



Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

August 22, 2016

Submitted Online Only

Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

**Re: Comment for Docket No. CFPB-2016-0020
Arbitration Agreements; Proposed Rule**

Dear Ms. Jackson:

The Human Rights Defense Center (HRDC) respectfully submits this comment on Docket No. CFPB-2016-0020 regarding the issue of arbitration agreements as they relate to prepaid accounts that consumers must establish to receive telephone calls from loved ones in prison or jail, to place money on trust or commissary accounts used by prisoners to buy items within the facility and to release debit cards issued to prisoners upon their release from custody. In the latter regard, the balance on release debit cards is often the only money these individuals have available once they are released, and they often have no other option but to accept the cards in order to receive their funds.

The attached article details the experiences of two women who were given release debit cards issued by Numi Financial in lieu of the cash in their possession at the time of arrest. In both cases these cards, which carry a variety of fees and include arbitration clauses, were issued upon the women's release after they had been jailed for just hours. (**Attachment 1 at 1-2**)

While there are many predatory issues to be addressed with respect to release debit cards, the issues germane to this proceeding are that although the consumer may be given a "densely worded brochure explaining the terms and fees associated with the debit card," one of the women cited in the article did not have her glasses and the type was too small to read, and the second woman was simply told "it works like a debit card." *Id.* at 1-2. Neither was provided an option to have her money returned in any form other than a release debit card. Further, given that they were released at 2:30 a.m., and not having slept for 24 hours, they were not in a position to be able to adequately inform themselves of the terms and conditions of Numi's release debit card and had no option other than accepting the card and its mandatory arbitration clause.

P.O. Box 1151
Lake Worth, FL 33460
Phone: 561-360-2523 Fax: 866-735-7136
pwright@prisonlegalnews.org

Clearly, there was no agreement with respect to an arbitration clause in the issuance of these release debit cards, which both contained mandatory arbitration agreements. There was no meeting of the minds, these consumers never read the arbitration clause, and being handed a brochure full of very small print as you are walking out of a jail before sunrise can hardly be defined as adequate notice.

Consumers have no choice when release debit cards are literally foisted upon them by armed police and jail or prison guards. There is no “opt in” whereby people willingly give up their cash and *choose* to pay fees to access their own money on these debit cards. The companies that are preying on the poorest and most vulnerable people in American society use mandatory arbitration clauses in “agreements” where the consumers whose money is being taken from them involuntarily have not, in fact, agreed to anything. It is merely a means and a vehicle to ensure these companies cannot be held accountable by the courts, so they can continue to prey on the weak and defenseless.

In the prison and jail context, mandatory arbitration clauses do nothing more than protect corporations that prey on prisoners and their families who have no other market choice. JPay offers money transfer services, which provide family members the ability to send money to prisoners so they can make phone calls and purchase items from prison and jail commissaries. Frequently, JPay is granted an exclusive contract with a correctional facility in exchange for “commission” kickbacks, and families have few (or no) other options to send money to their incarcerated loved ones. JPay’s mandatory arbitration clause is contained in Paragraph 14 of its online Payment Terms and Service. **Attachment 2**¹

These families are in exactly the same position as prisoners being issued release debit cards; they have no choice but to accept a condition that restricts their legal rights if they want to send money to a loved one in prison or jail. The volume of money transferred and number of consumers negatively affected by mandatory arbitration clauses is significant – in 2015 the Florida Department of Corrections (FDOC) alone took in prisoner account deposits through JPay totaling over \$109 million.² JPay is the only option available for transferring funds to FDOC prisoners, and is just one of several companies that offer money transfer services which force consumers to accept mandatory arbitration clauses. Plus there are well over 3,100 jails in the U.S. that accept and hold funds for prisoners, in addition to 50 state prison systems.

Arbitration clauses also appear in the terms and conditions that consumers must accept to establish prepaid phone accounts to remain in contact with incarcerated loved ones. While the terms and conditions that must be accepted to open a prepaid telephone account with Global Tel*Link (GTL), the nation’s largest provider of prison phone services, purportedly allow consumers to “opt out” of arbitration, they only permit actions to be brought on an individual basis (i.e., no class actions). **Attachment 3 at 1**. This condition significantly limits the legal rights of prisoners’ families by denying them the benefit of class-action representation. All correctional facilities grant monopoly contracts to prison phone providers, so if families want to talk with their incarcerated loved ones on the phone, they have no choice but to agree to the arbitration clause, which is in the terms and conditions that few people actually read.

¹ <http://www.jpayers.com/LegalAgreementsOut.aspx>

² http://www.dc.state.fl.us/pub/annual/1415/FDC_AR2014-15.pdf at 6

There is no meaningful agreement or consent to arbitration agreements in the detention facility context. All they do is immunize corporate predators from the legal consequences of their unlawful actions, shield them from judicial review and preclude victimized consumers from obtaining counsel and effective relief from our nation's court system.

Regulation of mandatory arbitration clauses is both in the public interest and for the benefit of consumers. While release debit cards are a relatively new product, the size of the market and potential for growth is massive. Numi Financial is one of the top 10 providers of prepaid cards nationwide, and issues more than 600,000 debit cards to consumers upon their release from over 400 jails across the country. (**Attachment 1 at 3**). "The number of bookings in jails in 2013, which approximates the number of releases and transfers, was 11.7 million." **Id. at 4**. Release debit cards are being foisted upon this very marginalized captive consumer group when they are at their most vulnerable – when they are literally one step away from freedom and have few other options to receive their account balances from prison or jail officials.

This reality, coupled with the facts that 1) "64% of jail inmates have a mental health problem,"³ many of whom may or may not be competent to understand what they are signing and what an arbitration agreement is, and 2) a 2007 report by the National Center for Education Statistics found that 39% of prisoners scored "below basic" for quantitative literacy testing while another 39% scored at a "basic" level,⁴ make mandatory arbitration agreements as they relate to release debit cards an egregious, indefensible practice that must cease immediately. There are also very high numbers of non-English speakers enmeshed in our nation's criminal justice system who have difficulty understanding the terms of mandatory arbitration agreements.

At the end of the day, the CFPB should hold that mandatory arbitration agreements should be void or inapplicable in the criminal justice context whether applied to money transfer services, phone services or release debit cards, for the simple reason that affected consumers have no real choice in the matter. Absent free choice there can be no meeting of the minds or agreement. Our free market system is predicated upon the notion that consumers have choice and companies must earn their customers' business. In the detention facility context, however, hedge fund-owned corporations have learned that they only need to give kickbacks to the detention agencies that hold prisoners captive to obtain exclusive, monopoly contracts and then force prisoners' families to pay whatever outrageous amounts they can charge for phone or money transfer services, or to give people their own funds on debit cards. All because the affected consumers, whose money is being taken and who are actually paying the bills, have no choice. The CFPB should protect these captive consumers from mandatory arbitration agreements.

Thank you for your time and attention in this regard.

Sincerely,



Paul Wright
Executive Director, HRDC

Attachments

³ <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000173-The-Processing-and-Treatment-of-Mentally-Ill-Persons-in-the-Criminal-Justice-System.pdf>

⁴ <http://nces.ed.gov/pubs2007/2007473.pdf>

Attachment 1



[JAILS AND PRISONS](#) [FINANCE](#) [PRIVATIZATION](#)

The Financial Firm That Cornered the Market on Jails

Thousands of arrestees a year are forced into get-out-of-jail-broke cards that are loaded up with deceptive fees.

By [Arun Gupta](#)

TODAY 8:00 AM

A year and a half ago, after a grand jury declined to indict police officer Darren Wilson in the shooting death of Michael Brown in Ferguson, Missouri, protests swept the nation. Portland, Oregon, was no exception. More than 2,000 people rallied outside the Multnomah County Justice Center the day after the decision was announced. Danica Brown, 48, joined hundreds who swarmed the streets, blocking traffic and bridges. A PhD candidate at Portland State University and a seasoned activist, Brown was one of seven protesters arrested that day.

Brown recalls the experience as unpleasant: As she knelt on the ground in handcuffs, one officer took a trophy photo. She was shuttled to a local police station, for a brief interrogation, then taken back to the Justice Center, where she was charged with disorderly conduct and interfering with a police officer.

Brown was released at 2:30 AM on November 26, 2014, at a loss about how to get home, nine miles away. Her wallet, cellphone, and keys were in her backpack at the first police station. The \$30.97 she had in her pocket was taken by the Multnomah County Sheriff's Office, which operates the Justice Center jail. Until May of that year, correctional officers would have simply handed her the money back, and she'd have been able to grab a taxi home. Instead, says Brown, an officer handed her a sheaf of papers and a piece of plastic—a Numi Prestige Prepaid MasterCard—that held her cash.

The materials included a densely worded brochure explaining the terms and fees associated with the debit card, and a list of nearby ATMs. But Brown had

left her glasses at home and the type was too small to read; the officer didn't offer any words of explanation.

Standing on the steps of the Justice Center, after being released, "I was kind of freaking out," Brown says. "It's not a safe area. I had no money, no phone, there's no train that time of night." Brown lucked out when her partner showed up, hoping to find her. "I was so relieved he was there," she says.

Over the next week Brown used the Numi card to purchase coffee and groceries. Five days later, she was charged \$5.95 for a monthly service fee and then 95 cents for a declined service charge. The criminal charges against Brown were eventually dismissed, but according to transaction records, she lost 22 percent of her money to fees.

Numi Financial describes itself as a "leader in stored value card solutions for the criminal justice and corrections industry." Its parent company, Stored Value Cards, based in Carlsbad, California, provides debit-card services to jails in 44 states through Numi Financial and Futura Card Services, issued by banks. The terms for the card used in Multnomah County lists 11 possible fees—the \$5.95 monthly fee, a \$2.95 fee for ATM withdrawals, \$0.95 for a declined transaction, \$1 to check the balance, and \$9.95 to have the balance refunded by check. Some cards have as many as 19 fees, a maintenance fee as high as \$15 a month, and higher fees for international transactions. As for the banks that issue prepaid cards like these, they spent, on average, only 10.3 cents per transaction in 2013, including processing and third-party fees, according to the Federal Reserve Bank.

Brown is currently the lead plaintiff in a class-action suit filed against Numi Financial's parent company in US District Court. A judge ruled in February against Numi's request for arbitration.

Veronica Thompson, a 31-year-old social worker, was arrested at another Justice Center protest a few days after Brown and was released as the sun rose the next morning. Eager for a quick bus ride home, a hot meal, and sleep, she was likewise handed a Numi card instead of her \$15.50 in cash. Thompson says the correctional officer told her, "It works like a debit card." He didn't say, "Hey, there's a bunch of fees attached." Among the documents Thompson received was a handout explaining that cardholders could avoid fees by getting money back from a cashier.

Thompson attempted to get cash at a nearby convenience store, but the cashier refused her. With no money, she walked the three miles home. "It was

cold,” she says. “I had been awake for 24 hours. I was so mad that my money was taken.”

In the following days, determined to avoid charges, Thompson used the card for no-fee purchases like groceries. But she hadn’t yet spent all her money when the monthly fee drained her balance.

Transaction histories and bank receipts from seven people arrested in Portland over a 16-month period who received Numi cards show they lost from 7 percent to 67 percent of their money to fees.

BIRTH OF A PRISON INDUSTRY

Numi is one of many for-profit players in an increasingly privatized prison industry. State spending alone on corrections hit \$52.4 billion in 2012. Hundreds of private-sector contractors now provide food, clothing, riot gear, phone service, computers, and health care, in addition to directly operating many correctional facilities. In addition, prisoners and their families pay for numerous services, including phone calls, a \$1.2 billion-a-year business, according to *The New York Times*.

At least 10 companies now offer release cards or inmate banking services to correctional systems. JPMorgan Chase does not give a card to each and every prisoner, but according to the Center for Public Integrity, it has a “lock” on the Federal Bureau of Prisons population, which currently stands at just under 200,000. At the state level, CPI found that JPay, a company founded in 2002, dominates, generating “well over \$50 million in revenue” in 2013. (It was acquired for \$250 million in 2015 by Securus Technologies, a Dallas-based prison phone provider.) But when it comes to county jails, Numi has quietly become a big player.

Numi is now in more than 400 jails across the country, including large facilities that house up to 8,500 inmates, and the company issues more than 600,000 cards a year. That’s enough to make Numi one of the top 10 providers nationwide of prepaid cards of all kinds, according to Adam Rust, research director of the North Carolina-based Reinvestment Partners, which advocates against predatory lending practices. The Mercator Advisory Group estimates the entire US prepaid-card market was \$594 billion in 2014.

Richard E. Deloney Jr., vice president of business development at Numi, said Numi’s model is based on “turnover.” “We market to the 3,300 jails in the country,” he said. “When you go to the state or federal prisons, you’re in there

for a while. They don't do us any good."

Deloney is correct about the market potential of jails. The Department of Justice estimates about 650,000 people are released from state and federal prisons annually. The number of bookings in jails in 2013, which approximates the number of releases and transfers, was 11.7 million.

'SAME FEES YOU AND I PAY'

Contracts with jails not only cover more inmates; they often experience far less scrutiny. In April 2014 Multnomah County Sheriff Daniel Staton inked the contract introducing Numi's inmate-release cards into Portland's jails with no public debate. Portland Mayor Charlie Hales said the first he heard of Numi was a brief news item published seven months after the contract went into effect. When Multnomah County Assistant Attorney Carlo Calandriello, who vetted the contract, was asked how he determined whether the terms and conditions were appropriate for cardholders, he said, "I did some Googling." A spokesperson for Deborah Kafoury, chair of the county commission, said the fees "seem exorbitant," but added that the board has "no authority" over the contract.

Since Multnomah County adopted the Numi card in May 2014, nearly 11,000 people a year have been issued cards after arrest and release. Previously, they would have received their first \$100 in cash and the remainder by check.

In 2013 Sheriff Staton also contracted with Securus Technologies to install video-visitation services and TouchPay Holdings to provide computer kiosks for booking arrestees and handling inmate money. Numi was approved later to provide debit cards as a Securus subcontractor. Numi's revenue, according to Deloney, comes "off the usage [fees]," while companies like Securus or TouchPay—which introduce Numi into a facility—get 70 cents to a dollar per card issued.

I met Deloney while he was working the vendor hall at the National Sheriffs' Association conference in Baltimore last year. He said Numi provides jails a supply of cards, a card reader, training, literature, and customer service, adding up to "a sunk cost of several dollars per card." He pitched the card to conference goers as "no different than the MasterCard debit card I have in my wallet." The fees, he says, "are not onerous, they are the same fees you and I pay." But they are high enough for Numi "to recoup our costs and to make money for our shareholders." According to a 2015 Dun & Bradstreet report on Stored Value Cards, Numi's parent company, its revenue is \$3

million a year.

Deloney claims the card is easier than a cash or check system for jailer and arrestee alike. For jails, the Numi card eliminates check fraud, reduces “manpower, processing, accounting,” and takes “potential graft out of the system.” For inmates, Deloney says, “We try to make it easy.” He says cardholders can “buy a cup of coffee or brand new shirt, and get all your cash back at no charge. There are plenty of ways to liquidate this thing without the account maintenance fee kicking in.”

‘FALSE’ CLAIMS

In October 2014 Deloney traveled with Numi President Brad Golden to Santa Clara County, California, to personally lobby the county’s Inmate Welfare Fund Committee, which manages money received from inmates, to adopt the Numi card. Deloney met with the committee again in March 2015. Their lobbying process would eventually reveal information about the cards that challenge Numi’s claims.

According to minutes from the 2014 meeting, “Mr. Golden noted that one third of NUMI’s cardholders pay absolutely no fees at all.” Golden also said “less than 1% of debit cards went uncashed,” and “of the remaining cardholders most pay between 3-4% on their balance.”

Dr. Jeffrey Schwartz, a member of the committee until October 2015 and an expert in corrections policies, was present for those meetings. Schwartz says Golden’s claim that fewer than 1 percent of cards go uncashed was “really questionable...on its face.” He says, “It doesn’t make sense that 99 out of 100 would manage to cash a debit card” given the disproportionately high number of inmates “who are too mentally ill to follow through, who are homeless and have very few resources, who are not English speakers.”

After the committee expressed reluctance, Deloney said “Numi would be able to provide data” to aid the committee’s analysis. Numi turned over three months of reports from two jails in California and one in Oregon, covering 10,963 Numi cards. Of those cards, 30.1 percent went unused; overall, cardholders avoided fees on only 19.8 percent of the cards—a far worse rate than the one-third Golden had claimed. “That’s not a rounding error,” Schwartz said.

“It isn’t a good situation,” he adds, “when vendors are making claims that are not accurate, substantially false, with their own data.”

In March 2015 the IWF committee raised additional concerns about the data. Of the cards in the data set, a majority, 56.5 percent, were worth less than \$20—an amount that is returned to arrestees in cash under the current system. Yet, as one jail commander observed, “51 percent of monies totaling \$19.99 or less...go to the bank in the form of maintenance fees.” Another commander noted that uncashed cards “were eventually depleted by maintenance fees to the bank rather than being paid out to the inmates.” An IWF staffer observed that most prisons are unable to process cards from transferred prisoners with a debit card, so if they were given the card, it would sit in the property room “until it was fully depleted by maintenance fees.” The committee concluded that Numi cards “may have an adverse effect on inmates with a low debit card balance.”

On the question of disclosing fee revenue, Numi’s representatives are at odds. While Deloney claimed that Numi was prohibited from tracking card usage by laws such as Sarbanes-Oxley, which prohibits disclosure of personal financial information, Golden had previously said Numi could “report on the fees paid by cardholders...and had in fact recently prepared a similar report for a client showing fees broken out for multiple specified amount ranges.”

Paul Wright, executive director of the Human Rights Defense Center, which has filed class-action suits against Numi Financial and other prison-release debit-card providers, says, “There’s even more secrecy in the inmate debit cards than the rest of the prison industry, which is one of the least transparent and least accountable government sectors in the country. There is no oversight over these companies, there’s no regulation.” Of Numi’s revenue, he asks, “Is it \$3 million a year, \$10 million, or \$20 million? Who knows? We know a vast amount of cards go uncashed.”

Internal Numi and Futura documents further undermine company claims. While Golden said arrestees can easily get cash without a fee, a PowerPoint from Deloney lists only two options for liquidating the card, both of which come with fees. One involves paying up to \$5.45 in fees to get \$20 from an ATM. The other involves paying \$4.95 for a cash advance at a bank.

Leaked company emails indicate Numi’s high fees are an issue for many jails, not just Santa Clara’s. “The fee plans are designed to meet facility concerns over inmate fees (some locations are more concerned about this than others),” reads one e-mail to a prison-industry vendor from Deloney. But for Numi’s corporate partners, the e-mail notes, those same fees “enhance the potential partner revenue share (the higher weekly fee structure naturally

generates more profit for sharing).”

‘BACKS OF POOR PEOPLE’

Many experts in consumer finance and criminal justice oppose the use of fee-based cards by jails. Lauren Saunders, an attorney with the National Consumer Law Center in Washington, DC, submitted extensive comments on proposed federal regulation of prepaid cards. “These cards are being used to deliver one-time return of funds,” she says. “It’s outrageous that there would be any fees taken off that. Clearly, these cards are designed to make it impossible to avoid fees.”

Kati Dunn, county director of the Metropolitan Public Defender Services in Portland, which represents thousands of low-income clients a year, says Numi card fees come “off the backs of poor people. There are people who cannot legitimately spend \$2.50 on a bus ticket to get to court.”

In November 2014, the Consumer Financial Protection Bureau proposed new rules to strengthen and clarify regulations concerning the prepaid financial product industry. But according to Saunders, the regulations, as proposed—they are expected to be final by the end of the summer—“would not address the main abuses in prison release cards.”

The Electronic Fund Transfer Act mandates when consumers receive money electronically from employers or as a government benefit, they must have a choice of financial institutions where the account is established. Another law prohibits “compulsory use,” meaning recipients must have options such as by cash or check for receiving payments. But the prison debit-card industry, Saunders explains, has thus far remained outside of both of these regulatory frameworks.

The proposed CFPB rules attracted 5,219 comments from industry and consumer groups and the public, including several addressing the lack of regulation for inmate debit cards. JPay was the lone prison debit-card provider to weigh in, arguing that the new regulations shouldn’t apply to their corner of the industry. Prison debit cards, JPay argued, are not government benefit cards, as they contain the prisoners’ own money, and the compulsory use rule should not apply as the fees are not onerous and cash and check systems “have proven to be problematic for correctional agencies and released inmates.”

Of the 16 jail systems we identified that use the Numi card, not one provided

another way for inmates to receive money upon release.

Numi Financial has spread its products into our nation's jails so quietly that many experts in criminal justice and the prepaid cards, even staff on the Senate Committee on Banking, Housing, and Urban Affairs, were unaware of its operations until contacted by a reporter. Oversight is so minimal that, in Multnomah County, Numi routinely violates its contract. The contract stipulates that Numi charge the maintenance fee after five business days, but in all the cases we documented, the fee was deducted before the five-business day grace period ended. Hundreds, even thousands, of Numi cardholders from Multnomah County jails may have been improperly charged the \$5.95 monthly fee.

By implementing a for-profit debit-card system, public officials are making a choice. They could easily stick with the old cash or check systems, or follow the lead of Oregon, which created the "[Oregon Trail/Offender Debit Card](#)," a fee-free card for state prisoners. An official with the Oregon Department of Corrections says the agency pays just a nickel a card to the state's Department of Human Services, which covers the "significant cost to managing it."

Yet counties continue to adopt Numi. In the past few years, the Numi card has been introduced in jails in Fresno, Las Vegas, Phoenix, Portland, Sacramento, Houston, and Tampa, among others. Based on data released through an open-records request, these cities load an estimated \$14.8 million in inmate funds per year. Data from Multnomah County and Reinvestment Partners put the average card load at \$72, meaning these seven cities alone may issue 210,000 Numi cards annually. Less-populated counties that have adopted the Numi card, such as Mendocino, Napa, and Tuolumne in California; Brevard, Charlotte, and St. Lucie in Florida; and Pierce County, Washington, and Pinal County, Arizona, issue on average between 96 and 480 Numi cards a month.

PREYING ON IMMIGRANTS

Numi's highest profits may come from jailed migrants. As Paul Wright, executive director of the Human Rights Defense Center, points out, "Large numbers of [jailed] people are deported to countries where they aren't able to use the inmate debit cards." The balance on these uncashed cards would be absorbed by Numi and the issuing bank through maintenance fees.

Numi is used in many cities with large Latino communities such as Houston,

Las Vegas, Sacramento, and Phoenix, whose county jails are the initial detention facility for thousands of undocumented immigrants who are eventually deported. (In 2015 ICE deported 235,413 people, including thousands who had just completed sentences in state or federal prisons.) The number of inmates facing deportation is so high, Numi has a special blue ICE transfer card that it offers to jails for free.

Alejandro Villavaso Gonzalez, 48, is typical. He was picked up in Phoenix on May 25, 2015, for a minor traffic violation. Gonzalez had \$2,100 in his pocket, pay he had just collected for himself and two coworkers for a home roofing job. He was booked into the Maricopa County Jail and the cash was loaded on a Numi debit card. He was transferred to an ICE facility and deported to Nogales on June 23—the result of a DUI conviction in California decades earlier.

Once in Mexico, Gonzalez was effectively penniless. The PIN he'd been told to use—his birth month and day—did not work. Gonzalez tried to withdraw funds seven times; each time the card was denied and charged \$0.95. Eventually he sought help at a migrant center, which assisted him in resetting his PIN. He withdrew \$460 in pesos, for which he paid \$18.75 in fees—the fees are higher for international use—an amount equal to more than two hours of his wages. Rather than pay those fees for at least four more withdrawals, they contacted No More Deaths, a US-based immigrant rights organization. Cameron Jones, a volunteer, transferred the rest of Gonzalez's money to a US bank and then wired it to a relative for a one-time Western Union fee of \$20.

If Gonzalez had not sought out assistance, all \$2,100 “would likely have been lost,” Jones said. “How many others aren't so lucky?” Six months before Gonzalez's case, No More Deaths issued “Shakedown,” a report documenting the ways money and belongings are seized from deportees. The report recorded 19 incidents involving debit cards, including cards issued by Numi. Volunteers aided migrants in recovering funds by calling English-language customer service, filing complaints in states where the Numi card is issued, writing letters to Numi Financial and its lawyers, and even crossing the border to cash out cards in order to recoup funds. Despite the intensive aid, No More Deaths calculated that an average of \$27 per card, or one-third of the monies in these 19 cases, was lost to fees.

Without assistance, maintenance fees can suck accounts dry. In 2012, Enrique, an undocumented immigrant who lived in the United States for 20

years, was convicted in California on child-endangerment charges. After serving his sentence, he was given a Numi card with \$100 of his money, transferred to an immigration detention center in Eloy, Arizona, and eventually deported to Nogales. Once there, a No More Deaths volunteer dialed into Numi's phone system only to discover Enrique's account was empty. "I am pretty sure the \$100 he had on his card was eaten up in weekly fees while he spent nine months in Eloy," the volunteer wrote.

Squatting on the top of a hill over the Tijuana River is the four-story Casa del Migrante. The prison-like concrete building is the first stop for hundreds of men deported to Mexico each month. Sitting in his office near the interior courtyard, administrator Gilberto Martinez says he and his staff started noticing Numi cards in 2014. Since then he says, "We've seen hundreds of Numi cards. Maybe one in ten get any money. If they have less than \$20 on the card, they throw it away."

My own canvass of deportees at Casa del Migrante and nine other Tijuana shelters revealed at least 10 who said they had received inmate debit cards. A few said they had lost about 40 percent of their money to fees, including two who started with more than \$200. Some said they'd thrown the cards away in frustration when they couldn't access their money.

Martin Quintana-Cerna, 28, was deported to Tijuana in April 2015 after serving a four-year prison sentence in Nevada with \$9.90 on a Numi card—all he had. He appeared dazed, finding himself in an unfamiliar city in a country where he hadn't lived since he was a child. His attempts to get pesos from an ATM in Tijuana were denied, costing him \$3.45 in fees. He allowed me to check his account online. The remaining \$6.45 was untouched, but it was effectively impossible for him to cash out at an ATM in Mexico given \$4.95 for an international ATM fee, 3 percent for a foreign transaction, and the local ATM fee.

No More Deaths catalogued other reasons deportees were unable to use their cards. Most were given written instructions in English. Many cards had to be activated by calling an 800 number in the United States that does not work internationally. Spanish-speaking operators were rarely available on Numi's customer-service line; English-speaking operators often refused to speak to a translator. Many deportees, told their PIN is their birthdate, didn't realize the US practice is to put the month before the day, unlike in Latin America. Sometimes cards are secured to prison paperwork with a staple, and a puncture to a card's magnetic strip can render it useless.

SAVINGS COME AT A PRICE

Although Numi markets itself as a hassle-free alternative to the cash box, the Numi card does not eliminate labor-intensive check-writing and reconciliation systems, as that is still required for hundreds of inmate transfers a month. Multnomah County issued 2,820 checks for the first 10 months of 2015, and about 8,600 debit cards. E-mails from Multnomah County show regular slip-ups, such as cards missing money, incorrect amounts entered, and cards that need to be voided. In January 2015 county-jail personnel processed dozens of voided cards and reverse charges, all of which involved a laborious manual procedure. It is an error rate more than 100 times the debit-card industry standard.

The Multnomah sheriff's office said \$4,652 went unclaimed in 2013, pre-Numi, mostly uncashed checks. But arrestees may be losing far more money now. Based on data provided by the MSCO, its jail system is loading approximately \$829,000 on Numi debit cards on an annual basis. Given that more than 80 percent of cardholders pay fees, including 30 percent who never cash their card, based on the data from Santa Clara County, then tens of thousands of dollars would be lost each year. Whereas Oregon holds uncashed checks "forever for claim"—accrued interest is distributed to public schools—Numi and the issuing bank vacuum up all unclaimed funds on Numi cards. Neither the Multnomah County auditor nor the sheriff's office could point to any savings, when asked.

In Fresno the Numi card system was in place for more than two weeks when, according to an e-mail written by Sgt. Javier Vital, the sheriff's office discovered that Numi ICE cards for many prisoners "were lost when we sent 2 buses of inmates to prison with the cards." There was no indication the cards were voided to refund the money, meaning maintenance fees would deplete the cards' balance. Sgt. Vital said the county would no longer issue ICE cards to inmates being transferred to state prisons.

Dr. Schwartz says, "If the vast majority of inmates pay fees, then it's a mandatory fee." He says the Numi card affects the ability of former inmates to rejoin society. "When you let inmates out of jail, how do they secure transportation, food, and shelter? It's in everyone's interest that they succeed to the highest degree possible. The people who are locked up are not just sources of revenue." ●

0 COMMENTS

ARUN GUPTA Arun Gupta has reported for publications including *The Guardian*, Salon, Al Jazeera America, and *YES! Magazine*. He is writing a book on the social construction of food for The New Press.

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Attachment 2

Payments Terms of Service

As a condition to using JPay's payment services as described herein, you agree to this Payments Terms of Service ("Agreement") and any future amendments.

- 1. NOTICE AND CONSENT.** By using JPay's services, you agree to the terms and conditions of this Agreement, the JPay [Privacy Policy](#) and any other documents incorporated by reference. You further agree that this Agreement forms a legally binding contract between you and JPay, and that this Agreement constitutes a writing signed by you under any applicable law or regulation. Any rights not expressly granted herein are reserved by JPay. We may amend this Agreement at any time by posting a revised version on our website. The revised version will be effective at the time we post it. You agree to be bound by the changed terms and conditions of this Agreement as of the effective date of such changes. We last modified this Agreement on March 10, 2016. In this Agreement, "You", "User" or "Customer" means any person or entity using the JPay Service (as defined below).
- 2. THE JPAY SERVICE.** A User may send money (the "Payment") to an inmate's account at a JPay-affiliated correctional institution (a "Client"), to a JPay prepaid media account ("JPay Credits") or to a prepaid debit/phone account. A Client has the authority to review, withhold or reject a Payment. Payments may be made (1) over the Internet or telephone using a Visa or MasterCard branded credit card or debit card (collectively "Bank Card"), (2) at a partner location using cash (i.e., MoneyGram), (3) at a JPay kiosk located at a Client using cash or a Bank Card, or (4) by sending a money order to JPay's lockbox (collectively, the "JPay Service").

Depending on the Client, Payments may be made to a variety of inmate accounts including, but not limited to, inmate trust, restitution, temporary leave and funeral expenses. In addition, each Client may accept Payments through select JPay Service channels. If you are unsure of which inmate's account to send a Payment or which JPay Service channels are available to you, please contact JPay or the Client. JPay will not be liable for a Payment sent to the incorrect inmate account.

- 3. PAYMENT INFORMATION.** To facilitate Payments, you will be required to provide JPay with certain information to allow us, among other things: to verify your identity; to receive appropriate Bank Card authorization if applicable; and to gather any other information a Client shall require of you to send the Payment. Please refer to JPay's [Privacy Policy](#) regarding JPay's use of this information. When required by applicable law, Payments will be reported to federal, state or local authorities.
- 4. IDENTITY AUTHENTICATION.** You authorize JPay, directly or through third parties, to make any inquiries we consider necessary to validate your identity. This may include asking you for further information, requiring you to provide your date of birth, and/or other information that will allow us to reasonably identify you, requiring you to take steps to confirm ownership of your email address, or verifying your Information against third party databases or through other sources. We may also ask to see your driver's license or other identifying documents at any time. JPay reserves the right to close, suspend, or limit access to your account and/or the JPay Service in the event we are unable to obtain or verify this Information.
- 5. FEES.** In consideration for the use of the JPay Service, you agree to pay JPay a fee for each Payment sent by you at the applicable rate then in effect (the "Service Fee"). All Service Fees are non-refundable.
- 6. MONEY ORDERS.** Where the lockbox Payment method is available to you, JPay will only accept money orders valued at \$1,000.00 or less, depending on the Client. Any money orders over \$1,000.00 will be returned to you. All approved money orders will be processed within up to ten (10) business days following receipt by JPay.

All money orders must be made payable to "JPay Inc.". A deposit slip and any accompanying information required by the Client must be filled out and submitted with every money order. Deposit slips can be found on [JPay's Website](#). All deposit slips must be legible and completely filled out. Any materials sent with the money order other than the deposit slip will be discarded.
- 7. JPAY CREDITS.** Depending on the Client, JPay Credits can be used by the inmate to purchase media related products. JPay Credits are non-transferrable and unused JPay Credits will not be refunded.
- 8. PAYMENT.** Service Fees and the principal Payment amount are due and payable before JPay processes the Payment. By making a Payment with a Bank Card, you authorize JPay to process the Payment. When using a Bank Card, if JPay does not receive authorization from the card issuer, the Payment will not be processed and a hold may be placed on your Bank Card which can only be removed by the issuing bank. Each time you use the JPay Service, you agree that JPay is authorized to charge your designated Bank Card account for the principal Payment amount, the Service Fee, and any other applicable fees.

9. **OTHER CHARGES.** JPay is not responsible for any fees or charges that may be imposed by the financial institutions associated with your Payment. For example (without limitation), some credit card issuers may treat the use of your credit card to use the Service as a "cash advance" rather than a purchase transaction, and may impose additional fees and interest rates for the transaction. JPay is not responsible for any non-sufficient funds charges, chargeback fees, or other similar charges that might be imposed on you by your bank, credit card issuer, or other provider.
10. **RECURRING PAYMENT.** A recurring payment is a Payment in which you authorize JPay to charge your Bank Card on a regular or periodic basis ("Recurring Payment"). This authorization is to remain in full force and effect until you cancel a Recurring Payment. You may cancel a Recurring Payment at any time up to one (1) business day prior to the date the Payment is scheduled to be processed. To cancel a Recurring Payment, log into your account, access the "Money" tab, then access the "Recurring Payments" tab and click "Delete."
11. **REFUNDS.** You may not cancel a Payment. Under some circumstances, a Payment may not be completed or a Client may refuse to accept a Payment. In such cases, JPay will cancel the Payment transaction and refund the principal Payment amount less the Service Fee to the Customer.
12. **ESCHEATMENT LAWS.** JPay must comply with each state's unclaimed property (escheatment) laws. If, for whatever reason, JPay is unable to transfer your Payment to a Client, JPay will attempt to contact you to issue you a refund. If JPay cannot get in contact with you and you do not claim your Payment within the statutory time period, JPay may be required to escheat the Payment to your resident state. JPay will determine your state of residency based on the information provided by you at the time of Payment. If you do not claim an unpaid Payment within one (1) month after the date you made the Payment, where permitted by law, JPay shall hold the Payment in an account and impose a \$3.00 service fee per month until such time the unpaid Payment must be escheated to the state.
13. **GOVERNING LAW.** This Agreement and the rights of the parties hereunder shall be governed by and construed in accordance with the laws of the State of Florida, exclusive of conflict or choice of law rules.
14. **DISPUTE RESOLUTION.**
 - a) Any dispute, claim or controversy among the parties arising out of or relating to this Agreement ("Dispute") shall be finally resolved by and through binding arbitration administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures and in accordance with the Expedited Procedures in those Rules (the "JAMS Rules"), provided that failure to adhere to any of the time limits set forth therein shall not be a basis for challenging the award. Both the foregoing agreement of the parties to arbitrate any and all Disputes, and the results, determinations, findings, judgments and/or awards rendered through any such arbitration, shall be final and binding on the parties and may be specifically enforced by legal proceedings in any court of competent jurisdiction.
 - b) The arbitration shall be conducted by three arbitrators. Each party shall select one arbitrator within 30 days of commencement of the arbitration, failing which, upon request of any party, JAMS shall appoint such arbitrator. The third arbitrator, who shall serve as Chairperson of the arbitral panel, shall be appointed by JAMS pursuant to Rule 15 of the JAMS Rules. The arbitrators must apply the terms of this arbitration agreement, including without limitation, the waiver of class-wide arbitration set forth below.
 - c) The place of arbitration shall be Miami, Florida.
 - d) The cost of the arbitration proceeding, including, without limitation, each party's attorneys' fees and costs, shall be borne by the unsuccessful party or, at the discretion of the arbitrators, may be prorated between the parties in such proportion as the arbitrators determine to be equitable and shall be awarded as part of the award.
 - e) The arbitration provisions set forth herein, and any arbitration conducted thereunder, shall be governed exclusively by the Federal Arbitration Act, Title 9 United States Code, to the exclusion of any state or municipal law of arbitration.
 - f) **RESTRICTIONS ON ARBITRATION: ALL DISPUTES, REGARDLESS OF THE DATE OF ACCRUAL OF SUCH DISPUTE, SHALL BE ARBITRATED ON AN INDIVIDUAL BASIS. YOU ARE WAIVING YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION LAWSUIT, AND TO CERTAIN DISCOVERY AND OTHER PROCEDURES THAT ARE AVAILABLE IN A LAWSUIT. YOU AND JPAY AGREE THAT THE ARBITRATORS HAVE NO AUTHORITY TO ORDER CONSOLIDATION OR CLASS ARBITRATION OR TO CONDUCT CLASS-WIDE ARBITRATION PROCEEDINGS, AND ARE ONLY AUTHORIZED TO RESOLVE THE INDIVIDUAL DISPUTES BETWEEN YOU AND JPAY ALONE. FURTHER, YOU WILL NOT HAVE THE RIGHT TO CONSOLIDATION OR JOINDER OF INDIVIDUAL DISPUTES OR ARBITRATIONS, TO HAVE ANY DISPUTE ARBITRATED ON A CLASS ACTION BASIS, OR TO PARTICIPATE IN A REPRESENTATIVE CAPACITY OR AS A MEMBER OF ANY CLASS PERTAINING TO ANY CLAIM SUBJECT TO ARBITRATION.**
 - g) **THE VALIDITY, EFFECT, AND ENFORCEABILITY OF THE FOREGOING WAIVER OF CLASS ACTION LAWSUIT AND CLASS-WIDE ARBITRATION, IF CHALLENGED, ARE TO BE DETERMINED SOLELY AND EXCLUSIVELY BY FEDERAL DISTRICT COURT LOCATED IN THE SOUTHERN DISTRICT OF FLORIDA OR FLORIDA STATE COURT IN MIAMI-DADE COUNTY AND NOT BY JAMS OR ANY ARBITRATOR.**
 - h) **WITHOUT WAIVING THE RIGHT TO APPEAL SUCH DECISION, SHOULD ANY PORTION OF SECTION 14(F) BE STRICKEN FROM THIS AGREEMENT OR DEEMED OTHERWISE INVALID OR UNENFORCEABLE, THEN THIS ENTIRE SECTION 14 (OTHER THAN THIS SENTENCE) SHALL BE**

STRICKEN FROM THIS AGREEMENT AND INAPPLICABLE, AND ANY AND ALL DISPUTES SHALL PROCEED IN FEDERAL DISTRICT COURT LOCATED IN THE SOUTHERN DISTRICT OF FLORIDA OR FLORIDA STATE COURT IN MIAMI-DADE COUNTY AND BE DECIDED BY A JUDGE, SITTING WITHOUT A JURY, ACCORDING TO APPLICABLE COURT RULES AND PROCEDURES, AND NOT AS A CLASS ACTION LAWSUIT.

15. INDEMNIFICATION. Except to the extent that JPay is otherwise liable under this Agreement or by law, you agree to indemnify and hold JPay, its shareholders, subsidiaries, affiliates, directors, officers, employees, agents, representatives, suppliers, service providers, and subcontractors harmless from any and all losses, liabilities, claims, demands, judgments and expenses, including but not limited to reasonable attorney's fees, arising out of or in any way connected with your use of or the performance of the JPay Service.

16. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY. THE JPAY SERVICE IS PROVIDED BY JPAY INC. ON AN "AS IS" AND "AS AVAILABLE" BASIS. JPAY MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE OPERATION OF THE JPAY SERVICE OR THE INFORMATION, CONTENT, MATERIALS, PRODUCTS OR SERVICES INCLUDED ON THIS SITE. YOU EXPRESSLY AGREE THAT YOUR USE OF THE JPAY SERVICE IS AT YOUR SOLE RISK AND THAT YOU ARE SOLELY RESPONSIBLE FOR THE ACCURACY OF THE PERSONAL AND PAYMENT INFORMATION THAT YOU PROVIDE.

TO THE FULL EXTENT PERMISSIBLE BY APPLICABLE LAW, JPAY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. JPAY DOES NOT WARRANT THAT THIS SITE, ITS SERVICES OR E-MAIL SENT FROM JPAY ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. JPAY (AS WELL AS ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES AND STOCKHOLDERS) WILL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND ARISING FROM THE USE OF THIS SITE, ANY CREDIT CARD COMPANY'S NON-AUTHORIZATION OF A USER'S BANK CARD PAYMENT, ANY GOVERNMENT ENTITY'S NON-ACCEPTANCE OF A PAYMENT FROM A USER USING THE JPAY SERVICE, FOR DISRUPTIONS IN THE JPAY SERVICE, OR FOR ERROR, DELAY OR MIS-DELIVERY OF A PAYMENT, REGARDLESS OF THE CAUSE, INCLUDING (WITHOUT LIMITATION) DIRECT, INDIRECT, INCIDENTAL, PUNITIVE AND CONSEQUENTIAL DAMAGES.

CERTAIN STATE LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

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Inmate Services

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[Are You a Corrections Agency?](#)

Attachment 3

Terms of use

Effective Date: March 30, 2015

TouchPay Holdings, LLC d/b/a GTL Financial Services, a wholly-owned subsidiary of Global Tel*Link Corporation, is the owner and operator of the website located at the url www.connectnetwork.com (the "Site"). These Terms of Use apply when you access, visit or use the Site or use any of the products or services that Global Tel*Link Corporation ("GTL"), or one of its affiliates (individually "Affiliate" and collectively "Affiliates") provide, including My Phone Account, Offender Trust Fund, Send An Email and Offender Phone Account (the Site and these products and services will be referred to in these Terms of Use as the "Service"). For purposes of these Terms of Use, "Company", "we", "us", or "our", means GTL, and any Affiliate where the Affiliate or its products or services are implicated.

Notice Regarding Dispute Resolution: These Terms of Use contain provisions that govern how claims you and we may have against each other are resolved (see Section R below), including an agreement and obligation to arbitrate disputes, which will, subject to limited exceptions, require you to submit claims you have against us to binding arbitration, unless you opt-out in accordance with Section R(4). Unless you opt-out of arbitration: (1) you will only be permitted to pursue claims against us on an individual basis, not as part of any class or representative action or proceeding and (2) you will only be permitted to seek relief (including monetary, injunctive, and declaratory relief) on an individual basis.

A. Acceptance of these Terms of Use by Users of the Site. By using the Service, or clicking the "accept" button when you register to use the Service through the Site or when you are otherwise prompted to do so, you agree to be bound by the terms of these Terms of Use.

B. Acceptance of these Terms of Use by Other Users of the Service. If you create an account to use the Service other than through the Site, and if you do not agree with or consent to the terms of these Terms of Use, you will have thirty (30) days from the date you create the account with us to cancel the account. If you decide that you want to cancel the account within this thirty (30) day period, please contact our Customer Service team using the information supplied through the "Contact Us" link on the Site. If you cancel the account we will provide you with a refund of any fees you have paid and not used in connection with the Service.

C. Eligibility. The Service is intended for individuals who are at least eighteen (18) years old. If you are not at least eighteen (18) years old, please do not access, visit or use the Service.

D. Your Privacy Rights. In connection with your use of the Service, please review the Your Privacy Rights statement ("Privacy Statement") in order to understand how we use information we collect from you when you access, visit or use the Service. The Privacy Statement is part of and is governed by these Terms of Use and by accepting the Terms of Use, you agree to be bound by the terms of the Privacy Statement, and agree that we may use information collected from you in accordance with the Privacy Statement.

E. Registration. As a condition of using certain features of the Service, you may be required to register through the Site and select a password and user I.D. You may not: (1) select or use as a user I.D. a name of another person with the intent to impersonate that person; (2) use as a user I.D. a name subject to any rights of a person other than you without appropriate authorization; or (3) use as a user I.D. a name that is otherwise offensive, vulgar or obscene. We reserve the right to refuse registration of, or to cancel a user I.D., in our sole discretion. You shall be responsible for maintaining the confidentiality of your user I.D. and password.

F. Prohibited Activities. You may not access or use the Service for any purpose other than the purpose for which we make it available to you. We may prohibit certain activities in connection with the Service in our discretion. These prohibited activities include, without limitation, the following:

1. Criminal or tortious activity, including child pornography, fraud, trafficking in obscene material, drug dealing, gambling, harassment, stalking, spamming, copyright infringement, patent infringement, or theft of trade secrets.
2. Advertising to, or solicitation of, any user to buy or sell any products or services.
3. Transmitting chain letters or junk email to other users.
4. Using any information obtained from the Service in order to contact, advertise to, solicit or sell any products or services to any user without their prior explicit consent.
5. Engaging in any automated use of the Service, such as using scripts to send comments or messages.
6. Interfering with, disrupting or creating an undue burden on the Service or the networks or services connected to the Service.
7. Attempting to impersonate another user or person.
8. Using the user I.D. or account of another user.
9. Using any information obtained from the Service in order to harass, abuse or harm another person.
10. Accepting payment of anything of value from a third person in exchange for your performance of any commercial activity on or through the Service on behalf of that person.
11. Using the Service in a manner inconsistent with any and all applicable laws and regulations.

G. Management of the Service. You acknowledge that we reserve the right, but have no obligation, to (1) take appropriate legal action against anyone who, in our sole determination, violates these Terms of Use, including, without limitation, reporting you to law enforcement authorities, (2) in our sole discretion and without limitation, refuse, restrict access to or availability of, or disable all or a portion of the Service, and (3) otherwise manage the Service in a manner designed to protect the rights and property of the Company and users of the Service and to facilitate the proper functioning of the Service.

H. Monitoring of Calls Made and Video Visits Made and Email Sent through the Service. You acknowledge and agree that we may, and the correctional facility where an offender is incarcerated may, monitor or record calls and video visits as well as obtain the location of your phone when you use the Service, and read emails sent using the Service, in accordance with the policies in place at the correctional facility where an offender is incarcerated. By accepting these Terms of Use you authorize us, and the applicable correctional facility, to monitor and record calls and video visits you make through the Service and to read emails you send through the Service in accordance with the policies in place at the applicable correctional facility.

I. Use of the Service. The Service and its contents and the trademarks, service marks and logos contained on the Service, are the intellectual property of the Company or its licensors and constitute copyrights and other intellectual property rights of the Company or its licensors under U.S. and foreign laws and international conventions. The Service and its contents are provided for your informational, personal, non-commercial use only and may not be used, copied, reproduced, distributed, transmitted, broadcast, displayed, sold, licensed, or otherwise exploited for any other purpose whatsoever without the express written consent of the Company. You agree not to engage in the use, copying or distribution of the Service or of any of its contents for any commercial purpose. You agree not to circumvent, disable or otherwise interfere with security related features of the Service. We may, but are not obligated to, periodically provide updates to the Service to resolve bugs or add features and functionality. You do not acquire any ownership rights to the Service or to any contents contained on the Service. All rights not expressly granted in these Terms of Use are reserved by the Company. You are solely responsible for your interactions with other users of the Service.

J. Termination of Your Use of the Service. We may suspend or terminate your use of the Service if you violate these Terms of Use or in our discretion. We may also impose limits on or restrict your access to parts or all of the Service without notice or liability.

K. Charges for the Service. Fees will apply to your use of certain features of the Service, including any calls that are made through the Service. The fees and charges may vary based on, among other things, the correctional

facility where an offender is incarcerated. We reserve the right to change the fees charged periodically, in our discretion.

L. Submissions. If you submit opinions, suggestions, feedback, images, documents, and/or proposals to us through the Service, or through any other communication with us, you acknowledge and agree that: (1) the submissions you provide will not contain confidential or proprietary information; (2) we are not under any obligation of confidentiality, express or implied, with respect to the submissions you provide; (3) we shall be entitled to use or disclose (or choose not to use or disclose) the submissions you provide for any purpose, in any way, in any media worldwide; (4) the submissions you provide will automatically become the property of the Company without any obligation of the Company to you; and (5) you are not entitled to any compensation or reimbursement of any kind from the Company in connection with your submissions under any circumstances.

M. Links to Other Websites. The Service may contain links to third-party websites, resources or data. You acknowledge and agree that the Company is not responsible or liable for: (1) the availability or accuracy of these third-party websites, resources or data; or (2) the content, products, or services on or available from these websites, resources or data. You also acknowledge that you are solely responsible for, and assume all risk arising from, the use of any these websites, resources and data. Links to third party websites on the Service are not intended as endorsements or referrals by the Company of any products, services or information contained on the applicable websites. These Terms of Use do not apply to third party websites, including the content of and your activity on those websites. You should review third-party websites' terms of service, privacy policies and all other website documents, and inform yourself of the regulations, policies and practices of third-party websites.

N. Disclaimer of Warranties. THE INFORMATION CONTAINED IN AND PROVIDED THROUGH THE SERVICE, INCLUDING TEXT, GRAPHICS, LINKS, OR OTHER ITEMS, IS PROVIDED "AS IS". NEITHER THE COMPANY NOR ITS SUPPLIERS WARRANT THE ACCURACY, ADEQUACY, COMPLETENESS OR TIMELINESS OF THE INFORMATION, MATERIALS, PRODUCTS, AND SERVICES ACCESSED ON OR THROUGH THE SERVICE AND THE COMPANY EXPRESSLY DISCLAIMS LIABILITY FOR ERRORS OR OMISSIONS IN THE INFORMATION OR MATERIALS ACCESSED ON OR THROUGH THE SERVICE. NO WARRANTY OF ANY KIND, WHETHER IMPLIED OR EXPRESSED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF NON-INFRINGEMENT, TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND FREEDOM FROM COMPUTER VIRUS, IS GIVEN IN CONJUNCTION WITH ANY INFORMATION, MATERIALS, OR SERVICES PROVIDED THROUGH THE SERVICE.

O. Limitation of Liability. IN NO EVENT SHALL THE COMPANY OR ITS THIRD PARTY SUPPLIERS BE LIABLE FOR ANY DAMAGES, LOSSES OR LIABILITIES INCLUDING, WITHOUT LIMITATION, DIRECT OR INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR OTHER DAMAGES, LOSSES OR EXPENSES, INCLUDING ANY LOST PROFITS, LOST DATA, OR LOST SAVINGS, WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT OR ANY OTHER LEGAL THEORY, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OF THE SERVICE OR RELIANCE ON OR USE OR INABILITY TO USE THE INFORMATION, MATERIALS OR SERVICES PROVIDED THROUGH THE SERVICE, OR IN CONNECTION WITH ANY FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMPUTER VIRUS OR LINE OR SYSTEM FAILURE, EVEN IF THE COMPANY OR ITS THIRD PARTY SUPPLIERS ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, LOSSES OR EXPENSES.

P. Unauthorized Transactions. In the event that you use a credit card to pay for any products or services offered through the Site, you are representing to the Company that you are authorized to use that credit card.

Q. Indemnification. You agree to defend, indemnify and hold the Company harmless from and against any and all claims, damages, and costs including attorneys' fees, arising from or related to your use of the Service.

R. Dispute Resolution.

1. **Arbitration.** The parties shall use their best efforts to settle any dispute, claim, question, or disagreement directly through consultation and good faith negotiations which shall be a precondition to either party initiating a lawsuit or arbitration. All claims arising out of or relating to these Terms of Use (including its formation, performance and breach) and the Service shall be finally settled by binding arbitration, excluding any rules or procedures governing or permitting class actions. The arbitrator, and not any federal, state or local court or agency, shall have exclusive authority to resolve all disputes arising out of or relating to the interpretation, applicability, enforceability or formation of these Terms of Use, including, but not limited to any claim that all or any part of these Terms of Use is void or voidable. The arbitrator shall be empowered to grant whatever relief would be available in a court under law or in equity. The arbitrator's award shall be binding on the parties and may be entered as a judgment in any court of competent jurisdiction. To the extent the filing fee for the arbitration exceeds the cost of filing a lawsuit, we will pay the additional cost. The interpretation and enforcement of these Terms of Use shall be subject to the Federal Arbitration Act.

The parties understand that, absent this mandatory provision, they would have the right to sue in court and have a jury trial. They further understand that, in some instances, the costs of arbitration could exceed the costs of litigation and the right to discovery may be more limited in arbitration than in court.

2. **Class Action Waiver.** The parties further agree that any arbitration shall be conducted in their individual capacities only and not as a class action or other representative action, and the parties expressly waive their right to file a class action or seek relief on a class basis. If any court or arbitrator determines that the class action waiver set forth in this paragraph is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then the arbitration provision set forth above shall be deemed null and void in its entirety and the parties shall be deemed to have not agreed to arbitrate disputes.
3. **Exception - Litigation of Small Claims Court Claims** Notwithstanding the parties' decision to resolve all disputes through arbitration, either party may also seek relief in a small claims court for disputes or claims within the scope of that court's jurisdiction.
4. **Thirty Day Right to Opt Out.** You have the right to opt-out and not be bound by the arbitration and class action waiver provisions set forth in this Section by sending written notice of your decision to opt-out to the following address: c/o Global Tel*Link Corporation, 12021 Sunset Hills Road, Reston, Virginia 20190, Attn: Arbitration Opt-Out. The notice must be sent within thirty (30) days of the date you have agreed to Terms of Use; otherwise you shall be bound to arbitrate disputes in accordance with the terms set forth above. If you elect to opt-out of these arbitration provisions, we also will not be bound by them. In addition, if you elect to opt-out of these arbitration provisions, we may terminate your use of the Service. If we terminate your use of the Service, we will provide you with a refund of any fees you have paid and have not been used in connection with the Service.

S. Amendments. These Terms of Use may be amended by the Company from time to time. We will post any material changes to these Terms of Use on the Site with a notice advising of changes. You may cancel your account within thirty (30) days following the date the amended Terms of Use are posted by contacting us using the contact information in Section Z below. If you choose to cancel your account within this thirty (30) day period, you will not be bound by the terms of the revised Terms of Use but will remain bound by terms of these Terms of Use, and, we will provide you with a refund of any fees that you have paid and that have not been used in connection with the Service.

T. No Oral Modifications. Employees of the Company are not authorized to modify these Terms of Use, either verbally or in writing. If any employee of the Company offers to modify these Terms of Use, he or she is not acting as an agent for the Company or speaking on our behalf. You may not rely, and should not act in reliance on, any statement or communication from an employee of the Company or anyone else purporting to act on our behalf.

U. No Third Party Beneficiaries. These Terms of Use are between you and the Company. There are no third party beneficiaries.

V. Independent Contractors. No agency, partnership, joint venture, or employment is created as a result of these Terms of Use and you do not have any authority of any kind to bind the Company in any respect whatsoever. W. Non-Waiver. The failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further rights hereunder.

X. Force Majeure. The Company shall not be liable for any failure to perform its obligations hereunder where the failure results from any cause beyond the Company's reasonable control, including, without limitation, any mechanical, electronic or communications failure or degradation.

Y. Severability. If any provision of these Terms of Use is found to be unenforceable or invalid (other than the class action waiver in Section R), that provision shall be limited or eliminated to the minimum extent necessary so that these Terms of Use shall otherwise remain in full force and effect and enforceable.

Z. Contact Us. If you have any questions about these Terms of Use, you may contact us by email at termsfuse@gtl.net or by postal mail at c/o Global Tel*Link Corporation, 12021 Sunset Hills Road, Suite 100, Reston, Virginia 20190, Attn: Legal Department. If you have any questions regarding the Service or your account, or if you would like to cancel your account, please contact our Customer Service team using the information supplied through the "Contact Us" link on the Site.

Assignment. These Terms of Use are not assignable, transferable or sublicensable by you except with our prior written consent. We may transfer, assign or delegate these Terms of Use and our related rights and obligations without obtaining your consent.

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