

SPRINT MACHINE-TO-MACHINE SERVICES PRODUCT ANNEX

The following product-specific terms and conditions in this Sprint Machine-to-Machine Services Product Annex ("**Annex**"), together with the applicable service agreement for Sprint Machine-to-Machine Services ("**Agreement**"), govern Sprint's provision and Customer's use of Sprint Machine-to-Machine Services ("**M2M**"). Capitalized terms are defined in section 9 ("**Definitions**") of this Annex if not otherwise defined in the Agreement.

1. RELATIONSHIP OF THE PARTIES

- 1.1. **Customer and End Users.** Sprint will provide and sell M2M Services to Customer, and Customer will purchase M2M Services from Sprint under the terms and conditions set forth in the Agreement and this Annex. Sprint authorizes Customer to use and sell M2M Services as a Bundled Service as more fully described in the Agreement and this Annex. No provision of the Agreement will be construed as vesting in Customer any control whatsoever in any facilities and operations of Sprint, including the Facilities, or the operations of any Sprint Affiliate or contractual third party of Sprint. Customer will not represent itself as an FCC, federal, or state certified licensee for Sprint by reason of the Agreement. Customer will not enter, directly or indirectly, into any agreement or other arrangement with a third party that gives the third party any rights to purchase M2M Service for resale to other parties. Customer may not market or sell M2M Services as a standalone service but instead must market and sell M2M Services as part of the Bundled Service. Further, Customer may not invoice End Users separately for M2M Services but instead must incorporate the cost of M2M Services as part of the Bundled Service. Customer determines the price of the Bundled Service in Customer's sole discretion.
- 1.2. **Brand Restrictions.** Customer may market and sell the Bundled Service only under service marks, trademarks, and trade names that are owned, controlled, or licensed by Customer. Customer recognizes Sprint's ownership of service marks, trademarks, and trade names used in connection with the service and products sold by Sprint and Sprint Affiliates ("**Sprint Marks**"). Customer will not engage in any activities or commit any acts, directly or indirectly, that contest, dispute, or otherwise impair Sprint's or Sprint's Affiliate's rights in the Sprint Marks. Except as specifically agreed in writing, nothing in the Agreement grants to Customer the right to use any Sprint Mark or any service mark, trademark, or trade name that is confusingly similar to or a colorable imitation of any Sprint Mark, including in any of Customer's advertisements, and Customer will not incorporate the Sprint Marks into any service mark, trademark, or trade name used or developed by Customer. Upon Sprint's request, Customer will provide to Sprint any materials using the Sprint Marks for Sprint's review to determine compliance with this requirement. The limitations of liability contained in the Agreement do not apply to Customer's violations of this section 1.2. If Customer violates or threatens to violate this section, (a) Sprint may exercise any right or remedy under the Agreement and any other right or remedy that it may have (now or hereafter existing) at law, in equity, or under statute, and (b) Customer may not raise the defense of an adequate remedy at law.
- 1.3. **Relationship to Pricing.** The provisions of this section 1 and the applicable pricing attachment(s) to the Agreement are not severable.

2. SCOPE OF SERVICE

2.1. Limitation on Scope of M2M Service

- A. **General.** Customer agrees that (i) M2M Services are available to M2M Devices only within the operating range of the Sprint Networks or the Sprint 4G Network; and (ii) M2M Services may be temporarily refused, interrupted, curtailed, or otherwise limited because of transmission limitations caused by any factor, including atmospheric, environmental, or topographical conditions; concentrated usage or capacity constraints; Facilities limitations or constraints; or Facilities changes, modifications, updates, relocations, repairs, maintenance, or other similar activities necessary for the proper or improved operation of the Facilities. Sprint is not liable to End Users with respect to any claim or damage related to or arising out of or in connection with (x) any coverage gap, or (y) any M2M Service refusal, interruption, curtailment, or other limitation provided above.
 - B. **Data Services.** Sprint is not a publisher of third party content that can be accessed through M2M Services. Sprint is not responsible to End Users for any content, including information, opinions, advice, statements, or services that are provided by third parties and accessible through M2M Services or any damages resulting therefrom. Sprint does not guarantee the accuracy, completeness, or usefulness of information that is obtained through the M2M Services. Sprint makes no representations or warranties regarding the provider, scope or nature of the content, or services that will be available through M2M Services.
- 2.2. **Coverage Maps.** M2M Services are available within the operating range of the applicable Sprint Network, which is depicted on the coverage maps available at www.sprint.com. Network coverage maps are good faith approximations of outdoor coverage; actual coverage area may vary. Sprint is not liable to End Users for any claim or damage related to or arising out of or in connection with any map information, including the accuracy thereof.
 - 2.3. **Mobile Dialing Numbers.** Sprint will assign mobile dialing numbers ("**MDN**") to M2M Devices.

3. BILLING.

- 3.1. **Invoicing.** Sprint will bill Customer as set forth in the Agreement. Customer expressly acknowledges that some charges incurred in a billing cycle may not appear on the invoice for that billing cycle and that those charges may appear on subsequent invoices. Unless otherwise stated, Sprint will prorate old and new Business Plan charges based on the date of change if Customer changes Business Plans during an invoicing cycle.
- 3.2. **Data Pooling.** If data pooling is allowed in a Business Plan, then the monthly data allowances of all M2M Devices in the same Pooling Group are added together, and then each M2M Device uses the data on a first come, first served basis. Once all of the data in the Pooling Group is used for the billing period, then Sprint will charge overage to each M2M Device that uses excess data at that specific M2M Device's overage rate.
- 3.3. **Changing Business Plans.** If an M2M Device changes Business Plans in the middle of a billing period and the new Business Plan is in a different Pooling Group, then that M2M Device's data allocation from the new Business Plan pools with the new Pooling Group, and that M2M Device's data usage from that point forward pulls from the new Pooling Group's data allocation. If that M2M Device had overages before Customer changed Business Plans, then Sprint will charge overages at the previous Business Plan's overage rates but any overages incurred after the Business Plan change will be charged at the new Business Plan's overage rate. Customer is allowed only 1 Business Plan change per M2M Device per billing period.

4. CUSTOMER'S RIGHTS AND OBLIGATIONS

4.1. Devices From Third Parties

- A. **Acquisition.** Unless specifically provided for otherwise in the Agreement, Customer will be responsible for making its own arrangements to purchase M2M Devices from a third party. Customer will procure and maintain throughout the Term, adequate and appropriate insurance to insure the M2M Devices while they are in transit to or from Sprint or in Sprint's possession. Sprint will not be responsible for the M2M Devices.
- B. **Compatibility.** Customer and End Users will use only M2M Devices that comply with (i) Sprint's requirements for compatibility of devices with the M2M Services and the Facilities, including the successful completion of Sprint's device certification process; and (ii) all applicable FCC, federal, or state requirements for compatibility of devices with the M2M Services and the Facilities. If any device used by an End User does not comply with the standards set forth in this section 4.1.B, Customer will immediately terminate the Bundled Service to such device. If Sprint becomes aware that any device used by Customer or an End User does not comply with the standards set forth in this section, Sprint may immediately suspend or terminate the M2M Services used by such device.
- C. **No Sprint Responsibility for Customer Devices.** Sprint is not responsible to Customer or any End User for the operation, testing, maintenance, transportation, handling, transfer, loading, or unloading of any M2M Devices procured from any party other than Sprint at any time. Sprint is not required to make any changes, modifications, or additions to its equipment, operations, or Facilities to accommodate Customer or the M2M Devices provided by Customer.
- D. **Provision of ESN.** Before Customer makes M2M Devices available to End Users in connection with providing the Bundled Service, Customer will provide to Sprint the ESN for each M2M Device.

- 4.2. **Customer's Responsibility and Liability.** Customer is responsible and liable for all services necessary to provide the Bundled Service, such as End User credit verification, billing, collection, customer service and support, and all risks and expenses in connection with, related to, or arising out of the provision of the Bundled Service. Customer will not direct any End Users to Sprint for any customer care issues. Customer will report any trouble with respect to the M2M Services to Sprint only upon reasonable verification that the trouble is due directly to issues with the M2M Services and not to elements or conditions within the reasonable control of Customer. Customer will not make any representation, warranty, or covenant to any End User that would misrepresent or conflict with the Agreement. Customer may provide written terms and conditions of service to End Users.

- 4.3. **Customer's Responsibility for Fraud.** Customer will promptly notify Sprint Customer Care of any suspected fraudulent use of wireless Products or Services. Also, Customer will promptly notify Sprint Customer Care if an M2M Device is lost or stolen. Customer is responsible for all costs and procedures associated with End User fraud, such as subscription fraud, fraud associated with the use of the Bundled Service, or usage on lost or stolen M2M Devices that Customer fails to deactivate, as well as cloning or network fraud, or fraud occurring in connection with Customer's agents, employees, or representatives, such as employee-related theft. Replication or cloning of physical access devices or electronic identifiers to enable multiple sessions is prohibited. At any time for fraud management, Sprint can suspend or vary the M2M Services immediately and without prior notice. In the case of suspected fraud, Sprint will attempt to contact Customer before interrupting M2M Services. Customer will cooperate with Sprint in the investigation and resolution of the incident.

- 4.4. **Interference.** Customer's agents, employees, representatives, and End Users may not interfere with the Facilities, the Sprint Networks or Sprint 4G Network, or the M2M Services in a way as to impair the quality of service provided by Sprint to its customers. Notwithstanding this prohibition, upon discovery of interference by either Sprint or Customer, the party discovering the interference will promptly notify the other party, and Customer will promptly order the agent,

employee, representative, or End User to cease the act(s) constituting the interference. Sprint, concurrent with notice to Customer, may suspend or terminate the M2M Services to Customer or the End User and require Customer to take appropriate action to eliminate the use or interference by Customer, the agent, employee, representative, or End User.

4.5. Subpoena Compliance. If Customer receives a subpoena relating to End User billing records or any information, Customer will comply with the subpoena. If the subpoena requests information not in Customer's possession, Customer will promptly contact Sprint for assistance in compliance with the subpoena. If Customer either: (a) fails to comply with the subpoena; or (b) when applicable, fails to promptly contact Sprint for assistance, and if Sprint is fined as a result of Customer's failure described in (a) or (b) above, Customer will reimburse Sprint for the amount of the fine.

4.6. Electronic Surveillance. If Customer receives a court order relating to electronic surveillance of an End User, Customer will comply with the court order and will promptly contact Sprint for technical assistance in performing the electronic surveillance and will provide any additional information that Sprint requests related to the surveillance, including the court order. If Customer either: (a) fails to comply with the court order; or (b) fails to promptly contact Sprint for technical assistance in performing the electronic surveillance, and if Sprint is fined as a result of Customer's failure described in (a) or (b) above, Customer will reimburse Sprint for the amount of the fine. If Sprint receives a court order relating to a subpoena or electronic surveillance of an M2M Device or an End User, Customer will promptly cooperate with all of Sprint's requests.

4.7. Responsibility for Customer's Vendors/Contractors. Customer may request that Sprint work with one or more of Customer's vendors or contractors in order for Sprint to help facilitate Customer's provisioning of the Bundled Service, and if Sprint works with such vendor or contractor, in all such cases Customer is responsible for the actions of such vendors or contractors.

4.8. Privacy

A. To the extent an M2M Device involves a Location Based Service, Customer must ensure that each End User is properly notified in accordance with the CTIA Best Practices and Guidelines for Location-Based Services, which can currently be found at http://files.ctia.org/pdf/CTIA_LBS_Best_Practices_Adopted_03_10.pdf.

B. Customer (a) is fully responsible for any unauthorized collection, access, disclosure, and use of information relating to End User's use of the M2M Device including, without limitation, location information; (b) will implement administrative, physical, and technical safeguards to protect the same; (c) will maintain an up-to-date privacy policy that fully explains (i) what information it collects about its End Users, (ii) how it uses that information, (iii) how it secures that information, and (iv) to whom it discloses that information; and (d) will comply with all applicable laws, including without limitation data security, privacy, marketing, and consumer protection laws. Sprint does not represent or warrant, and nothing in this Annex or the Agreement will be construed to mean, that any Sprint Products or Services will put or keep Customer in compliance with any laws, rules, or regulations.

5. MODIFICATIONS. Sprint may, in its sole discretion, change or update the Facilities or Sprint's operations, equipment, software, procedures, or services. Sprint will not be liable to Customer or to End Users if those modifications, changes, or updates require changes to, updates of, or modifications of M2M Device, other devices, or other products, accessories, systems, or procedures.

6. INSURANCE.

6.1. Customer will provide and maintain at its own expense the following insurance against liability arising in any way out of the provision of the Bundled Service: (i) Commercial General Liability insurance (including but not limited to, contractual liability insurance) with a limit of \$1,000,000 for any one occurrence, \$2,000,000 General Aggregate, (ii) Workers' Compensation in compliance with the laws of the state(s) wherein Customer's operations occur, with Employers Liability insurance in the amount of \$500,000 each accident, \$500,000 by Disease each employee and \$500,000 by Disease, Policy limit; (iii) Business Automobile Liability insurance covering all vehicles used in connection with Customer's operations with a combined single limit of \$1,000,000; and (iv) Umbrella form excess liability insurance with limits of not less than \$5,000,000. All policies will be "occurrence" form.

6.2. All insurance policies will be issued by companies authorized to transact business in the state(s) where the Bundled Services will be provided and who hold a current rating of not less than **A-**, **VII** according to A.M. Best. Sprint will be named as an additional insured on all liability insurance policies required herein. Each insurance policy will contain a waiver of subrogation in favor of Sprint. Each insurance policy will be endorsed to give Sprint at least 30 days' prior written notice of cancellation, and Customer agrees that it will immediately notify Sprint of any reduction or possible reduction in the limits of any such policy where such reduction, when added to any previous reduction, would reduce coverage below the limits required herein. Customer's insurance will be primary for services provided under the Agreement while Sprint's insurance will be excess and non-contributory to any insurance coverage provided by Customer.

6.3. Customer will provide proof of insurance either in the form of a Certificate of Insurance (ACORD form 25 or equivalent) or a web based Memorandum of Insurance. Such proof will be provided within 15 days of Sprint's provision of M2M Services to Customer, and again within 15 days of the renewal or replacement of each policy. Certificates will be sent to:

Sprint Nextel Corp.
KSOPHT0101-1A432
6391 Sprint Pkwy
Overland Park, KS 66251

- 6.4. Customer will require any sub-contractor working for Customer in connection with Customer's operations to meet all of the above insurance requirements, including providing a Certificate of Insurance and including Sprint as an additional insured on all liability policies.

7. INDEMNIFICATION

- 7.1. In addition to any other applicable indemnification provisions contained in the Agreement, Customer agrees to indemnify and defend Sprint, its directors, officers, employees, agents, and their successors and assigns (separately and collectively, the "**Sprint Indemnitee**") from and against all liabilities, claims, demands, losses, damages, costs, and expenses (including any penalty, interest, and reasonable attorneys' fees) which may be assessed against or incurred by the Sprint Indemnitee relating to or arising out of Customer providing the Bundled Services or Customer's, End Users', or third party's use of the M2M Services and/or Bundled Services, including without limitation the following:

- A. libel, slander, infringement of copyright, or invasion of privacy from the material transmitted over the Facilities by Customer or its End Users;
- B. any claim relating to or arising out of Customer's breach of its obligations in section 4.8 ("Privacy");
- C. any wiretapping or other surveillance that Customer may direct Sprint to undertake;
- D. infringements of the Sprint Indemnitee's intellectual property rights by Customer, its End Users, contractors, agents, and other persons or entities acting for or on behalf of Customer; or
- E. any third party formal or informal complaint, including complaints regarding the coverage maps, performance, quality, functionality, or any other claim related to M2M Services and/or Bundled Services provided to End Users.

- 7.2. The provisions related to limitations of liability in the Agreement do not apply to Customer's obligations under this section 7. If Customer fails to indemnify Sprint as provided in this section 7, Sprint may exercise against Customer any right or remedy under the Agreement and any other right or remedy that Sprint may have (now or hereafter existing) at law, in equity, or under statute.

8. **EARLY TERMINATION BY SPRINT.** If Sprint ceases to be licensed by a governmental authority to provide M2M Services and such event would materially impact Sprint's ability to provide M2M Services to Customer, Sprint may terminate the M2M Services without any liability by giving Customer at least 30 days' prior written notice.

9. DEFINITIONS

- 9.1. "**Bundled Service**" means the service provided by Customer to End Users under Customer's label, brand, and marks, utilizing the M2M Services provided to Customer by Sprint under the Agreement in connection with the unique services provided by Customer as more specifically described in the Agreement.
- 9.2. "**End User**" means Customer or any other person or entity using the Bundled Service.
- 9.3. "**ESN**" means the electronic serial number for each M2M Device in a form satisfactory to Sprint.
- 9.4. "**Facilities**" means the telecommunications switching equipment, cell site transceiver equipment, connecting circuits, software, and other equipment installed, maintained, expanded, modified, or replaced by Sprint to provide M2M Services.
- 9.5. "**FCC**" means the Federal Communications Commission or any successor agency.
- 9.6. "**M2M Device**" means a device that operates on the Nationwide Sprint Network, Sprint 3G Network, Sprint 4G Network, or the Nextel National Network; that has been approved and certified by Sprint for use in an M2M Services; and that has been integrated, by Customer, into the Bundled Service in a manner that has been approved by Sprint.
- 9.7. "**M2M Services**" means the data only service that operates on the Sprint Networks or the Sprint 4G Network that allows machines to transport data to other machines in a predetermined process provided to Customer by Sprint as described in the Agreement.
- 9.8. "**Sprint 4G Network**" means the wideband OFDM technology, including WiMax, that Sprint owns or resells, including network components owned or controlled by Sprint Affiliates or partners.
- 9.9. "**Sprint Networks**" means the Nationwide Sprint Network, Sprint 3G Network, and/or Nextel National Network used by Sprint to provide the M2M Services.