allow the export or re-export of the Services or anything related thereto in violation of any applicable export control or similar restrictions, laws or regulations. MAGi7 is not a telephone company. MAGi7 purchases telecommunications services and uses such services to provide enhanced service products to Customer. If at any time MAGi7's right to allocate MAGi7 Numbers or otherwise provide the Services to Customer is impaired or regulated by any governmental or quasi-governmental entity, including, without limitation, the U.S. Federal Trade Commission, the U.S. Federal Communications Commission or any state public utility commission, MAGi7 shall have the right to terminate, suspend or amend this Agreement automatically upon written notice and to cause Customer to remove or withdraw any advertising material containing any MAGi7 Number. MAGi7 shall have no liability or obligation to Customer of any kind arising out of such a termination, suspension or change in Services, as the case may be.

8. MISCELLANEOUS

If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. Customer may not assign or sublicense this Agreement without the prior written consent of MAGi7. This Agreement and Order Form are the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement and Order Form. All waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this Agreement and neither party has any authority of any kind to bind the other party in any respect whatsoever, it being agreed that the relationship of the parties is that of independent contractors.

All notices under this Agreement and Order Form will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. This Agreement and Order Form shall be governed by the laws of the State of Tennessee without regard to its conflict of laws provisions. Customer irrevocably submits to venue and jurisdiction in the Chancery Court for Sevier County, Tennessee, for any dispute arising out of or related to this Agreement, and waives all objections to jurisdiction or venue of such court and agrees not to commence nor prosecute any such dispute other than in such court. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. MAGi7 may modify the terms and conditions of this Agreement by posting the revised terms and conditions to its website. Customer's continued participation in the Services following such changes signifies Customer's acceptance of such modification.

These Recorded Call Services Terms and Conditions supplement the Call Tracking Terms and Conditions or such successor URL(s) implemented by MAGi7 from time to time, and apply to any Customer using the Recorded Call Services.

Any capitalized terms used herein but not defined shall have the meaning ascribed to it in the Call Tracking Terms and Conditions. In connection with its use of the Recorded Call Services, Customer acknowledges and agrees that:

1. Call recording, transcribing, monitoring, analyzing and archiving under the Services is part of an optional, add-on product feature made available by MAGi7, which may include, without limitation, the reporting and archiving of personal and non-personal data related to such Calls (collectively, the "Recorded Call Services"). For the avoidance of doubt, and without modifying any terms hereof, Call Mining Services are included within, and are an integral part of, the Recorded Call Services and, if used by Customer or Customer Affiliates, are subject to these Recorded Call Services Terms and Conditions;
2. Customer shall determine in advance, in its sole discretion without reliance on MAGi7, whether the use of the Recorded Call Services is appropriate and legal in the context of Customer's use and implementation thereof. Customer may always elect not to use or to cease use of the Recorded Call Services. In the event that Customer elects at any time to use any or all of such Recorded Call Services or otherwise activates any of such Recorded Call Services at any time, whether directly or indirectly, these additional Recorded Call Services Terms and Conditions shall apply in full to Customer and any of its Customer Affiliates, as applicable; Customer shall be solely responsible for Customer Affiliates under these Terms and Conditions;
3. In connection with the Recorded Call Services, Customer acknowledges and agrees that: (a) calls placed using the MAGi7 Numbers and related Services (collectively, "Calls") may be recorded, transcribed, monitored, analyzed and archived; (b) Customer has the sole responsibility to advise all callers to MAGi7 Numbers prior to any commencement of a Call with Customer, its Customer Affiliates or others that each Call is subject to recording, transcription, monitoring, archiving and any other relevant details and required notices (the "Recorded Call Notice"); (c) Customer has the sole responsibility to implement or effect such Recorded Call Notice, whether using available product functionality or other means to ensure that the each Call receives a Recorded Call Notice in an appropriate and legally compliant manner; and (d) Customer has the sole responsibility for any Recorded Call Notice used in connection with any Calls and its compliance with applicable federal and state law and regulation; (e) any sample or default pre-recorded notices or messages made available by MAGi7 within the Recorded Call Services, whether at request of Client or not, are for illustration purposes only; and (f) MAGi7 makes no representations or warranties with respect to any use of any Recorded Call Notice by Customer or its Customer Affiliates or any other party (and no separate communication shall be deemed to supersede this acknowledgement and agreement);
4. Call content, information and data obtained under the Recorded Call Services shall be deemed "Customer Data" under the Agreement;
5. Customer represents and warrants that Customer and its Customer Affiliates shall use the Recorded Call Services (and any Customer Data acquired in connection therewith) in full compliance with all applicable laws and regulations. Customer further represents and warrants that Customer and its Customer Affiliates shall have established proper procedures to protect the privacy of all callers and call recipients in connection with the Recorded Call Services, and otherwise fully comply with all applicable laws, regulations and governmental or self-regulatory guidelines;
6. Customer further represents and warrants that Customer and its Customer Affiliates will (a) make all necessary disclosures during Calls made to MAGi7 Numbers and while using any Recorded Call Services; (b) obtain all necessary consents or approvals with respect thereto; and (c) maintain, use and disclose all Customer Data acquired in connection therewith only in a manner that fully complies with all applicable laws and regulations;
7. Customer is solely responsible for, and MAGi7 shall have no liability with respect to, without limitation: (a) the legality of recording, transcribing, monitoring, analyzing, archiving and/or disclosing the contents of telephone calls or caller/ call recipient identification; (b) the legality of the language used in any Recorded Call Notice; and (c) the legality of any use, handling, retention and disclosure of Customer Data acquired by Customer or its Customer Affiliates as a result of the use of any Recorded Call Services;
8. Customer further represents, and warrants that its use of the Recorded Call Services is for "quality assurance" and "customer service" purposes only;
9. If Customer is a publisher or agency that intends to offer use of the Recorded Call Services to its Clients, in addition to the requirements of the Call Tracking Services Terms and Conditions, Customer shall include in the Client Terms, in the same form or substance, those additional representations and warranties and other obligations included in Sections 3 through 8 hereof with respect to the Recorded Call Services;
10. MAGi7 operates as the primary service provider to Customer under these Recorded Call Services; MAGi7 may also engage third-party vendors, subcontractors or agents in connection with the delivery of any of its Services;
11. For the avoidance of doubt, Customer's use of the Recorded Call Services is equally bound to all of the provisions of the Call Tracking Terms and Conditions (or such successor URLs), of which these Recorded Call Services Terms and Condition form an integral part;
12. MAGi7 may modify the terms and conditions of this Agreement by posting the revised terms and conditions to its website. Customer's continued participation in the Recorded Call Service following the effectiveness of such changes signifies Customer's acceptance of such modification.

Customer Initials _____ Date _____

MAGi7 Initials _____ Date _____