

## Response Exhibit 11 - Explanation

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 14-93
	)	
CAF Phase II Challenge Process	)	

**CAF Phase II Challenge – Evidence of No Voice Service –  
Providers Not Providing Reliable Access to Emergency Services**

Any census block in which a provider’s only voice service offering does not provide reliable access to 911 or E911 services should be deemed unserved by the provider for CAF Phase II purposes. The Wireline Competition Bureau (Bureau) has stated that unsubsidized competitors must offer voice service “to ensure parity between Phase II recipients and unsubsidized competitors.”<sup>1</sup> Price cap carriers provide such access today, so a provider whose voice service does not provide reliable access to emergency services, including 911 and E911, cannot qualify as an unsubsidized provider for CAF Phase II purposes. This includes providers of interconnected VoIP service who “must, among other things . . . conform to the requirements for E911.”<sup>2</sup>

In addition, an ETC must provide voice service, which necessarily includes reliable access to emergency services, such as 911 and E911.<sup>3</sup> As such, CenturyLink submits that where a provider’s terms and conditions for voice service disclaim reliable access to 911 or E911 service, the provider cannot qualify as an ETC that could receive CAF Phase II support. Accordingly, such a provider cannot qualify as an unsubsidized competitor for CAF Phase II purposes.

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<sup>1</sup> *In the Matter of Connect America Fund*, Report and Order, WC Docket No. 10-90, DA 13-1113 (rel. May 16, 2013) at ¶ 9 & n. 20.

<sup>2</sup> *In the Matter of Connect America Fund*, Report and Order, WC Docket No. 10-90, DA 13-1113 (rel. May 16, 2013) at n. 25.

<sup>3</sup> ETC’s must provide “voice telephony” in order to receive universal service support. 47 C.F.R. § 54.101(b). “Voice telephony” requires “access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier’s service area has implemented 911 or enhanced 911 systems.” 47 CFR § 54.101(a).

CenturyLink has reviewed the websites of broadband providers and identified providers whose terms and conditions regarding voice service include disclaimers regarding access to 911 or E911 service.

These disclaimers include language such as the following:

YOU SHOULD NOT RELY ON THE VOIP SERVICE AS YOUR PRIMARY METHOD TO OBTAIN EMERGENCY SERVICES. IF YOU DO NOT FEEL COMFORTABLE WITH THESE LIMITATIONS, WE SUGGEST YOU MAKE ALTERNATIVE METHODS AVAILABLE TO CALL 911 OR OTHERWISE OBTAIN EMERGENCY SERVICES, SUCH AS THROUGH A TRADITIONAL TELEPHONE LINE OR A MOBILE PHONE.

Such language acknowledges that the voice service is not as reliable as a traditional wireline or mobile telephone for accessing E911, and not reliable as a primary, and certainly not as the only, method for obtaining access to emergency services. As such, CenturyLink submits that this language reflects a voice service that does not provide sufficient access to emergency services to qualify the provider as an unsubsidized provider for CAF Phase II purposes. All census blocks in which providers offer only such voice service should be deemed unserved for CAF Phase II purposes.

CenturyLink provides the attached declaration regarding its findings on this issue which includes a list of providers who disclaim reliable access to 911 or E911 services for their voice services. CenturyLink is also providing screen prints from the providers' websites of the providers' terms and conditions reflecting their disclaimers regarding access to 911 or E911 service. Because these providers are not offering voice services that is sufficient to qualify them as unsubsidized competitors the census blocks identified in the attached declaration should continue to be categorized as unserved and remain eligible for CAF Phase II.

## Response Exhibit 11 - Declaration

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 14-93
	)	
CAF Phase II Challenge Process	)	

**DECLARATION OF GERALD FLURER**

1. My name is Gerald Flurer. I am employed as a Regulatory Operations Director at CenturyLink. My business address is 600 New Century Parkway, New Century, KS. In my current position at CenturyLink, some of my responsibilities include managing various GIS mapping projects which have included compiling and submitting CenturyLink's data for the National Broadband Map (NBM).

2. In this declaration, I describe the steps CenturyLink has taken to determine that the providers identified in the list attached to this declaration are not providing the requisite voice service in the identified census blocks to qualify as an unsubsidized competitor for CAF Phase II purposes. As such, CenturyLink submits that these census blocks should continue to be categorized as unserved and remain eligible for CAF Phase II support.

3. CenturyLink reviewed the FCC's Prima Facie Unserved-to-Served Challenges list of census blocks and developed a list of census blocks and filing parties to which response was needed by determining which census blocks were within CenturyLink service territory.

4. I and others reviewed provider websites in the manner we would expect a local residential customer to search for whether the providers were offering voice service. In reviewing those websites we discovered that certain providers offered voice service, but have

language in the terms and conditions for their voice service disclaiming reliable access to 911 or E911 service.

5. The list attached to this declaration identifies the providers whose websites reflected disclaimed reliable access to 911 or E911 service. Additionally, we are providing screen prints of the emergency service access disclaimer language for the voice service for each provider's website.

6. CenturyLink submits that because these providers are not providing reliable access to 911 or E911 service that these providers are not offering a voice service that qualifies these providers as an unsubsidized competitor for CAF Phase II purposes. As such, the census blocks should continue to be categorized as unserved and remain eligible for CAF Phase II support.

I declare, under penalty of perjury, that the foregoing is true to the best of my knowledge, information, and belief.

  
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Gerald Flurer

Executed on November 7, 2014

## Response Exhibit 11 - Evidence A

HoCoName	CBFIPS	FRN	Filing Party	StateAbbr
All West Communications, Inc.	490439641022124	0004924809	All West Communications, Inc.	UT
All West Communications, Inc.	490439641022131	0004924809	All West Communications, Inc.	UT
All West Communications, Inc.	490439641022132	0004924809	All West Communications, Inc.	UT
All West Communications, Inc.	490439641022167	0004924809	All West Communications, Inc.	UT
All West Communications, Inc.	490439641022168	0004924809	All West Communications, Inc.	UT
All West Communications, Inc.	490439641022171	0004924809	All West Communications, Inc.	UT
All West Communications, Inc.	490439641022207	0004924809	All West Communications, Inc.	UT
All West Communications, Inc.	490439641022208	0004924809	All West Communications, Inc.	UT
All West Communications, Inc.	490439641022210	0004924809	All West Communications, Inc.	UT
JAB Wireless, Inc.	080130136022045	0014175673	JAB Wireless	CO
JAB Wireless, Inc.	080150003002021	0014175673	JAB Wireless	CO
JAB Wireless, Inc.	080410046011097	0014175673	JAB Wireless	CO
JAB Wireless, Inc.	080410074002039	0014175673	JAB Wireless	CO
JAB Wireless, Inc.	080490002011371	0014175673	JAB Wireless	CO
JAB Wireless, Inc.	080679706002000	0014175673	JAB Wireless	CO
JAB Wireless, Inc.	080690024021434	0014175673	JAB Wireless	CO
JAB Wireless, Inc.	080930004001448	0014175673	JAB Wireless	CO
JAB Wireless, Inc.	080930004001702	0014175673	JAB Wireless	CO
JAB Wireless, Inc.	080930005002090	0014175673	JAB Wireless	CO
JAB Wireless, Inc.	080930005002091	0014175673	JAB Wireless	CO
JAB Wireless, Inc.	080930005002175	0014175673	JAB Wireless	CO
JAB Wireless, Inc.	080930005003145	0014175673	JAB Wireless	CO
JAB Wireless, Inc.	080930005003147	0014175673	JAB Wireless	CO
JAB Wireless, Inc.	081039511001256	0014175673	JAB Wireless	CO
JAB Wireless, Inc.	081039511002181	0014175673	JAB Wireless	CO
JAB Wireless, Inc.	081190101061057	0014175673	JAB Wireless	CO
JAB Wireless, Inc.	081190101062102	0014175673	JAB Wireless	CO
JAB Wireless, Inc.	160119503001098	0013795273	JAB Wireless	ID
JAB Wireless, Inc.	160119503001098	0013795273	JAB Wireless	ID
JAB Wireless, Inc.	160159502004136	0013795273	JAB Wireless	ID
JAB Wireless, Inc.	160159502004136	0013795273	JAB Wireless	ID

HoCoName	CBFIPS	FRN	Filing Party	StateAbbr
JAB Wireless, Inc.	160299601005223	0013795273	JAB Wireless	ID
JAB Wireless, Inc.	160299601005223	0013795273	JAB Wireless	ID
JAB Wireless, Inc.	160299601005255	0013795273	JAB Wireless	ID
JAB Wireless, Inc.	160299601005255	0013795273	JAB Wireless	ID
JAB Wireless, Inc.	160299601005352	0013795273	JAB Wireless	ID
JAB Wireless, Inc.	160299601005352	0013795273	JAB Wireless	ID
JAB Wireless, Inc.	490230102002009	0013795273	JAB Wireless	UT
JAB Wireless, Inc.	490230102002009	0013795273	JAB Wireless	UT
JAB Wireless, Inc.	490490104111329	0013795273	JAB Wireless	UT
JAB Wireless, Inc.	490490104111329	0013795273	JAB Wireless	UT
JAB Wireless, Inc.	490490109002175	0013795273	JAB Wireless	UT
JAB Wireless, Inc.	490490109002175	0013795273	JAB Wireless	UT
JAB Wireless, Inc.	490572101001232	0013795273	JAB Wireless	UT
JAB Wireless, Inc.	490572101001232	0013795273	JAB Wireless	UT
JAB Wireless, Inc.	551050028001026	0008317661	JAB Wireless	WI
JAB Wireless, Inc.	551050028001028	0008317661	JAB Wireless	WI
JAB Wireless, Inc.	551050028001042	0008317661	JAB Wireless	WI
JAB Wireless, Inc.	551050028004081	0008317661	JAB Wireless	WI
PCC Holdings, Inc.	040099611001116	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099611001116	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099611001133	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099611001133	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099611001134	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099611001134	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099611001161	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099611001161	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099611001167	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099611001167	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099611001169	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099611001169	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099611001188	0007566961	TRANSWORLD NETWORK, CORP.	AZ

HoCoName	CBFIPS	FRN	Filing Party	StateAbbr
PCC Holdings, Inc.	040099611001188	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099611001226	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099611001226	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099611003012	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099611003012	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099616001313	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099616001313	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099617001056	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099617001056	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099617001057	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099617001057	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099617001058	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099617001058	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099617001115	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040099617001115	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040190041093150	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040190041093150	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040190047162049	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040190047162049	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040210008022039	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040210008022039	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040239660001081	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	040239660001081	0007566961	TRANSWORLD NETWORK, CORP.	AZ
PCC Holdings, Inc.	180071002001023	0007566961	TRANSWORLD NETWORK, CORP.	IN
PCC Holdings, Inc.	180071002001023	0007566961	TRANSWORLD NETWORK, CORP.	IN
PCC Holdings, Inc.	181039520001048	0007566961	TRANSWORLD NETWORK, CORP.	IN
PCC Holdings, Inc.	181039520001048	0007566961	TRANSWORLD NETWORK, CORP.	IN
PCC Holdings, Inc.	181039520004007	0007566961	TRANSWORLD NETWORK, CORP.	IN
PCC Holdings, Inc.	181039520004007	0007566961	TRANSWORLD NETWORK, CORP.	IN
PCC Holdings, Inc.	181319591001001	0007566961	TRANSWORLD NETWORK, CORP.	IN
PCC Holdings, Inc.	181319591001001	0007566961	TRANSWORLD NETWORK, CORP.	IN

HoCoName	CBFIPS	FRN	Filing Party	StateAbbr
PCC Holdings, Inc.	181319591002028	0007566961	TRANSWORLD NETWORK, CORP.	IN
PCC Holdings, Inc.	181319591002028	0007566961	TRANSWORLD NETWORK, CORP.	IN
PCC Holdings, Inc.	181819583003156	0007566961	TRANSWORLD NETWORK, CORP.	IN
PCC Holdings, Inc.	181819583003156	0007566961	TRANSWORLD NETWORK, CORP.	IN
PCC Holdings, Inc.	181819583003156	0007566961	TRANSWORLD NETWORK, CORP.	IN
PCC Holdings, Inc.	181819583003156	0007566961	TRANSWORLD NETWORK, CORP.	IN
PCC Holdings, Inc.	181819583003156	0007566961	TRANSWORLD NETWORK, CORP.	IN
PCC Holdings, Inc.	181819583003156	0007566961	TRANSWORLD NETWORK, CORP.	IN
PCC Holdings, Inc.	350519624011734	0007566961	TRANSWORLD NETWORK, CORP.	NM
PCC Holdings, Inc.	350519624011734	0007566961	TRANSWORLD NETWORK, CORP.	NM
Rural Broadband Network Services	511390301002008	0017649732	Rural Broadband Network Services	VA
Rural Broadband Network Services	511390301002012	0017649732	Rural Broadband Network Services	VA
Rural Broadband Network Services	511390301002024	0017649732	Rural Broadband Network Services	VA
Rural Broadband Network Services	511390301002039	0017649732	Rural Broadband Network Services	VA
Rural Broadband Network Services	511390301002047	0017649732	Rural Broadband Network Services	VA
Rural Broadband Network Services	511390301002052	0017649732	Rural Broadband Network Services	VA
Rural Broadband Network Services	511390301003001	0017649732	Rural Broadband Network Services	VA
Rural Broadband Network Services	511390301003002	0017649732	Rural Broadband Network Services	VA
Rural Broadband Network Services	511390301003003	0017649732	Rural Broadband Network Services	VA
Rural Broadband Network Services	511390301003010	0017649732	Rural Broadband Network Services	VA
Rural Broadband Network Services	511390301003011	0017649732	Rural Broadband Network Services	VA
Rural Broadband Network Services	511390301003012	0017649732	Rural Broadband Network Services	VA
Rural Broadband Network Services	511390301003013	0017649732	Rural Broadband Network Services	VA
Rural Broadband Network Services	511390301003015	0017649732	Rural Broadband Network Services	VA
Rural Broadband Network Services	511390301003020	0017649732	Rural Broadband Network Services	VA
Rural Broadband Network Services	511390301003033	0017649732	Rural Broadband Network Services	VA
Rural Broadband Network Services	511390301003048	0017649732	Rural Broadband Network Services	VA
Rural Broadband Network Services	511390301003051	0017649732	Rural Broadband Network Services	VA
Rural Broadband Network Services	511390301003054	0017649732	Rural Broadband Network Services	VA
Rural Broadband Network Services	511390301003059	0017649732	Rural Broadband Network Services	VA
Rural Broadband Network Services	511390301003061	0017649732	Rural Broadband Network Services	VA













## Response Exhibit 11 - Evidence B

004924809 -9- AllWest - residential-terms-conditions



( / )

RESIDENTIAL TERMS &amp; CONDITIONS ▼

# All West Communications Terms and Conditions for Residential Services and Privacy Policy

All West Communications, Inc., All West/Utah, Inc., All West/Wyoming, Inc. (collectively "All West," "we," or "our") are at all times committed to complying with the laws and regulations governing use of All West's networks, systems, services, web sites, and products.

## Tariffs for Regulated Services

Telecommunications services are regulated by the federal and state governmental bodies. All West's regulated telephone service is provided to you pursuant to our tariffs. Tariffs are documents filed with the state public service commission (for intrastate services) or the Federal Communications Commission (for interstate services), that contain the rates, service descriptions, and terms and conditions for the specific telecommunications services listed.

## Terms and Conditions for Non-

# Regulated Services

These Terms and Conditions are in addition to any written agreements between you and All West, and together, the documents constitute the "Agreement" between All West and the customer ("Customer," "you," or" your"). By using All West's telephone, long distance, VoIP, internet/broadband, and/or cable television services ("Services") and accessing the All West websites at [www.allwest.com](http://www.allwest.com) and [www.tvonmyside.com](http://www.tvonmyside.com) (the "Site" or "Sites"), you agree to be bound by all of the terms, conditions, and notices contained or referenced in these Terms and Condition:

These Terms and Conditions govern your use of the Services and any devices and/or equipment used to support the Services (as more fully described below), including without limitation, hardware and software used in conjunction with the Services that are provided to you from All West for your use in connection with the Services. By activating or using the Services, you acknowledge that you have read, understand and agree to these Terms and Conditions as set out hereunder. All West reserves the right to change or modify the Terms and Conditions at any time, effective when posted on All West's web sites at [www.allwest.com/Terms-and-Conditions](http://www.allwest.com/Terms-and-Conditions) or [www.allwest.com/Terms-and-Conditions](http://www.allwest.com/Terms-and-Conditions) . If you do not wish to be bound by this Agreement or any modifications that may be made by All West from time to time (as described in the Changes to the Agreement section below) do not activate or use the Services and immediately contact All West. Your use of the Services after changes to the Terms and Conditions are posted shall constitute your acceptance of any changed or additional terms.

## Authority

- • By using this Site and Services, you represent that you are at least 13 years old. Persons who are at least 13 years of age, but less than 18 years of age may only use our Sites and Services with legal parental or guardian consent. Accordingly, you agree that you are at least 18 year of age or older or you possess legal parental and guardian consent, and are fully able and competent to enter into the terms, conditions, representations and warranties set for in these Terms and Conditions. If not, please exit the Site and cease using the Services.

# GENERAL TERMS AND CONDITIONS APPLICABLE TO ALL SERVICES

1. Acceptance of this Agreement: Your use of the Services shall constitute your acceptance of these Term and Conditions.

2. Governing Law and Venue. This Agreement and your use of the Services, All West Equipment, and the Sites will be governed, interpreted, construed and enforced solely and exclusively in accordance with the laws of the State of Utah, without regard to its conflicts of law provisions. You expressly agree that the exclusive jurisdiction for any claim or action arising out of or relating to this Agreement, or your use of the Services, the All West Equipment, and the Sites, will be filed only in the state or federal courts located in Salt Lake or Summit Counties, State of Utah, and you further agree to submit to the exercise of personal jurisdiction of such courts for the purpose of litigating any such claim or action.

3. Charges and Billings:

a. Charges, Fees, and Taxes You Must Pay. You agree to pay all charges associated with the Services, including but not limited to, installation/service call charges, monthly service charges, usage charges, equipment charges, early termination charges, applicable federal, state, and local taxes and fees (however designated), regulatory recovery fees for municipal, state and federal government fees or assessments imposed on All West, permitted fees and cost recovery charges, or any program in which All West participates, including but not limited to public, educational, and governmental access, universal service, telecom relay services for the visually or hearing impaired, rights-of-way access, and programs supporting the 9111/E911 system and any fess or payment obligations imposed by governmental or quasi-governmental bodies for the sale, installation, use or provision of the Services. You will further be responsible for

government imposed fees and taxes that become applicable retroactively, if any. Not all fees apply to all Services. Your price information is contained in your Application for Service and/or Service Order.

b. ~~RESIDENTIAL TERMS & CONDITIONS~~ All West's Billing Process. Services are provided to you on a month to month basis. You will generally be billed monthly, in advance, for recurring service charges, All West Equipment charges, and fees. All other charges will be billed monthly in arrears, such as pay per view movies or events, measured and per-call charges (when applicable). You shall make payment to All West for all invoiced amounts within twenty-five (25) days after the date of the invoice. Any amounts not paid to All West within such period shall be considered past due.

i. Introductory Rates. If you are receiving Services at an introductory rate, after the introductory period, regular charges for the Services will apply.

ii. Partial Payments. All West does not waive our rights to collect the full balance owed to it by accepting partial payment. All West will apply the partial payment to the outstanding charges in the amounts and proportions it determines, in our sole discretion

iii. All West Long Distance and VoIP Customers. If you pay a flat monthly rate for your calling plan, that fee may not cover certain types of calls. You will be billed for these excluded call types on a per-call basis or a measured basis.

iv. Credit Card Payments. You may use a credit card to pay for the Services by calling Customer Service, or by setting up a recurring automatic monthly charge to your credit card. In the event you have set up an automatic payment by credit card, All West will charge your credit card each month. A \$15.00 fee will be charged on any credit card that is declined, and Services may be terminated or suspended. If you use a credit card to pay for the Services, use of the card is governed by the card issuer agreement, and you must refer to that agreement for your rights and liabilities as a cardholder.

c. Third Party Charges That Are Your Responsibility. You acknowledge that you may incur charges with third-party service providers such as accessing on-line services, purchasing or subscribing to offerings via the Internet or interactive options on your All West cable Services that are separate and apart from the amounts charged by us.

RESIDENTIAL TERMS & CONDITIONS ▼

d. Payment. If you use a credit card to pay for the Services, your use of the card is governed by the card issuer agreement, and you must refer to that agreement for your rights and liabilities as cardholder. If you make a payment by check, you authorize All West to collect your check electronically. You agree that you may not amend or modify this Agreement with any restrictive endorsements (such as "paid in full"), or other statements or releases on accompanying checks or payments accepted by All West, and any such notations have no legal effect.

e. Rejected/Dishonored Payments. You will be assessed a service charge up to the full amount permitted by law for any check or other payment used to pay for the Services that has been rejected by the bank or other financial institution.

f. Late Payments. Any past due amount shall be subject to a late payment charge of 1.5% per month. Accounts remaining unpaid for 25 days shall be deemed delinquent.

g. Suspension or Termination of Services. If your account is delinquent, All West may suspend or terminate your Services in accordance with applicable law, and a reconnection fee , plus all past due amounts, late payment charges, and Early Termination Fees (as set forth in Section 13 below, shall be payable in full prior to reactivation of the Services.

h. Costs of Collection. In the event your account is delinquent, All West may use a collection agency or attorney to collect your delinquent account. If All West uses an attorney or collection agency to collect your delinquent account, you agree to pay all reasonable costs of collection or other action, including attorneys' fees and costs.

i. Credit Inquiries. You authorize All West to make inquiries and receive information about your credit experience from others, to enter this information into your account file, and to disclose this information to appropriate third parties for reasonable business purposes, in conformance with all applicable state and federal laws.

RESIDENTIAL TERMS & CONDITIONS ▼

j. Billing Disputes. If you intend to dispute a charge or request a billing credit, you must contact All West within sixty (60) days of the date of the invoice. You waive any disputes or credits that you do not report within sixty (60) days.

4. Refundable Deposit. We may require a refundable deposit when you activate Services, if you add Services or All West Equipment, or if you fail to pay any amounts when due. If All West disconnects your Services or is otherwise required under applicable law to refund the deposit, we shall, within sixty (60) days or as otherwise required by law, return a sum equal to the deposit you paid (without interest unless required by law) minus any amounts due on your account, including amounts owed for Services or All West Equipment that is damaged, altered, or not returned).

5. Changes to Services. Subject to applicable law, All West may change our Services, rates and charges, at any time, with or without advance notice. All West may also rearrange, delete, add to, or otherwise change programming or features or offerings contained in the Services including, but not limited to, content, functionality, hours of availability, customer equipment requirements, speed, and upstream and downstream rate limitations. If we give you advance notice it may be on the bill, bill insert, by email, or other communication permitted under acceptable law. If you find a change in the Services unacceptable, you have the right to cancel your Services within thirty (30) days. If you do not cancel your services within such period, you will be deemed to have accepted the change.

6. Access to Your Premise. You acknowledge that in order to provide the Services and All West Equipment, All West and our agents may be required to enter your property at which the Services or All West Equipment shall be provided (the "Premises") for the purpose of installing, configuring, maintaining, inspecting, upgrading, replacing and removing the Services and/or All West Equipment. You hereby agree to grant All West such reasonable access to the Premise as may be needed, and you warrant that you are

either the owner of the Premises, or that you have the authority to grant All West access to the Premises. If All West asks, you agreed to provide us with the name, address, and telephone number of the owner of the Premises so that All West may verify your authority to grant us access to the Premises.

RESIDENTIAL TERMS & CONDITIONS ▼

## 7. Equipment.

a. All West Equipment. All West Equipment means any equipment that is provided by All West to obtain the Services, including but not limited to, gateways, modems, routers, set-top boxes, DVRs, VoIP ATA equipment, digital adapters, remote controls, converters, switches, embedded software, and other equipment provided or lease to you by All West (“All West Equipment”). Pricing for All West Equipment is identified in your Application. All West shall have the unrestricted right, but not the obligation, to install or modify the software in any of the All West Equipment during the Term of this Agreement. It is a material breach for you to copy, duplicate, reverse engineer, or in any way tamper with or interfere with any software provided to you by All West. During your service term, All West will provide Standard Maintenance for such All West Equipment (as set forth below). The All West Equipment shall at all times remain the property of All West. You may not sell, transfer, lease, encumber or assign all or part of the All West Equipment to any third party. You shall pay the full retail cost of, or the repair or replacement cost of any lost, stolen, unreturned, damaged, sold, transferred, leased encumbered or assigned All West Equipment or part thereof, together with any costs incurred by All West in obtaining or attempting to obtain possession of any such All West Equipment. On expiration or termination of this Agreement, you agree to return the All West Equipment to All West within thirty (30) days in good working condition, reasonable wear and tear excepted. In the event that you fail to return the All West Equipment within thirty (30) days, you authorize All West to retrieve any All West Equipment. If you do not promptly return the All West Equipment, or if it is damaged or encumbered, you agree to pay for such All West Equipment as set forth in Section 13 herein. You agree to use the All West Equipment only for the Services pursuant to this Agreement at the Premises, and you agree that you will not permit any other provider of similar services to use the All West Equipment. You further agree that you will not permit anyone other than All West or its agents to service the All West Equipment.

b. Customer Equipment. Customer Equipment means equipment that is purchased by you from All West or equipment that you provide or obtain from a third party and elect to use in connection with the Services (“Customer Equipment”). If you purchase equipment from All West, title to the equipment shall pass from All West to you upon payment in full of the sales price, including all applicable taxes. You assume the risk of all loss or damage to the equipment purchased from All West upon delivery to your location. Equipment purchased from All West shall be warranted by the manufacturer, and this is the only warranty provided by All West for such equipment. While you may purchase equipment from a third party, All West is not responsible for setup or support of any equipment purchased and/or installed through a third party.

c. Code Updates. By using All West’s Services you agree that you authorize (i) All West, its authorized agents, and equipment manufacturers to send code updates to the All West Equipment and Customer Equipment any time it is necessary to do so; (ii) All West and its authorized agents to use the All West Equipment and Customer Equipment, including inside wiring, connected to our network to provide the Services to you.

8. Changes to Equipment. You acknowledge and agree that we may remove or change All West Equipment at our discretion at any time the Services are active or following the termination of your Services. You acknowledge and agree that our addition or removal of or change to the All West Equipment may interrupt your Services.

#### 9. Maintenance.

a. Standard Maintenance. All West shall be responsible for standard maintenance, which shall include maintenance of our network and Equipment (“Standard Maintenance”). If your connection ceases to function properly but All West’s network is still functioning properly, All West may deploy a technician to your Premises during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. If the problem is due to your negligence, or any of those items listed in the “Not Covered by Standard Maintenance” Section below, standard hourly rates of \$90 shall apply and shall be paid by you. Service rates outside of normal business hours are \$135/hour.

b. Not Covered by Standard Maintenance. Maintenance, repair, or replacement of parts damaged or lost through accident, catastrophe, lightning, neglect, misuse, transportation, theft, your fault or negligence, or causes external to the All West network, including but not limited to, failure of, or faulty electrical power, operator error, or malfunction of your computer and/or peripheral equipment not installed by All West, or from any cause other than the intended and ordinary cause.

10. Use of Services. You agree that the Services and the All West Equipment will be used only for personal, residential, non-commercial purposes, unless otherwise specified by All West in writing, pursuant to the terms of this Agreement. The Services are for Customers' own personal use and the Customer shall not under any circumstances, resell, retail, repackage for sale, distribute, wholesale, or otherwise commercially distribute any of the Services, without the express written consent of All West, which may be granted or withheld in All West's sole discretion.

11. Indemnification. You agree to indemnify, release, defend and hold harmless All West and its affiliates, suppliers, and agents against all claims and expenses (including reasonable attorneys' fees) arising out of the use of the Services, the All West Equipment and/or the Customer Equipment, or the breach of this Agreement or any of the applicable All West policies by you or any other use of the Services at the Premises.

12. Assignability. You acknowledge and agree that you may not assign this Agreement and the Services furnished hereunder, and that you will notify All West of any changes of ownership or occupancy of the Premises. All West may assign our rights and obligations under this Agreement without notice.

13. Termination of this Agreement.

a. Term. This Agreement shall be in effect from the time that the Services are activated until it is terminated as provided for in this Agreement, or it is replaced by a revised Agreement. Any specific contract period shall be as set forth in your signed minimum term addendum or service order, or in your Application ("Contract Period"). You are required to maintain service at all times during your Contract Period, or be subject to Early Termination Charges, as set forth herein.

b. Termination By All West. All West may terminate this Agreement, your account, your password, or your Services, without notice, if All West, in its sole discretion, believes you have violated this Agreement or any applicable terms, conditions, or policies, or if you fail to pay any charges when due. In the event that All West terminates this Agreement for your material breach as set forth herein, you agree to pay any Early Termination Charges which may be due.

c. Termination By You. Unless you have a specified Contract Period, you may terminate this Agreement without cause by notifying All West of your intent to terminate by: (i) providing written notice to All West; or (ii) contacting All West Customer Service at 866.ALL.WEST (255-9378). If you have a specified Contract Period, early termination of this Agreement without cause will result in Early Termination Charges as set forth below. For purposes of this Agreement “cause” means All West’s material breach of this Agreement. All applicable fees and charges shall accrue until this Agreement has been terminated, the Services have been disconnected, and the All West Equipment has been returned to All West. All West will refund any prepaid monthly service fees charged for Services after the date of termination, less any outstanding amounts due All West for the Services, All West Equipment, or other applicable fees and charges. Upon termination of this Agreement, you will:

i. Cease all use of the Services and All West Equipment.

ii. Pay for all Services rendered through the date of termination.

iii. Return the All West Equipment to All West within ten (10) calendar days of termination. All West Equipment shall be returned in good working condition, reasonable wear and tear excepted. Otherwise, you will be charged the amount set forth in the current All West pricing lists for such All West Equipment, or the full retail price for a new replacement.

iv. Pay all applicable Early Termination Charges.

d. Early Termination Charges. If you have a specified Contract Period, and prior to the end of your Contract Period, All West terminates your Services pursuant to Section 13(b) above, or you terminate Services without cause, you agree to pay Early Termination Charges as follows:

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- i. all unpaid amounts for Service provided through the date of termination;
- ii. any charges for All West Equipment or promotional gifts that were waived by, or provided by All West;
- iii. third party cancellation/termination charges related to the installation and/or termination of Service;
- iv. the non-recurring charges (including any non-recurring charges that were waived by All West at the time of the application) for the cancelled Service, if not already paid; and
- v. the percentage of the monthly recurring charges for the terminated Service calculated from the effective date of termination as (a) 100% of the remaining monthly recurring charges that would have been incurred for the Service for months 1-12 of the Service Term, plus (b) 50% of the remaining monthly recurring charges that would have been incurred for the Service for months 13 through the end of the Service Term. If Customer pays for Service based on a per minute usage rate, as opposed to a fixed monthly recurring rate, the "monthly recurring charges" shall be calculated as the average of Customer's last three (3) months' Service charges.
- vi. The parties acknowledge that the cancellation or termination charges set forth in this Section are a genuine estimate of the actual damages that All West will suffer and are not a penalty.

14. Disruption of Services. You acknowledge and agree that the Services are not fail-safe and are not designed or intended for use in situations requiring fail-safe performance or in which an error or interruption in the Services could lead to severe injury to business, persons, property, or environment. In addition, All West will not be held liable for interruptions in service due to equipment failure, equipment or facility

shortages, labor strikes, acts of God, power outages, power surges, or other causes beyond All West's reasonable control. In all other cases of an interruption of the Services, you shall be entitled upon a request made within sixty (60) days of such interruption, to a pro rata credit for any Services interruption exceeding twenty-four consecutive hours after such interruption is reported to us, or such other period of time as may be specifically provided by law. Unless specifically provided by law, such credit shall not exceed the fixed monthly charges for the month of such Services interruption and excludes all nonrecurring charges, one-time charges, per call or measured charges, regulatory fees and surcharges, taxes and other governmental and quasi-governmental fees. EXCEPT AND UNLESS SPECIFICALLY PROHIBITED BY LAW, SUCH CREDIT SHALL BE YOUR SOLE AND EXCLUSIVE REMEDY FOR AN INTERRUPTION OF SERVICES. Any credits provided by All West are at our sole discretion and in no event shall constitute or be construed as a course of conduct by All West.

15. Disclaimer of Warranties. YOU AGREE THAT THE SERVICES, INCLUDING USE OF THE SITES, ARE PROVIDED ON AN "AS-IS," "AS AVAILABLE" BASIS. THE SERVICES AND THE SITES ARE PROVIDED FOR YOUR USE WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF TITLE AND NON-INFRINGEMENT AND THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

16. Limitation of Liability. UNDER NO CIRCUMSTANCES WILL ALL WEST, OR ANY PARENT, SUBSIDIARY, AFFILIATE, OFFICER, DIRECTOR, EMPLOYEE OR AGENT OF ALL WEST BE LIABLE FOR ANY DAMAGES OF ANY KIND OR NATURE WHATSOEVER, WHETHER DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR OTHERWISE, THAT RESULT FROM THE USE OF, OR THE INABILITY TO USE, THE SERVICES, THE ALL WEST EQUIPMENT, OR THE SITES OR FROM ANY INFORMATION PROVIDED AT THE SITES, INCLUDING THE CONTENT AND YOUR CONTENT. THIS LIMITATION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER BASIS, AND EVEN IF ALL WEST HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. To the maximum extent permitted by law, you and All West agree to limit claims for damages or other monetary relief against each other to direct damage, regardless of theory of law under which the claim is raised. This

means that neither you nor All West will claim or seek to recover any indirect, special, consequential, treble or punitive damages from the other. All West Equipment will not be replaced when damage occurs due to abuse or neglect by you.

17. ~~RESIDENTIAL TERMS & CONDITIONS~~ **Technical Support.** All West will provide technical support via telephone at no additional charge to assist you with your Services, including but not limited to, establishing your connection to the Service and configuration of Internet software tools. Technical support consists only of consulting services and in no event shall it include maintenance or repair of your hardware. Customer Service telephone support is available twenty-four hours per day, seven days per week. Technical support regular telephone hours are from 8:00 a.m. to 5:00 p.m., Monday through Friday, except on nationally observed holidays. Please do not call employees at their homes for technical support. If you require to speak with a technician after the regular telephone hours, or if you require a technician to be dispatched to your Premises after regular telephone hours, you may incur a charge. You will be informed of such charge in advance by our Customer Service Representatives or Technicians.

18. **Worry-Free Guarantee.** You have the option to change to another package plan of equal or higher value at any time without penalty. If you are under a contract for a specific term, contract extension/renewal may apply. You may become eligible to take advantage of equipment upgrades at promotional pricing; however, promotional offers may require an extension of your service term and Agreement. We provide a 48-hour of usage satisfaction guarantee on any product you buy from All West. You pay only for the service you've used. You will be responsible for all applicable fees, pro-rated access charges, taxes or other charges that accrued to your account through the termination date and equipment return date. You must return All West Equipment in good condition. At our discretion, we may decline your return or charge you a fee for missing items or items that we determine are damaged or require service. All cash, check, or credit card transactions will be refunded by check. Checks take a minimum of 4-6 weeks for processing.

19. **Enforcement and Notice.** When feasible, All West's preference is to advise you of violations of this Agreement, or other inappropriate behavior via email, and request that you take necessary corrective action. However, if you use the Services in a way that All

West, in our sole discretion, believes violates this Agreement, All West reserves the right to act immediately and without notice to take any responsive actions deemed appropriate, including, but not limited to, temporary or permanent removal of content, cancellation of newsgroup posts, filtering of Internet transmissions, and the immediate suspension or termination of all or any portion of the Services. All West will not have any liability for any such responsive actions. The above described actions are not All West's exclusive remedies, and All West may take any other legal or technical action it deems appropriate.

20. No Waiver. The failure of All West to enforce this Agreement, for whatever reason, shall not be construed as a waiver of any right to do so at any time.

## USE OF SERVICES

In general All West prohibits use of the Services for any activity that violates federal, state, local, or international law, order or regulation.

## ADDITIONAL PROVISIONS APPLICABLE TO CERTAIN SERVICES

1. Broadband/Internet Services. In addition to the General Terms and Conditions above, the following conditions are specifically applicable to Broadband/Internet Services:

a. Installation. Prior to installation, you are responsible for ensuring that your computer is configured for Broadband modem connection. All West will install broadband service to the modem at your location at no additional charge. An All West Service Technician will consult you on locations that we can install your modem(s). Additional installation fees may be applicable. Inside wiring and jack work may be provided at an additional charge,

if requested by you. If it is not possible for us to provide service, you will be released from this agreement. All West reserves the right to deny installation of our services for any reason.

b. ~~RESIDENTIAL TERMS & CONDITIONS~~ Protective Measures. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for accuracy of data input and output, and for maintaining means external to All West for reconstruction or retrieval of any lost data. You agree to assess your own needs for protective measure, and you agree to implement, where necessary, voltage spike protection, sufficient grounding measures as per National Electric Code, computer equipment insurance, virus detection, and security and system administration policies. You agree that All West is not liable to you for loss or damage to your equipment or data. All West specifically disclaims all responsibility for files on All West's servers, and assumes no responsibility for any damages caused by your inability to use the Services.

c. Password Security. You are responsible for the confidentiality of your password. All West will change access to the account upon notification by you that your password has been lost, stolen, otherwise compromised.

d. Service Calls. If All West is called to your location and it is determined that the problem is other than the Broadband Service and/or the broadband interface, a service fee may be incurred and paid by you.

a. Customer Responsibilities.

i. Customers remain solely and fully responsible for the content of any material posted, hosted, downloaded/uploaded, created, accessed or transmitted using the Services. All West has no responsibility for any material created on the All West network or accessible using Services, including content provided on third-party websites linked to the All West network.

ii. By posting or submitting any content or other materials to the Sites, including any audio or video files, classified advertisements or personal information (collectively "Your Content"), you affirm, represent and warrant that (i) you own or otherwise control all right,

title and interest in and to Your Content, including the copyright thereto; (ii) none of Your Content is defamatory, libelous, obscene or pornographic; and (iii) use of Your Content as provided in these Terms of Service will not violate any legal rights, of any third party. You hereby grant All West and our designees a worldwide, royalty-free, non-exclusive, transferable, sublicensable license (the "License") to sell, license, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit, and prepare derivative works of Your Content in connection with the Sites or the conduct of All West's business in any formats and through any media channels. All West may monitor Your Content as it appears on the Sites and may edit or delete Your Content at any time and for any or no reason without your permission.

iii. You are responsible for taking prompt corrective action(s) to remedy a violation of this Agreement and to help prevent similar future violations.

iv. You are solely responsible for the protection of your identity from identity theft. All West does not verify the security of any internet site. Your use of personal information while on the internet places you at risk of identity theft.

v. You will indemnify, defend, reimburse, and hold All West or any parent, subsidiary, affiliate, officer, director, employee, or agent of All West, harmless from and against any and all liabilities, claims, and expenses of any type or nature, including costs and attorneys' fees, that arise from the exercise of the License set forth above or from your use of the Sites or Services.

b. Prohibited uses of All West Broadband/Internet Services. Prohibited uses include, but are not limited to:

i. Using All West Services to post, store, transmit, or disseminate unlawful material, including without limitation, child pornography, any content, data or other material which is libelous, obscene, hateful, unlawful, threatening, reaction or ethnically offensive, defamatory or which in any way constitute or encourages conduct that would constitute a criminal offense.

ii. Using All West Services to disseminate material which violates copyright or intellectual property rights. Material accessible through All West's network and Services may be subject to protection under privacy, publicity, or other personal rights and intellectual property rights. Customer shall not use the All West network or Services in any manner that would infringe, dilute, misappropriate, or otherwise violate such rights. You assume all risk regarding whether material is in the public domain.

iii. Pyramid or other illegal soliciting schemes.

iv. Fraudulent activities, including but not limited to, impersonating any person or entity, or forging anyone's digital or manual signature.

v. Using All West Services to send SPAM, which includes, but is not limited to, sending unsolicited email messages, bulk commercial advertising or informational announcements; sending electronic messages that do not accurately identify the sender, the sender's return address, the email address of origin, or other information contained in the subject line or header; sending email messages that are excessive or intended to harass or annoy others; continue to send email messages to a recipient that has indicated he/she does not wish to receive them; or sending malicious email.

vi. You are responsible for any misuse of the Services that originates from your account, even activities committed by any friend, family, co-worker, employee, guest or anyone who obtains access to the account. You must ensure that others do not gain unauthorized access to the Services.

vii. The Services may not be used to breach the security of another user, or to attempt access to anyone's computer, software or data, without the knowledge and consent of that person. The Services may not be used in any attempt to circumvent the user authentication or security of any host, network, or account. This includes, but is not limited to, accessing data not intended for you, logging into or making use of a server or account that you are not expressly authorized to access, probing the security of other networks, or any other action aimed at the unauthorized interception of data or

harvesting of email addresses. Use or distribution of tools designed for compromising security, such as password guessing programs, cracking tools, packet sniffers or network probing tools is strictly prohibited.

viii. You may not knowingly upload or distribute files that contain viruses, spyware, Trojan horses, worms, time bombs, cancel bots, corrupted files, root kits or any other similar software or programs that may damage the operation of another's computer, network system or other property, or be used to engage in modem or system hi-jacking.

ix. You may not allow others access to any of the Services without the express written consent of All West, which may be granted or withheld in All West's sole discretion.

x. All West prohibits the use of open wireless internet local area connections. Modems and routers that broadcast wireless Internet without wireless security enabled is in violation of this policy. All West reserves the right to bill you a premium fee to allow unsecured wireless local area connections.

xi. You shall not connect servers of any type to the Services. All West reserves the right to suspend or terminate your Services without advance warning if a violation of this policy is detected.

xii. Use of distribution lists in electronic mail or other mass electronic mailings is subject to prior written approval of All West, which will be granted or withheld in sole discretion. Without limiting the foregoing, All West does not allow use of the email system to distribute advertisements, solicitations or any other form of marketing/sales commonly referred to as spamming.

xiii. The use of list, blind copies, relaying to addresses via email is an unacceptable use of the Services.

c. Content. All West has no obligation to monitor content of any materials distributed or accessed using the Services. However, All West may monitor content of any such materials as necessary to comply with applicable laws, regulations, or other governmental or judicial requests; or to protect All West, our network, and our customers.

d. Investigation. All West reserves the right to investigate suspected violations of this Agreement, including the gathering of information from you or other users involved, and the complaining party, if any, and examination of material on All West's servers and network. During an investigation, All West may suspend the account or accounts involved and/or remove material which potentially violates this Agreement.

e. Suspected Criminal Violations. You authorize All West to cooperate with (i) law enforcement authorities in the investigation of suspected criminal violations, and/or (ii) system administrators at other Internet service providers or other network or computing facilities in order to enforce this Agreement. Such cooperation may include All West providing the username, IP address, or other identifying information about you, in accordance with All West's Privacy Policy as set for herein.

f. Web Pages. Web pages included in accounts are specifically designated and shall be monitored by All West for compliance. All West reserves the right to assess appropriate account type fees in the event you publish pages contrary to the stated account web page type (e.g. personal pages used in a commercial manner).

g. Login Sharing. All West provides internet access accounts and doesn't allow login sharing. All West provides one account access (connection) at a time. If you have simultaneous logins with the same login account at the same time while being an account holder, you violate the condition of one user, one account, and one login at a time. Such violations will be detailed by date and time of each violation and you may be responsible for payment of additional accounts.

2. All West VoIP Services. In addition to the General Terms and Conditions above, the following conditions are specifically applicable to VoIP Services:

a. Description of VoIP Services. VoIP services allow the Customer to make or receive telephone calls over the internet to or from the public switched telephone network. The Analog Terminal Adapter (ATA) is a device that allows you to connect a normal public switched telephone network telephone to the Internet in order to make or place telephone calls. The nature of VoIP telephone calls, while appearing similar to traditional telephone

calling services, creates unique limitations and circumstances, and you acknowledge, understand, and agree that differences exist between traditional telephone service and VoIP telephone services, including the lack of traditional 911 emergency services.

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b. ~~911 and E-911 Calls.~~ Prior to the initialization of the Services, on your Application for Services you shall provide accurate name and address information where the ATA and the Services will be utilized (also known as "Registered Location") for the purpose of updating the E-911 Data Base. If your Registered Location provided on your Application does not convert to a valid Master Street Address Guide (also known to as the "MSAG") address for your locality, All West will notify you and stop all processing of the order until you provides an MSAG-compatible address.

c. Accuracy of Registered Location Information. You assume all responsibility for the accuracy of the Registered Location that you provide to All West for entry into the E-911 Data Base. You bear the responsibility to notify All West of any changes to the Registered Location. You agree to indemnify and hold All West harmless from any claims, damages, or suits related to the accuracy of data provided by you for inclusion in the E-911 Data Base. You shall provide (and update as necessary) All West with accurate information related to E-911 Service, including, but not limited to: location of individual telephone stations and a description of your facilities, equipment and software for the Services. You acknowledge and agree that you will not use All West's services from any location other than the Registered Location, and that you will not use the ATA from any location other than the Registered Location. It is your responsibility to update the physical location information where the service is being used, or where the ATA is being used, if it differs from the prior Registered Location.

d. Limitation to 911 and E-Service. You acknowledge and understand that access to emergency services through 911 and E-911 calls is limited; that the VoIP Service supports E-911 (where available); and that access to emergency service is available only if the service is operated from the Registered Location, and then only if you have an active connection to the service. You acknowledge and understand that if there is a service outage (even related to extended power outages) for any reason, such outage may prevent all voice service, including 911 dialing.

e. Service Outages Due to Power Failure or Disruption. Dependent upon your location, network backup power systems may be in place during the event of a power failure. Your device, as set forth herein, may also provide limited battery backup. Consult with All West to determine whether or not your device has battery backup.

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f. Service Outages Due to Internet Outage or Suspension or Disconnection of Broadband Service or ISP Service. Service outages or suspensions or disconnections of service by your broadband provider or ISP will prevent all All West VoIP Service, including 911 Dialing, from functioning.

g. Service Outages Due to ISP or Broadband Provider Blocking of Ports or Other Acts. Your ISP or broadband provider or other third party may intentionally or inadvertently block the ports over which the Service is provided or otherwise impede the usage of the Service. In that event, provided that you alert us to this situation, we will attempt to work with you to resolve the issue. During the period that the ports are being blocked or your Service is impeded, and unless and until the blocking or impediment is removed or the blocking or impediment is otherwise resolved, your Service, including the 911 dialing feature, may not function. You acknowledge that All West is not responsible for the blocking of ports by your ISP or broadband provider or any other impediment to your usage of the Service, and any loss of service, including 911 dialing, which may result. In the event you lose service as a result of blocking of ports or any other impediment to your usage of the Service, you will continue to be responsible for payment of the Service charges unless and until you disconnect the Service in accordance with this Agreement.

h. Other Service Outages. If there is a Service outage for any reason, such outage will prevent all Service, including 911 dialing, from functioning. SUCH OUTAGES MAY OCCUR FOR A VARIETY OF REASONS, INCLUDING, BUT NOT LIMITED TO, THOSE REASONS DESCRIBED ELSEWHERE IN THIS AGREEMENT.

i. Network Congestion; Reduced Speed for Routing or Answering 911 Dialing Calls. There may be a greater possibility of network congestion and/or reduced speed in the routing of a 911 dialing call made utilizing the Service as compared to traditional 911 dialing over traditional public telephone networks.

j. Time. You also acknowledge that it may take All West up to seven (7) days to get the correct address information to E-911 database and that during that time the E-911 Data Base may have the wrong address information. You should be prepared to give the local emergency operator answering the 911 call, your call back number and exact location.

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k. Limitation of Liability and Indemnification. You will indemnify and hold All West, its affiliates, directors, officers, employees and agents from and against all claims, demands, actions, causes of action, damages, liabilities, losses and expenses (including reasonable attorneys' fees) incurred as a result of any act or omission, representation or statement by you, your affiliates, directors, officers, employees or agents related to E-911 services.

l. Release. You agree to release, indemnify, defend, and hold harmless All West from any and all losses, claims, demands, damages, expenses, suits or other action or any liability whatsoever including, without limitation, costs and attorneys' fees, suffered, made, instituted, or asserted by you and your users against All West arising out of, or related to, 911/E-911 service, including, but not limited to, the delivery of 911/E911 calls to emergency call centers, the delivery of the end user's call back number and location information, and/or providing information to customers of the capabilities and limitations of 911/E-911 services.

m. Devices. All West requires the use and/or rental of VoIP devices, including, but not limited to a Multi-media Terminal Adapter ("MTA"), an ATA, or other IP connection device to be used in conjunction with the All West VoIP Services.

i. Device with battery backup. Battery backup on qualifying devices is limited. Excessive use during a power outage will result in shortened life of the internal battery. The device will provide indication of low battery voltage. Customer should contact All West for instructions or replacement. Failure of network power backup systems or the MTA internal backup system during a power failure or disruption will prevent all service, including 911 dialing, from functioning.

ii. Device without battery backup. Devices that do not have a battery backup cannot support 911 dialing in event of a power failure or disruption. If there is an interruption in the power supply, the All West VoIP Service, including 911 Dialing, will not function until power is restored. Following a power failure or disruption, you may need to reset or reconfigure the device prior to utilizing the All West VoIP Service, including 911 dialing.

n. Prohibited Uses of All West VoIP. Prohibited uses of All West VoIP Services include, but are not limited to:

i. Using All West VoIP Services in any way that is threatening , abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, or any similar behavior.

ii. Using All West VoIP Services with auto-dialers.

iii. Telemarketing.

iv. Use of fax machines for fax broadcasting or fax blasting.

v. Extensive call forwarding or use of call forwarding or conference features to act as a bridge to chat lines or other conferencing facility.

vi. Operating a business (including a home based business, a non-profit business, governmental or other enterprise).

vii. Operating a call center or conference line.

viii. Transmission or reception of broadcasts over teleconferencing facilities.

ix. Transmission or reception of recorded material or communications which do not consist of standard residential voice calling involving life dialog between individuals.

x. Utilization of All West VoIP service for monitoring services, data transmissions, or transcription services.

xi. Transmissions or reception of broadcasts.

xii. Resale of the All West VoIP Services to others.

3. ~~Residential Long Distance Service~~ RESIDENTIAL TERMS & CONDITIONS. In addition to the General Terms and Conditions above, the following conditions are specifically applicable to Residential Long Distance Services:

a. All West Flat Rate Plan. You must have or purchase local telephone service from All West. Domestic, direct-dialed long distance minutes will be billed at 6 cents per minute with a \$0.00 monthly fee. Calls are billed in one minute increments; partial minutes are charged as full minutes. Rates exclude taxes, fees, surcharges, installation charges and other charges. Availability, rates, terms and conditions are subject to change. You agree to use the Services for residential use only, and not commercial or business use.

b. All West Talk-A-Lot Plan. You must have or purchase local telephone service from All West. This plan provides unlimited domestic, direct-dialed long distance service within the contingent United States for \$19.95 per month. You agree to use this plan for residential, non-business use only. You acknowledge and agree that this plan requires provisioning of Interstate, Intrastate / InterLATA and Intrastate / IntraLATA service. Long distance service is provided by All West. Quoted rate excludes calling cards, taxes, fees, surcharges, installation charges, universal service charges and other. Calls to areas outside the contingent US will be billed at 6 cents per minute, or in the case of International calls at the rate for that specific country or calling area.

c. Prohibited Use of Residential Long Distance Services. Prohibited use of Residential Long Distance Services include, but are not limited to:

i. Long distance or local toll access to the Internet or for business purposes such as telemarketing, auto-dialing, or commercial or broadcast facsimile (FAX) where any of these calls would be long distance or local toll calls.

ii. Resale.

d. If the Residential Long Distance is used for unauthorized purposes, or if qualifying services are removed from the account, All West may immediately suspend, restrict or cancel your Services. Additionally, in the event your usage exceeds reasonable residential usage, in All West's discretion, All West may offer you an alternative pricing plan or suspend, restrict or terminate your service.

## COPYRIGHT INFRINGEMENT

All West respects the intellectual property rights of others. This policy identifies and describes the way All West handles copyright infringement claims.

### 1. Notice and Procedure for Making Claims of Copyright Infringement.

a. Pursuant to Federal Copyright law, if you believe copyrighted work is available at the Sites in a manner that may constitute copyright infringement, please submit a notification pursuant to the Digital Millennium Copyright Act ("DCMA") to All West's Copyright Agent:

\_\_\_\_\_ (name of agent)

\_\_\_\_\_ (Address)

\_\_\_\_\_ (phone)

\_\_\_\_\_ (fax)

\_\_\_\_\_ (email)

2. Notice Requirements. To be effective, a notification of a claimed copyright infringement must be provided in writing to All West's above-listed Copyright Agent and must include the following information:

a. An electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest;

- b. A description of the copyrighted work that you claim has been infringed upon;
- c. A specific description of where the material that you claim is infringing is located on the Sites;

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- d. Your address, telephone number, and e-mail address;
- e. A statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law;
- f. A statement by you, made under penalty of perjury, that the above information contained in your notice is accurate, and that you are the copyright owner or authorized to act on the copyright owner's behalf.

3. Receipt of Written Notification. Upon receipt of appropriate written notification from the Complaining Party, pursuant to the requirements set forth above (the "Infringement Notification"), All West will remove or disable access to the material that is claimed to be infringing, and will forward the Complaining Party's Infringement Notification to such alleged infringer (hereinafter "Impacted Party") and shall take reasonable steps promptly to notify the Impacted Party that All West has removed or disabled access to the material.

4. Counter Notification. In response to receipt of the Infringement Notification, an Impacted Party may provide Counter Notification by providing a written communication to All West's Copyright Agent, as identified above, that includes substantially the following:

- a. A physical or electronic signature of the Impacted Party.
- b. Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled.
- c. A statement under penalty of perjury that the Impacted Party has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled.

d. The Impacted Party's name, address, and telephone number, and a statement that the Impacted Party consents to the jurisdiction of the Federal District Court for the judicial district in which the address is located, or if the Impacted Party's address is outside of the United States, for any judicial district in which All West may be found, and that the Impacted Party will accept service of process from the Complaining Party or an agent of such Party.

5. Receipt of Counter Notification. Upon receipt of a Counter Notification described above, All West shall:

- a. Promptly provide the Complaining Party with a copy of the Counter Notification;
- b. Inform such Party that it will replace the removed material or cease disabling access to it in 10 business days; and
- c. Replace the removed material and cease disabling access to it not less than 10, nor more than 14, business days following receipt of the Counter Notification, unless All West's Copyright Agent first receives notice from the Complaining Party that such Complaining Party has filed an action seeking a court order to restrain the Impacted Party from engaging in infringing activity relating to the material on All West's system or network.

6. Termination for Copyright Infringement. All West's policy is to terminate the online privileges of individual who repeatedly violate the copyrights of others.

## PRIVACY POLICY

The Privacy Policy explains All West's practices and policies relating to the collection and use of your information through or in connection with our Sites and use of our Services, whether you are browsing our website, purchasing Services from, discussing billing

issues with our customer service representatives, or using our facilities for your communications needs. This Privacy Policy applies to all products and Services offered by All West, and details our commitment to protect your information.

By visiting our website or using our Services, you consent to the collection and use of your information by us as set forth in this Privacy Policy. All West reserves the right to change or modify the terms of this Privacy Policy at any time, so please check it regularly for any changes or updates. Updates will be posted on All West's web site at [www.allwest.com](http://www.allwest.com). In addition, if you have any questions regarding this Privacy Policy, you may contact us by telephone or mail at 866.ALL.WEST (255-9378) or 50 West 100 North, Kamas, Utah 84036.

1. Important Terms Used In This Privacy Policy. Throughout this Privacy Policy we use several specialized terms: "Customer Proprietary Network Information" (CPNI) means your service usage related information such as the numbers you call and when you call them, as well as the particular services you use, such as call forwarding or voice mail. We collect this information so we can provide you with the services you have requested and send you bills for these services. "Personally Identifiable Information" is information that tells us specifically who you are, your name, street address, email address, billing address, social security number, driver's license number, credit card information, bank account number, telephone number, and other account information. "User Information" means all Personally Identifiable Information and any other forms of information discussed in this Privacy Policy, including the Internet Protocol (IP) address of a user's computer and CPNI (as defined below). We use the term "aggregate" when we combine information from various persons and users. Information is said to be "anonymous" if it does not identify individual persons or entities or associate a particular person or entity with such information.

2. Customer Proprietary Network Information (CPNI). CPNI is a subcategory of protected customer information defined by federal law as information about a consumer's account, including usage and billing of telecommunications services. Those services are offered by providers of traditional local, long distance, and wireless services, as well as providers of Voice over Internet Protocol (VoIP) services to consumers. CPNI includes what services you subscribe to, how you use them, and what you are charged for them. It

does not include your name, address, telephone number, or other types of information such as information about your telephone equipment or Internet access services. We are required to treat CPNI confidentially, and we do. The FCC regulates when and how CPNI can be shared and used.

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a. Marketing rules. The FCC has categorized consumer CPNI into three distinct service groups: local, long distance, and wireless service. The CPNI that a carrier can use to market its services to its customers - without their approval - depends on what service groups the customer already buys from. Carriers are permitted to use CPNI for marketing similar products within a service group. For example, if you subscribe to our local service, we are allowed to use that local service information to sell you additional local service products and services.

b. Approval rules. We obtain customer approval to use CPNI across service groups in two different ways. In some circumstances, we ask for customer consent. In other words, we may ask customers to “opt-in” to our use of CPNI across service groups. In most circumstances, however, we inform customers that CPNI will be used unless they instruct us not to. In these cases, the customers must specifically “opt-out” to our use of CPNI across service groups. We can ask for long-term approval (that lasts until it is withdrawn) or we can ask for approval each time we interact with a customer (short-term approval).

c. Rules on non-marketing uses of CPNI. We are allowed to use consumer CPNI for various non-marketing purposes without specific customer approval. These activities include installing, providing, billing for, and collecting for Services. We may also use CPNI without specific approval to protect our rights or property or those of our customers or other carriers and to address fraud, abuse or unlawful subscriptions to or use of our services.

d. Access rules. Before speaking with a caller about account information, we take steps to authenticate the identity of the caller and confirm that he or she is authorized to have access to information on the account. We do not discuss account information with anyone other than the account holder. Per FCC rules, we will not discuss call detail information with customers over the telephone unless the customer provides specific information about the calls in question, such as in the context of a billing inquiry, or

unless the customer provides their specific password. We will not release CPNI in a retail store unless our customer presents a valid photo ID. Additionally, our customers cannot access online account information using only account information or generally known information. Rather, online account access is restricted through security code and password requirements.

3. How We Collect Information And How We Use It. We collect information in three primary ways:

- a. You give it to use when you purchase or interact with us about a product or service we offer or provide;
- b. We collect it automatically when you visit our websites or use our products and services; and
- c. We obtain it from other sources such as credit agencies.

4. Visiting Our Site. When you visit our website to browse, we may collect and store the domain name and host from which you access the Internet, the IP address of your computer, your browser software and operating system, the date and time you accessed the site and the Internet address of any website from which you link directly to our site or to which you link after visiting our site. We may use this information to measure the number of visitors and repeat visitors to sections of our site, to calculate the average time spent at our site, to determine from where and to where our visitors link, and to help make our site more useful. This type of information may be shared with third parties, such as when we aggregate and disclose site traffic information for marketing and commercial purposes. When you visit our website, we may ask if you would like us to send you marketing materials about our Services and other associated products. If you request such materials, then we may use Personally Identifiable Information you give us to send you such materials. Except as otherwise set forth in this Privacy Policy, we will not share Personally Identifiable Information with third parties without your consent.

5. Using Our Services. When you use our Services, you must provide certain Personally Identifiable Information for us to properly provide you with the Services. We collect and store this Personally Identifiable Information and any modifications that either you or we make to that information. We may disclose User Information (i) to provide you Services that you request and provide you with the best customer experience possible; (ii) to answer questions you may have about the Services you purchase; (iii) to communicate with you regarding Service updates, offers and promotions, and deliver customized content and advertising to you; (iv) to address network integrity and security issues; (v) to obtain a credit report; (vi) to provide local directory and directory assistance; (vii) to law enforcement or other governmental officials as required by law, if appropriate, for your protection, safety, or in connection with an investigation or prosecution of possible unlawful activity, in which cases we may be required to disclose the information without your consent or knowledge as required by federal and/or state statutes and regulations; (viii) in connection with a sale or merger of All West; or (ix) for other legally permissible purposes. We may also share aggregate anonymous data relating to the transactions on the website and use of the Service for marketing, research and other purposes.

6. Feedback. Except as otherwise provided in the Privacy Policy or in other written documentation provided by us to you, any comments or materials you send to All West through the website, including without limitation, feedback developer ideas, questions, comments, or suggestions (collectively "Feedback"), may not be treated as confidential and shall become the property of All West. All West has no obligation of any kind with respect to such Feedback, and may be free to reproduce, use, disclosed, exhibit, display, and distribute the Feedback.

7. Cookies. Cookies are very small text files that our website may send to your browser for storage on the hard drive. A type of cooking may be deployed if you use our Services. Cookies can make use of our site easier by saving your status and preferences upon visits to our website. Most browsers are initially set up to accept cookies, but you may be able to change the settings to refuse cookies or to be altered when cookies are being sent.

8. How we protect your information. We employ and maintain technology and security measures designed to protect User Information. When you submit sensitive information via our website, that information is subject to a variety of protections both on-line and off-line, including password protected systems and firewalls. Sensitive and private data exchange between the website and its users happens over a SSL secured communication channel and is encrypted and protected with digital signatures. However, no data transmission over the Internet can be guaranteed to be 100% secure.

9. Third party websites. You may find advertising or other content on our website that link to the sites and services of our partners, suppliers, advertisers, sponsors, licensors and other third parties. We do not control the content or links that appear on these sites and are not responsible for the practices employed by websites linked to or from our website. In addition, these sites or services, including their content and links, may be constantly changing. These sites and services may have their own privacy policies and customer service policies. Browsing and interaction on any other website, including websites which have a link to our Site, is subject to that website's own terms and policies. We are not responsible or liable for the actions or policies of third parties.

10. Control of Your Password. To help secure User Information, we have designed a password protected system. We will never ask you for your password in an unsolicited phone call or in an unsolicited email. Except as specifically permitted by this Privacy Policy or other instructions regarding the Services, you should not, lend, give, or otherwise disclose your password to any unauthorized person, or permit any unauthorized person to use your accounts or related passwords. Any loss of control of passwords may result in the loss of control over Personally Identifiable Information or User Information. You will be responsible for any actions taken on your behalf or any person using your password or user identification. If passwords have been compromised, then you should immediately change your password or notify us so that we may issue a new password.

**This is an equal opportunity provider and employer.**

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Form, Found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html) ([http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html)), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov) (<mailto:program.intake@usda.gov>)

## Legal Information

Residential Terms & Conditions  
(/Residential-Terms-Conditions)

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Business Terms & Conditions  
(/Business-Terms-Conditions)

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Privacy Policy (/Privacy-Policy)

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Equal Opportunity Employer

(<https://www.facebook.com/AllWestCommunications>)

(<https://twitter.com/AllWestCom>) (<https://plus.google.com/+AllWest/posts>)

(<http://www.linkedin.com/company/836109>)

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0013795273 -9- JAB-DIGIS - activephone-terms-and-conditions-of-

[\(http://www.digis.net/\)](http://www.digis.net/)



## LEGAL

# ActivePhone™ Terms and Conditions of Service

### ALL PHONE SERVICES

The terms and conditions of this Service Agreement (“Terms” or “Agreement”) constitute the agreement (“Agreement”) between DIGIS (“Company”, “We”, “Us”) and the User (“You,” “User” or “Customer”) of the Company’s residential and small business communications Services, and any related products or services (“Service”). This Agreement governs both the Service and the Analog Telephone Adapter or any other IP connection Device (“Device” or “Equipment”), used in conjunction with the Service.

BY USING THE SERVICE, YOU REPRESENT THAT YOU ARE OF LEGAL AGE TO ENTER INTO THIS AGREEMENT AND THAT YOU HAVE READ AND UNDERSTAND FULLY THE TERMS AND CONDITIONS OF THIS AGREEMENT. PLEASE READ THIS AGREEMENT CAREFULLY BECAUSE IT INCLUDES MANY IMPORTANT TERMS, INCLUDING: WARNINGS THAT **YOU MAY BE UNABLE TO USE THE VOIP SERVICE FOR 911 OR OTHER EMERGENCY CALLS UNDER CERTAIN CIRCUMSTANCES;** LIMITS AND DISCLAIMERS ON COMPANY’S LIABILITY; AND THE REQUIREMENT THAT YOU COMMIT TO A MINIMUM TERM OF SERVICE.

### SERVICE

Service is offered on a monthly basis for a term that corresponds with the date Your DIGIS Internet service was activated and ends on the day before the same date in the following month. Subsequent terms of this Agreement automatically renew unless You give DIGIS written notice of non-renewal at least ten (10) days before the end of the monthly term in which the notice is given. You are purchasing the Service for full monthly terms, meaning that if You attempt to terminate Service prior to the end of a monthly term, You will be responsible for the full month’s charges to the end of the then-current term, including,

without limitation, unbilled charges, plus a termination fee, if applicable, all of which will immediately become due and payable. Expiration of the term or termination of Service will not excuse You from paying all accrued and unpaid charges due under this Agreement.

If You subscribe to the Company's Residential Services, which is defined as Service intended solely for the subscriber's residence, or home, and not for commercial purposes ("Residential Services"), the Service and the Device are provided to You solely for such residential use. You shall not resell or transfer the Service or the Device to another party. You are prohibited from using the Service or the Device for auto-dialing, continuous or extensive call forwarding, telemarketing (including, without limitation, charitable or political solicitation or polling), fax or voicemail broadcasting or fax or voicemail blasting. We reserve the right to immediately terminate or modify Your Service if We determine, in our sole and absolute discretion, that Your use of the Service or the Device is, or at any time was, inconsistent with normal residential usage patterns. In addition, You will be required to pay our higher rates for commercial Service for all periods in which Your use of the Service or the Device was inconsistent with normal residential use.

If You subscribe to the Company's Business Services, which is defined as Service intended solely for the subscriber's use to support commercial, for-profit or not-for-profit, non-residential enterprises ("Business Services"), the Service and Device are provided to You as a small business User. Because We have no control over Your power or Internet connectivity You may experience occasional outages. For this reason We recommend that You maintain another backup provider so that You have backup contact ability. It is recommended that You use a "failover" number that can be configured in the website <http://phone.DIGIS.net> so that You can receive calls in the event of an outage. You shall not resell or transfer the Service or the Device to another party. You are prohibited from using the Service or the Device for auto-dialing, continuous or extensive call forwarding, telemarketing (including, without limitation, charitable or political solicitation or polling), fax or voicemail broadcasting or fax or voicemail blasting. We reserve the right to immediately terminate or modify Your Service if We determine, in our sole and absolute discretion, that You have at any time used the Service or the Device for any of the aforementioned or similar activities.

If Your usage pattern for calls to the forty-eight (48) contiguous state local calling areas is in the ninety-fifth (95th) percentile for two months out of any three month period Your account will automatically convert from an unlimited domestic long distance account to a metered use account. A metered use account will have a domestic long distance use allowance of

1500 minutes per user or per line, and additional domestic use for calls to the 48 contiguous state local calling areas will be billed at the then in effect domestic long distance rate, currently \$.03 per minute.

## **LIMITATIONS OF SERVICE**

Customer acknowledges, and agrees, to the following limitations of service:

- a. Not a telecommunications service . The Service is not a telecommunications service and the Company provides it on a best efforts basis. Important distinctions exist between telecommunications service and the Service offering that We provide. The Service is subject to different regulatory treatment than telecommunications service. This treatment may limit or otherwise affect Your rights of redress before regulatory agencies.
- b. Operator assisted calling. The Service does not support 0+ or operator assisted calling (including, without limitation, collect calls, third party billing calls or calling card calls). The Service may not support 311, 511 and/or other x11 (other than certain specified dialing such as 911 and 411, which are provided for elsewhere in this Agreement) Services in one or more (or all) Service areas.
- c. Phone numbers. The phone numbers You obtain from Us for Residential Service will not be listed in any telephone directories. Phone numbers transferred from Your local phone company may, however, be listed. As a result, someone with Your phone number may not be able to utilize a reverse directory to lookup Your address. Subscribers to our Business Services are eligible for a free white page listing and may request the listing when signing up for service.
- d. Compatibility with other devices and systems. The Service may not be compatible with fax machines and DVR-type services. All non-voice communications equipment, including but not limited to, home security systems or alarm systems that are set up to make automatic phone calls, modems, data modems, any device that relies upon a modem, or other hearing impaired devices, and medical monitoring devices (“Non-Voice Systems”), are not compatible with the Service and may be interrupted or permanently disabled by installation or operation of the Service. You should maintain a telephone connection through Your local exchange carrier in order to use any alarm monitoring functions for any security system installed in Your home or business. You are solely responsible for the operation and use of such Non-Voice Systems with the Service, including taking any necessary steps, as permitted under Your agreements with the Company, to ensure compatibility between such Non-Voice Systems and the Service.

e. Other providers. You authorize the Company to act on Your behalf, as Your agent, in moving Your telephone number and related local and long distance services from Your current provider to the Company or any of its wholesale service providers. You acknowledge that the Company may change wholesale providers from time to time and may move Your phone number from one wholesale carrier to another at any time. You acknowledge that the Company will become the customer of record for all phone numbers that We move or “port” to the Service.

f. Security. The Service relies upon portions of the public Internet, and third party networks, to transmit voice and other communications signals. The Company cannot, and does not, guarantee that the Service is secure, or can be used in a secure manner.

g. High-Risk Uses. **The Service is not fail-safe or designed or intended for use in situations where error-free or uninterrupted service is essential, including uses involving vital communications in which an error or interruption in the Service could lead to injury to business, persons, property or the environment (“High-Risk Uses”).**

## **REVISIONS, AMENDMENTS, OR MODIFICATIONS TO THESE TERMS**

The current version of this Service Agreement can be found at: our [Legal \(/legal/\)](#) page. The Company may change this Service Agreement or the Service from time to time by posting a revised version of this Service Agreement or announcing Service changes on the Company’s website currently located at: <http://DIGIS.net>. Such changes may include, without limitation, increasing the charges for the Service, including any additional features that may be offered in conjunction with the service. Changes will become effective once posted, and Your continued use of the Service will constitute Your acceptance of any such changes. However, if You do not wish to continue Service after a change or modification in features or functionality that materially effects the Service to You, You may terminate this Service Agreement by providing written notice to the Company within twenty (20) days of the effective date of the modification, and You will not be charged any Termination Fee (as defined below).

## **TERMINATION OF SERVICE – RESIDENTIAL AND BUSINESS**

To cancel or terminate the Company’s Residential or Business Service, You must contact our offices at 866-92-DIGIS and provide written notice at least ten (10) days before the end of the monthly term in which the notice is given. If You DO NOT notify Us that You are porting (moving) Your phone number to a new phone company, We will turn off Your DIGIS Phone service and terminate billing at the end of the current billing term. If You DO notify Us that You are porting (moving) Your phone number to a new phone company, We will be

required to leave Your DIGIS Phone Service active until You or Your new phone company notify Us that the port-away has completed. The phone service must remain active until the port-away has occurred or your phone number may be lost. Once We're notified that the port-away has completed (either by Your new phone company or by You returning the Linksys Phone Adapter to Us), We'll turn off Your DIGIS Phone Service and terminate billing at the end of the current billing term. You are leasing the Linksys Phone Adapter, which has a value of \$70. It must be mailed or delivered to our Corporate offices. It should not be left with a company representative. It should be returned to: DIGIS Phone, 782 S. Auto Mall Drive Ste. C, American Fork, UT 84003. You authorize the Company and its agents to charge the Equipment replacement charge to the credit card or bank account on file with the Company if the Linksys Phone Adapter is not returned within 30 days of Your notice to cancel. If the Company is unable to obtain a charge authorization for the full amount due, You agree to provide alternative payment in the form of a money order, cashiers check, or other certified bank check within 10 days of notification of the amount due. You bear all risk of loss of, theft of, casualty to or damage to the Equipment; from the time it is shipped to You until the time (if any) when it is returned to Us in accordance with this Agreement.

If You are canceling Service it is Your responsibility to notify Us if You have requested DIGIS to port Your number from another company and it has not yet completed the porting process. The Company will attempt to cancel the porting of Your number to DIGIS once You've notified Us of Your intent to cancel. If the porting has completed, it is Your responsibility to notify Your new phone provider to port Your number from Us.

For Residential Services, We reserve the right to suspend or discontinue the Service generally, or to terminate Your Service, at any time in Our sole and absolute discretion. If We discontinue the Service generally, or terminate Your Service without a stated reason, You will only be responsible for charges accrued through the date of termination, including a pro-rated portion of the final month's charges. If Your Service is terminated on account of Your breach of any provision of this Agreement, You will be responsible for the full month's charges to the end of the current term, including, without limitation, unbilled charges, plus the termination fee, if applicable, all of which will immediately become due and payable.

For Business Services, We reserve the right to suspend or discontinue the Service generally, or to terminate or suspend Your Service for failure to rectify a violation of the Service Agreement within 10 days after receiving notice thereof from the Company. If We discontinue the Service generally, or terminate Your Service, You will only be responsible for charges accrued through the date of termination, including a pro-rated portion of the final month's charges. If Your Service is terminated on account of Your failure to correct any

breach of any provision of this Agreement, You will be responsible for charges to the end of the current term, including, without limitation, unbilled charges, plus the termination fee, if applicable, all of which will immediately become due and payable. Service may be suspended by the Company without prior notice if necessary to comply with applicable laws or to preserve the integrity of service to other Customers. If service is suspended without prior notice, the Company will use reasonable efforts to notify Customer of the suspensions and the reason for suspension within one (1) business hour of suspension.

## **SERVICE REQUIREMENTS AND AVAILABILITY**

You must supply certain equipment and facilities, such as a phone handset or equivalent, installed phone wiring and outlets, and a powered electrical outlet. You are responsible for supplying and ensuring that the equipment You supply is compatible with the Service and meets federal and other applicable standards. You represent that You either own Your equipment or have the right to use that equipment in connection with the Service. The Company shall have no obligation to provide, maintain, support or service Your equipment. If Your Internet Access Service is terminated, suspended or disconnected for any reason, the Service will not be available until You reestablish Your Internet Access Service with the Company.

## **FEES, TAXES AND OTHER CHARGES**

We publish on our website, [www.digis.net](http://www.digis.net), an explanation of the taxes and fees for this service. These fees and charges may change from time to time. If You make calls to locations outside the US, It's Territories, and Canada, International rates will apply. These rates are published on the website <http://phone.DIGIS.net>. You will be charged \$.89 for each call You make to Directory Assistance.

## **911 EMERGENCY SERVICES**

Carefully read the information below. By acceptance, and use, of the VOIP Service You acknowledge and accept any limitations of 911/E911 service, and You agree to convey these limitations to all persons who may have occasion to place calls over the VOIP service. If You have any questions about 911/E911, call 866-92-DIGIS.

**LIMITATIONS ON 911 EMERGENCY SERVICE: The VOIP Service includes 911/Enhanced 911 functionality ("911/E911") that may differ from the 911 or Enhanced 911 function furnished by other providers.** As such, it may have certain limitations. E911 service includes transmission of your telephone number, and information you provide to DIGIS about the

physical location of the equipment and facilities that are used to provide your VOIP Service (“Registered Location”). When you dial 911, your emergency services call will be routed to the applicable Public Safety Answering Point, or other applicable emergency services call center, or local emergency authority (“PSAP”). If the PSAP is capable of receiving your telephone number and Registered Location (“E911 Information”), such information will also be conveyed to the PSAP when you dial 911.

REGISTERED LOCATION: **USE OF THE VOIP SERVICE FROM A LOCATION OTHER THAN YOUR REGISTERED LOCATION MAY CAUSE YOUR 911 CALL OR E911 INFORMATION TO BE ROUTED TO THE WRONG PSAP, MAY CAUSE EMERGENCY RESPONSE PERSONNEL TO BE DISPATCHED TO THE WRONG ADDRESS, AND MAY RESULT IN OTHER PROBLEMS WITH ACCESSING AND OBTAINING EMERGENCY SERVICES, INCLUDING BUT NOT LIMITED TO YOUR INABILITY TO RECEIVE EMERGENCY SERVICES.** AS A RESULT, YOU MUST UPDATE YOUR REGISTERED LOCATION WITH DIGIS BEFORE USING THE VOIP SERVICE AT A NEW LOCATION. TO UPDATE YOUR REGISTERED LOCATION, CONTACT DIGIS CUSTOMER CARE AT 866-92-DIGIS OR AT THE ADDRESS SET FORTH AT [www.digis.net/contact-us/](http://www.digis.net/contact-us/)

**EVEN IF YOU USE THE VOIP SERVICE FROM YOUR REGISTERED LOCATION, TRYING TO CALL 911 OR OBTAIN EMERGENCY SERVICES THROUGH A 911 CALL MAY FAIL FOR A NUMBER OF REASONS, INCLUDING:**

- a. POWER FAILURE – IF THERE IS A POWER OR INTERNET OUTAGE OR INTERRUPTION, YOU WILL NOT BE ABLE TO USE THE VOIP SERVICE FOR ANY 911 OR OTHER EMERGENCY CALLS (AFTER SUCH AN EVENT, YOU ALSO MAY NEED TO RESET OR RECONFIGURE THE EQUIPMENT BEFORE YOU CAN CALL 911).
- b. TERMINATION OR SUSPENDED SERVICE – IF YOUR VOIP SERVICE OR INTERNET ACCESS SERVICE IS INTERRUPTED, SUSPENDED OR CANCELLED FOR ANY REASON (INCLUDING DUE TO TECHNICAL PROBLEMS, YOUR FAILURE TO PAY DIGIS, OR TERMINATION OF THIS VOIP SERVICE AGREEMENT), YOU WILL NOT BE ABLE TO USE THE VOIP SERVICE TO CALL 911;
- c. TRANSFERRED NUMBER – AS DESCRIBED FURTHER BELOW, IF YOU TRANSFER A TELEPHONE NUMBER FROM YOUR TRADITIONAL TELEPHONE SERVICE, THERE MAY BE A DELAY OR INTERRUPTION IN YOUR ABILITY TO USE THE VOIP SERVICE TO CALL 911;
- d. UPDATED LOCATION INFORMATION – AS DESCRIBED FURTHER BELOW, IF YOU USE THE VOIP SERVICE AT A NEW REGISTERED LOCATION, IT MAY TAKE

SEVERAL DAYS AFTER YOU NOTIFY DIGIS OF THE NEW REGISTERED LOCATION BEFORE 911 CALLING OR E911 FUNCTIONS WILL BE AVAILABLE; AND

e. TECHNICAL LIMITATIONS – NETWORK CONGESTION, RADIO INTERFERENCE, WEAK WIRELESS SIGNALS, OR OTHER CAUSES OF REDUCED INTERNET ACCESS SERVICE PERFORMANCE MAY PREVENT YOU FROM USING THE VOIP SERVICE TO CALL 911 OR MAY DELAY THE ROUTING OF YOUR 911 CALL OR E911 INFORMATION. **YOU SHOULD NOT RELY ON THE VOIP SERVICE AS YOUR PRIMARY METHOD TO OBTAIN EMERGENCY SERVICES. IF YOU DO NOT FEEL COMFORTABLE WITH THESE LIMITATIONS, WE SUGGEST YOU MAKE ALTERNATIVE METHODS AVAILABLE TO CALL 911 OR OTHERWISE OBTAIN EMERGENCY SERVICES, SUCH AS THROUGH A TRADITIONAL TELEPHONE LINE OR A MOBILE PHONE.**

LIABILITY: YOU ACKNOWLEDGE AND AGREE THAT DIGIS WILL NOT BE LIABLE FOR ANY SERVICE OUTAGE, INABILITY TO DIAL 911, AND/OR INABILITY TO ACCESS EMERGENCY SERVICE PERSONNEL. YOU AGREE TO DEFEND, INDEMNIFY, AND HOLD HARMLESS DIGIS AND ITS ASSOCIATED PARTIES FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, FINES, PENALTIES, COSTS, AND EXPENSES (INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEY FEES) BY, OR ON BEHALF OF, YOU OR ANY THIRD PARTY OR USER OF THE SERVICES RELATING TO THE FAILURE OR OUTAGE OF THE SERVICES, INCLUDING THOSE RELATED TO 911/E911. YOU ACKNOWLEDGE THAT YOU ARE AWARE OF AND UNDERSTAND THE FOREGOING LIMITATIONS AND AGREE TO ADVISE ALL PERSONS WHO MAY CONDUCT CALLS USING YOUR VOIP SERVICE OF THE SAME.

“REVERSE 911” SERVICE: “Reverse 911” service is a telephonic community notification system that may be used to deliver outbound messages in the event of an emergency. The system employs a combination of database and mapping technologies to allow emergency responders to pinpoint a specific geographic area and deliver the appropriate message to residents in the affected area. Certain systems have the ability to call both listed and unlisted phone numbers. Subscribers should contact their local public safety agencies to determine if the number used in the provision of the VoIP Service can be registered with the local public safety agency. The technical limitations associated with the provision of Reverse 911 service are due entirely to the local public safety agency’s network and systems capabilities. The Company shall not be liable for any failures, loss of service, interference, or

incompatibility of the VoIP Service and any Reverse 911 service offered by local public safety agencies. Further, the Company offers no warranties, either express or implied, as to the availability of such Reverse 911 services, or their compatibility with the Service.

## **PROHIBITED USES**

You shall use the Service and the Device only for lawful purposes. We reserve the right to immediately terminate Your Service if, in our sole and absolute discretion, We determine that You have used the Service or the Device for an unlawful purpose. In the event of such termination, You will be responsible for the full month's charges to the end of the current term, including, without limitation, unbilled charges, plus a termination fee, if applicable, all of which will become immediately due and payable upon termination of Your Service. If We believe that You have used the Service or the Device for an unlawful purpose, We may forward the relevant communication and other information, including Your identity, to the appropriate authorities for investigation and prosecution. You hereby consent to our forwarding of any such communications and information to these authorities. In addition, DIGIS will provide information in response to law enforcement requests, subpoenas, court orders, to protect its rights and property and in the case where failure to disclose the information may lead to imminent harm to the Customer or others.

You shall not use the Service or the Device in any way that is threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, or any similar behavior. We reserve the right to immediately terminate Your Service if, in our sole and absolute discretion, We determine that You have used the Service or the Device in any of the aforementioned ways. In the event of such termination, You will be responsible for the full month's charges to the end of the current term, including, without limitation, unbilled charges, plus a termination fee, if applicable, all of which will become immediately due and payable upon termination of Your Service. In addition, DIGIS will provide information in response to law enforcement requests, subpoenas, court orders, to protect its rights and property and in the case where failure to disclose the information may lead to imminent harm to the Customer or others.

Although We encourage You to use the Service to place calls to foreign countries from within the United States, We do not presently offer or support the Service in any countries other than the United States. If You use the Service or the Device outside of the United States, You will be solely responsible for any violations of local laws and regulations

resulting from such use. We reserve the right to terminate Your Service immediately if We determine, in our sole and absolute discretion, that You have used the Service or the Device outside of the United States.

You agree not to: use the Service in connection with surveys, contests, pyramid schemes, chain letters, junk e mail, spamming or any duplicative or unsolicited messages (commercial or otherwise); defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights of privacy and publicity) of others; publish, distribute or disseminate any inappropriate, profane, defamatory, infringing, obscene, indecent or unlawful material or information; advertise or offer to sell or buy any goods or Services for any non personal purpose; harvest or otherwise collect information about others, including e mail addresses, without their consent; create a false identity for the purpose of misleading others as to the identity of the sender or the origin of a message; use, download or otherwise copy, or provide (whether or not for a fee) to a person or entity that is not a Service member any directory of the Service members or other User or usage information or any portion thereof other than in the context of Your use of the Service as permitted under this Agreement, and these terms of service; transmit or upload any material that contains viruses, trojan horses, worms, time bombs, cancel bots, or any other harmful or deleterious programs; transmit or upload any material that contains software or other material protected by intellectual property laws, rights of privacy or publicity or any other applicable law unless You own or control the rights thereto or have received all necessary consents; interfere with or disrupt networks connected to the Service or violate the regulations, policies or procedures of such networks; attempt to gain unauthorized access to the Service, other accounts, computer systems or networks connected to the Service, through password mining or any other means; host any type of publicly accessible file sharing, gaming, or email server including, but not limited to HTTP, FTP, SMTP, POP3, and Peer-to-Peer; interfere with another member's use and enjoyment of the Service or another individual or entity's use and enjoyment of similar Services.

The Company has no obligation to monitor the Service or any User's use thereof or retain the content of any User session. However, the Company reserves the right at all times to monitor, review, retain and/or disclose any information as necessary to satisfy any applicable law, regulation, legal process or governmental request. The Company reserves the right to implement reasonable network management practices to ensure service quality levels are maintained.

You agree not to share (or re-sell) the Service with anyone not residing at the Service address.

## RELOCATION REQUIREMENT

The Service may be used only at the Registered Location You provide to the Company. If You wish to relocate the Equipment, You must contact the Company for information on Service availability at the new location. If the Service is available at Your new location, You must update and register the new location with the Company in order to update our records for the Service and help make 911 services and E911 features available to You. If Service, 911 calling or an E911 feature is not available at the new location, Your Service will be terminated or suspended until You return the Equipment to a location with Service, 911 and E911 availability and provide Us updated information for the new location. Using or moving, or attempting to use or move, the Equipment or Service to a location without complying with this Section 9 is a violation of this Service Agreement and You do so at Your own risk.

## LOCAL NUMBER PORTABILITY

If You are transferring Your existing phone number from another service provider for use with the Service, the following terms and conditions also shall apply:

- a. You will cooperate fully with the Company and provide promptly all information, including a letter of authorization or other documentation, as requested by the Company in connection with the processing of Your order for Service;
- b. You authorize the Company to notify Your current telephone service provider of Your decision to switch Your local, local toll and long distance services to the Service, and You represent You are authorized to take such actions;
- c. You acknowledge that if You set up the Service prior to the date that the number switch becomes effective (the "Port Effective Date"), You may be able to place outgoing calls but not receive incoming calls over the Service, and may not be able to make 911 or other emergency calls over the Service, until the Port Effective Date (in such a case, You should keep another phone connected to an existing phone extension at Your service location to receive incoming calls until the Port Effective Date); and
- d. You acknowledge that if the Service is not yet activated as of the Port Effective Date, Your existing phone service for the number You are transferring will be disconnected and You will have no service for that line. To help avoid an interruption in Your phone service, You should install the Service prior to, or on, the Port Effective Date. An estimate of the Port Effective Date may be sent to You by the Company following Your completion of the ordering process, but this is only an estimate and not a guarantee of the Port Effective Date; and

e. You acknowledge that the Company may use call detail, and customer proprietary network information, for all lawful purposes, including but not limited to actions related to the initiation, rendering, billing and collection of the Service. Further, such actions also include the use of such information for the purposes of testing, verifying, and otherwise assuring that the Service is delivered to You.

#### LIMITATION OF LIABILITY

IN NO EVENT SHALL THE COMPANY BE LIABLE FOR ANY CLAIMS, DAMAGES, LOSSES OR LIABILITIES, AND YOU HEREBY WAIVE ANY AND ALL SUCH CLAIMS OR CAUSES OF ACTION, ARISING FROM OR RELATED TO:

- a. DEVELOPING, INSTALLING, OPERATING, PROVIDING, IMPLEMENTING, MAINTAINING OR PARTICIPATING IN A 911 EMERGENCY TELEPHONE SYSTEM OR SIMILAR EMERGENCY SYSTEM OR ENHANCED 911 TELEPHONE SERVICE, INCLUDING WITHOUT LIMITATION (i) RECEIVING, DEVELOPING, COLLECTING, OR PROCESSING INFORMATION FOR E911 DATABASES, (ii) RELAYING, TRANSFERRING, OPERATING, MAINTAINING, OR PROVIDING 911 OR E911 SERVICES OR SYSTEM CAPABILITIES, OR (iii) PROVIDING EMERGENCY TELEPHONE AND RADIO COMMUNICATIONS FOR AMBULANCE, POLICE AND FIRE DEPARTMENTS;
- b. INTERFERENCE OR INCOMPATIBILITY WITH OR DISRUPTION OF ANY NON-VOICE SYSTEMS, WHETHER CAUSED BY THE VOIP SERVICE, INTERNET ACCESS SERVICE, ANY EQUIPMENT, OR OTHERWISE;
- c. ANY LACK OR BREACH OF SECURITY YOU OR ANY OTHER PARTY MAY EXPERIENCE OR BE EXPOSED TO WHILE USING THE VOIP SERVICE; OR
- d. USE OF THE SERVICE FOR OR IN CONNECTION WITH ANY HIGH-RISK USES.
- e. Our liability under this agreement will not exceed the Service charges for the affected time period. The Company will not be responsible for third-party fees or charges, including but not limited to, banking fees, overdraft fees, cellular phone or other wire line charges, technician charges, or other similar charges.
- f. This Section 11, Limitation of Liability, will survive termination or expiration of this Service Agreement, whether terminated by You or the Company, for any reason.

#### UNLIMITED USE OF SERVICE

The Company offers unlimited local and domestic long distance calling for residential or business use subject to the following limitations. Use of the service, including for any telemarketing purposes, that results in excessive use is strictly limited. The Company determines excessive use according to criteria identified at its sole discretion and control, regardless of prior history. Subscribers that engage in excessive use will, at the Company's discretion, be subject to immediate termination, or will be converted to a metered rate plan which will be subject to rates calculated as described in paragraph 1d, above.

## PRIVACY

The Company utilizes, in part, the public Internet and third party networks to transmit voice and other communications to and from the Subscriber. The Company is not liable for any lack of privacy which may be experienced with regard to the Service. Furthermore, the Service is offered over a platform that does not allow for the Company to encrypt the voice signals delivered over its network. Finally, the Company can not guarantee, or protect, against the possibility that third parties may improperly attempt to capture signals, or communications, sent over the network.

Additional information concerning the steps that the Company takes to protect Your privacy, and related issues, is provided in the Company's privacy policy, CALEA and CPNI compliance policies, which are available upon request.

BY SIGNING THE INSTALLATION AGREEMENT, YOU AGREE TO BE BOUND BY ALL OF THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO ALL OF THESE TERMS, YOU SHOULD NOT SIGN THE AGREEMENT OR USE THE SERVICE.

I HAVE READ AND UNDERSTAND THIS SUBSCRIBER AGREEMENT AND AGREE TO BE BOUND BY ALL OF THE TERMS.

Rev. 12/1/2011



[\(http://www.digis.net/\)](http://www.digis.net/)

866-92-DIGIS (TEL:866-923-4447)



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# HSL Provisioned Services Form

Customer Name \_\_\_\_\_

Customer SSN: \_\_\_\_\_

Service Address \_\_\_\_\_

\_\_\_\_\_

City \_\_\_\_\_ State VA Zip Code \_\_\_\_\_

Billing Address \_\_\_\_\_

\_\_\_\_\_

City \_\_\_\_\_ State VA Zip Code \_\_\_\_\_

Payment Type  Monthly CC \_\_\_\_\_

Phone # \_\_\_\_\_

Email Contact  
(use a non-HSL email  
if possible) \_\_\_\_\_

**Installer Section**

5mbs - \$15/mo     10mbs - \$30/mo     25mbs - \$40/mo

Service Plan \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Additional Notes \_\_\_\_\_

\_\_\_\_\_

Customer Initial \_\_\_\_\_

Installer Initial \_\_\_\_\_

**RBNS BROADBAND WIRELESS INTERNET SERVICE CONTRACT**  
**a limited liability company**

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This signifies a contract between Rural Broadband Network Services, LLC (“RBNS”) and the Customer as defined in the “HSL Provisioned Services Form”.

The Customer is contracting RBNS to provide \_\_\_\_\_ **mbs** (“Service”) as outlined in the Terms & Conditions and Acceptable Use Policy for a month to month period at the location specified in the customer data sheet for a rate of **\$\_\_\_\_\_ /mo.**

The customer certifies that they have read and understood the Terms & Conditions, and Acceptable Use Policy of the Service.

**Customer Initial** \_\_\_\_\_

The customer certifies that the information contained in the HSL Provisioned Services form to be accurate to the full extent of their knowledge and that the Provisioned Service was installed to their satisfaction.

**Accepted by Customer**

**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

Rural Broadband Network Services, LLC  
Main Office: 130 University Blvd. Suite C. Harrisonburg, VA 22801  
Phone: 800-385-9794  
Fax: 775-593-1668

<http://www.highspeedlink.net/>

## **ACCEPTABLE USE POLICY – RBNS's BROADBAND WIRELESS INTERNET SERVICE**

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As a customer of RBNS, you will have to abide by some simple rules and regulations in order to maintain and continue to use our service. Violations of any section of the Acceptable Use Policy or Terms of Service can result in termination of your account with no warning.

No one owns the 'Internet' and there is no one contact point for it. RBNS cannot control the information that you might receive while using your RBNS's service and we do not monitor the data that is transmitted to you.

Because we do not own or control the Internet, RBNS cannot and does not accept any responsibility for injury to you that results from inaccurate, unsuitable or offensive Internet communications. It is up to you to control your use of this service and to make appropriate use of monitoring software that is available from many third party vendors that can provide filtering and parental control for offensive material.

RBNS will not permit you or others using your RBNS's service to use this service for any of the following purposes.

Doing so violates the terms of your agreement with RBNS:

- Spam: Unsolicited, commercial mass e-mailing to others.
- Copyright Violations: Violation of copyrights held by individuals and corporations or other entities can result in civil and criminal liability. If you use your RBNS's service to distribute information, you should be aware of and abide by the laws involving copyrights
- Obscene Material: RBNS will not allow the use of our network for the distribution of obscene, or indecent material. RBNS reserves the right to make the judgment in our sole discretion as to what constitutes obscene or indecent material.
- Illegal Activity: Any activity that is of an illegal or unlawful nature under the laws of the United States of America or State of Virginia.
- Other: Any other activity that RBNS determines, in our sole discretion, is unethical, or damaging to our other customers, users of the Internet in general, or to our corporate reputation.

RBNS regularly monitors our network and its use. If we become aware of any violations of the above conditions, we may cancel your account immediately and without notice. All fees outlined herein will apply.

By placing an order with RBNS and using our services, you are presumed to have accepted this Acceptable Use Policy.

Main Office: 130 University Blvd. Suite C. Harrisonburg, VA 22801  
Phone: 800-385-9794  
Fax: 775-593-1668

[www.highspeedlink.net](http://www.highspeedlink.net)

**TERMS & CONDITIONS  
BROADBAND WIRELESS INTERNET SERVICE**

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PLEASE READ THE TERMS AND CONDITIONS CAREFULLY.

BY USING RBNSs SERVICE, (i) YOU ACKNOWLEDGE THAT YOU ARE AN ADULT (18 YEARS AND OLDER) AND (ii) YOU HAVE READ AND UNDERSTOOD THE TERMS AND CONDITIONS AND AGREE TO BE BOUND BY THE TERMS AND CONDITIONS IN EFFECT AND AS UPDATED BY RBNS, LLC FROM TIME TO TIME. IN ADDITION, BY PLACING AN ORDER FOR RBNS WIRELESS INTERNET SERVICE, YOU ACKNOWLEDGE THAT RBNS, LLC WILL COMMENCE PROCESSING SUCH ORDER AND WILL INCUR EXPENSES AND OBLIGATIONS IMMEDIATELY.

IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS AND CONDITIONS, YOU MAY NOT USE RBNS WIRELESS INTERNET SERVICE AND SHOULD IMMEDIATELY CANCEL YOUR ORDER. IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS AND CONDITIONS, RBNS, LLC WILL BE UNDER NO OBLIGATION TO PROVIDE YOU WITH SERVICES.

THE TERMS AND CONDITIONS ARE SUBJECT TO REVISION FROM TIME TO TIME AS MAY BE REQUIRED BY CHANGES LAWS GOVERNING THE USE OF THIS SERVICE. ACCEPT IONS TO THESE TERMS AND CONDITIONS CAN ONLY BE MADE BY AUTHORIZED PERSONNEL OF RBNS AND WILL BE NOTED ON ANY AND ALL CONTRACTS MADE CONTRARY TO THE HEREIN TERMS. THE LATEST VERSION OF THE TERMS AND CONDITIONS CAN BE FOUND AT [HTTP://WWW.HIGHSPEEDLINK.NET](http://www.highspeedlink.net). FOR PURPOSES OF THE TERMS AND CONDITIONS, YOU WILL BE REFERRED TO AS THE "CUSTOMER."

**Terms and Conditions**

**1. Definitions:** This Services Order Confirmation and Acknowledgment of Terms and Conditions shall serve as confirmation of your Wireless service order with Rural Broadband Network Services, LLC, a Virginia Limited Liability Corporation ("RBNS") and your acceptance of such order, including acceptance of all of the terms and conditions ("Terms and Conditions") set forth below, and will authorize RBNS to provide you with the Services (as defined below) for period agreed to by you ("Customer") upon placing an order for the Services.

**2. Service:** Customer agrees to purchase wireless and/or network access services ("Services") from RBNS. Unless otherwise stated, all installed equipment remains the property of RBNS. RBNS does not warrant any tampering with such equipment. Services provided by RBNS are for the sole use of you, the customer, and not for resale of any kind without the prior written consent of RBNS, which may be given in its sole discretion. In the event the Customer attempts to resell the Services, RBNS may, at its sole discretion, increase the fees associated with the Services, or terminate the Services.

**3. Term of Agreement:** This agreement has an initial term as stated in the letter of intent (the "Initial Term") and will automatically renew at the end of the Initial Term unless the customer notifies us in writing 60 days prior to the end of the Initial and subsequent Term. The Initial Term begins the day your wireless connection is successfully installed by RBNS (the "Installation Date"), as recorded in its database. RBNS will allow the cancellation of the agreement within ten (10) business days following the Installation Date with no penalties. If RBNS cannot successfully deliver the Service, this contract is implicitly terminated without penalty or cost.

**4. Rates and Payment Terms:** The Rates will be in effect for the Initial Term, and may be changed by us after the end of the Initial Term by giving you written or e-mailed notice of the new Rates at least thirty (30) days before their effective date. In addition to the Rates, we will bill you for all federal, state, county, and local taxes, surcharges, fees, and universal service contribution on the Service. Charges for the Services will begin when the Services are installed. Payments for Services will be made through monthly charges to your credit card, unless you have been approved for monthly invoicing. You may pre-pay by check or money order if you prefer not to pay via credit card or billed monthly, but a credit card number is required in all cases to secure your account with RBNS. You must keep us informed of any changes in your credit card information, or you will be in default under this agreement.

5. **Default and Remedies:** You will be considered in Default of the Agreement if 1) payment for any Service has not been made within ten (10) days after we have sent you a notice via e-mail that such payment is overdue and 2) for any other breach of this Agreement that is not remedied within ten (10) days after notice of such breach, or for any breach of our Acceptable Use Policy for our Internet Access Service. If you are in Default of this Agreement, we may terminate all Services under this Agreement without further notice to you and you will be charged an early termination fee of \$100. You also to cover court costs and attorney's fees associated with any collection efforts required to remedy a debt to you.

6. **Early Termination Charges:** You must notify us in writing of your intention of termination no less than 60 days prior to termination date to avoid additional monthly charges. You will be responsible for the early termination fee of \$100.00 or the remaining balance on the provisioned service contract. If you terminate this Agreement before the end of the Initial Term without a 60 day written notice, you will also be responsible for all service charges that would have been incurred for the next 90 days of your billing cycle and \$100.00 early termination fee.

7. **Limited Warranty – Wireless Service:** We warrant that, subject to the limitations set forth below, the Wireless service will operate in substantial accordance with the terms of this Agreement. The limitations include:

7.1 **NO 911 SERVICE.** You are hereby notified that Wireless Service provides only point-to-point communication services, and does not provide 911, E911, or other emergency, operator or ancillary services that are usually available through local telephone services.

7.2 **Quality of Service:** You understand and acknowledge that the actual transmission speeds may vary from the transmission speeds that you might otherwise expect. Speeds may vary due to conditions including, but not limited to, inside wiring on premises, computer and other equipment limitations, Internet or network congestion, and the speed of the websites you connect to on the Internet.

7.3 **Limitations:** The limited warranty shall not apply if: 1) Your equipment has been subjected to unusual physical or electrical stress, misuse, neglect, accident or abuse, or damaged by any other external causes; 2) The Wireless Service or related equipment has been installed, repaired or altered by any one other than our technical support or its subcontractors or affiliates, without prior written approval; or 3) the Wireless Service or related equipment is used in violation of applicable law or in violation of instruction furnished by us, if any.

7.4 **Warranties** The foregoing limited warranties shall be in lieu of and shall exclude all other express or implied warranties, including without limitation, warranties of merchantability, and fitness for a particular use or purpose.

8. **Use of Services:** Customer agrees not to use the Services in a manner prohibited by any federal or state law or regulation. Customer further agrees to adhere to RBNS's Acceptable Use Policy ("AUP") as set forth on RBNS's web site at <http://www.RBNS.net>. Transmission of any material in violation of federal or state law or regulation, including, but not limited to any copyrighted material, material protected by a trade secret or material or messages that are unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene or otherwise objectionable in any manner or nature or that encourages conduct that could constitute a criminal offense, give rise to civil liability or otherwise violate any applicable local, state, national or international law or regulation, is prohibited.

9. **Restrictions:** Wireless Customers agree not to resale services of any nature from their Wireless connection to RBNS. In the event any Wireless Customer attempts to resale services on the network, RBNS may, at its sole discretion, increase the fees associated with the Services, or terminate the Services.

#### 10. **Limitation of Liability:**

10.1 ANY LIABILITY OF RBNS ARISING UNDER THIS AGREEMENT SHALL BE LIMITED TO DIRECT, OBJECTIVELY MEASURABLE DAMAGES AND NEITHER PARTY SHALL HAVE ANY LIABILITY FOR ANY INDIRECT OR SPECULATIVE DAMAGES (INCLUDING, WITHOUT LIMITING THE FOREGOING, CONSEQUENTIAL, INCIDENTAL AND SPECIAL DAMAGES, LOSS OF USE, BUSINESS INTERRUPTIONS, AND LOSS OF PROFITS) IRRESPECTIVE OF WHETHER THE PARTY HAS ADVANCE NOTICE OF THE POSSIBILITY OF ANY SUCH DAMAGES.

10.2 NOTWITHSTANDING THE FOREGOING, RBNS'S TOTAL LIABILITY TO ANYONE UNDER THIS AGREEMENT REGARDLESS OF THE FORM OF ACTION (WHETHER IN CONTRACT, TORT, STRICT LIABILITY, FAILURE OF ESSENTIAL PURPOSE OR OTHERWISE) SHALL NOT EXCEED THE AMOUNT

THAT YOU WOULD HAVE PAID RBNS UNDER THIS AGREEMENT DURING THE PERIOD OF TIME THAT SUCH LIABILITY WAS INCURRED, OR FIVE HUNDRED DOLLARS (\$500.00) WHICHEVER IS LESS.

10.3 YOU ACKNOWLEDGE THAT THESE LIMITATIONS ON POTENTIAL LIABILITIES WERE AN ESSENTIAL ELEMENT IN SETTING THE PRICES FOR SERVICE UNDER THIS AGREEMENT.

11. **Force Majeure:** We will not be responsible for any failure to perform any obligation or provide any Services hereunder because of any Act of God or nature, strikes, work stoppage, equipment or facilities shortages, governmental acts, directives or abuse, war, riot or civil commotion, or any other force beyond our immediate and reasonable control.

12. **Entire Agreement; Amendments in Writing; Severability:** This Agreement, which includes all Attachments and Schedules referenced herein, if any, constitutes the entire Agreement between us concerning the subject matter hereof and supersedes all prior agreements, representations, statements, negotiations, understandings, proposals or undertakings, oral or written, with respect to the subject matter expressly set forth herein. Any changes to this Agreement, or any amendment or supplement to the Agreement must be in writing and signed by RBNS to be enforceable. If any provision of this Agreement shall be held to be illegal, invalid or unenforceable, each party agrees that such provision shall be enforced to the maximum extent permissible so as to effect the original intent of the parties, and the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

13. **Arbitration:** Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitration shall be held in Harrisonburg, Virginia by a single arbitrator who has special knowledge of the industry or technology involved in the dispute.

14. **Renewal:** This contract will automatically renew based on the herein terms if not terminated within 30 days of the end of the term.

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Revised - Effective 2013 0101

**Wi-Power® Digital Phone Service – Terms and Conditions of Service and Customer Agreement for Residential and Small Business accounts\*:**

**WARNING: VOICE-OVER-INTERNET-PROTOCOL (“VoIP”) SERVICE DOES NOT SUPPORT TRADITIONAL 911 ACCESS. E911 IS NOT AVAILABLE IN ALL LOCATIONS. EVEN WHERE E911 IS AVAILABLE, YOU SHOULD NOT RELY UPON IT FOR EMERGENCY FIRST RESPONDER SERVICES. OTHER IMPORTANT LIMITATIONS ON EMERGENCY SERVICES APPLY. READ ALL SECTIONS OF THIS DOCUMENT FOR DETAILS.**

**NOTICE** - BY APPLYING FOR SERVICE, USING THE MATERIALS INCLUDED IN THIS PACKAGE, OR ACCESSING TRANSWORLD NETWORK, CORP'S (TWN) WI-POWER® DIGITAL PHONE SERVICE (SERVICE), YOU (CUSTOMER, USER, SUBSCRIBER, END USER, MEMBER) BECOME A PARTY TO THIS AGREEMENT AND SHALL BE BOUND BY ALL OF THE TERMS AND CONDITIONS SET FORTH BELOW AND AS LISTED ON THE COMPANY'S WEBSITES: <http://www.wi-power.com> and <http://www.twncorp.com>. THIS AGREEMENT, AND ALL POLICIES AND GUIDELINES REFERRED TO HEREIN, CONSTITUTES THE ENTIRE AGREEMENT BETWEEN YOU AND TWN REGARDING USE OF THE SERVICE, AND MAY BE AMENDED AT ANY TIME AND IN ANY FASHION BY TWN. IT IS YOUR RESPONSIBILITY TO READ, UNDERSTAND AND ABIDE BY ALL OF THE PROVISIONS OF THIS AGREEMENT AS IT STANDS AND AS IT MAY BE AMENDED FROM TIME TO TIME. IT IS YOUR RESPONSIBILITY AND YOU AGREE TO PERIODICALLY ACCESS THE MOST CURRENT VERSION OF THESE TERMS & CONDITIONS.

IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, CEASE ALL ACCESS, MAKE ARRANGEMENTS TO RETURN ANY TWN EQUIPMENT AT YOUR PREMISES, AND RETURN THESE MATERIALS IMMEDIATELY TO TRANSWORLD NETWORK, CORP (TWN). APPLICABLE CHARGES AND FEES, INCLUDING ANY USAGE FEES, MAY APPLY. IF YOU CANCEL THE SERVICE, TWN WILL TERMINATE YOUR ABILITY TO MAKE CALLS (INCLUDING 911) USING THE SERVICE. YOU MUST MAKE ARRANGEMENTS FOR NEW SERVICE WITH THE CARRIER OF YOUR CHOICE. THE PROVISIONS OF THIS AGREEMENT WILL CONTINUE IN EFFECT EVEN AFTER TERMINATION OF YOUR ACCESS.

You agree that the laws of the State of Florida shall be applied in all matters pertaining to the construction and/or application of the terms of this Agreement. Your acceptance of this Agreement constitutes your consent and submission to personal jurisdiction of the courts and/or arbitrators of the State of Florida, with respect to any matter relating to your use of the Service.

Customers must be at least 18 years old. You represent that you are of full age of legal majority and are not under any disability or restriction, and are in all respects fully authorized and empowered to enter into this Agreement and be bound by and perform in accordance with its terms. This document, when accepted by you, will impose certain legally enforceable obligations upon you. If you have any questions pertaining to the content or effect of this Agreement, it is your responsibility to contact your own legal advisor.

The intent of this agreement is to enhance your use of the Service by giving you basic guidelines for its use. Users of TWN's Wi-Power Digital Phone Service (“the Service”) must fully abide by the terms of this agreement. You acknowledge that, in accordance with these Terms and Conditions, at our sole discretion, we may remove any materials that may be illegal, may subject us to liability, or which may violate this agreement. Should you commit any violation of this agreement, your service may be suspended or terminated and you may face other recourse(s) as may be available to TWN.

**INTRODUCTION** – Wi-Power Digital Phone Service is an alternative to traditional telephone communications. With this Service, you use a high-speed Internet connection to make phone calls. Wi-Power Digital Phone Service uses Voice over Internet Protocol (VoIP) technology to use the Internet as the transmission medium for telephone calls by sending voice data in packets rather than by traditional circuit transmissions.

Wi-Power Digital Phone Service is currently available to TWN's Wi-Power Wireless Broadband Internet access service subscribers and as a stand-alone service.

Service is provided and operated by TransWorld Network, Corp (TWN). For additional information regarding the service, refer to the latest “Wi-Power Digital Phone Service FAQs” available at <http://www.wi-power.com>.

You are responsible for providing the necessary compatible telephone (and/or facsimile, if applicable) equipment, computer equipment, devices, and software and for connecting to the analog telephone adaptor (ATA) and any other additional equipment provided by TWN. Minimum Internet access speed requirements are set forth in this agreement. Use of the Service is subject to interruptions at TWN's discretion. Unauthorized access to the Service, to restricted portions of the Service, or to the telecommunications or computer facilities used to deliver the Service, is a breach of this agreement and may result in termination of service by TWN. Please also note that Communication systems are subject to degradation of service from phenomena such as so-called Line-Noise interference and other causes beyond the reasonable control of TWN.

You are responsible for learning to use the TWN services you choose, and for the use of software designed for use with these services. TWN is not responsible for configuring, or teaching Customers how to operate any hardware or software on their computer(s). TWN reserves the right to refuse technical support to any Customer who TWN believes is abusing the service of technical support.

TWN will provide most notices to customers by e-mail, bill message/insert or by posting the notice on [www.wi-power.com](http://www.wi-power.com) or [www.twncorp.com](http://www.twncorp.com). Other notices may be given by a general posting, or by conventional mail. The Customer agrees they are responsible for providing TWN a valid e-mail address and mailing address for receiving notices and ensuring TWN is advised of any changes to the Customer's chosen e-mail or mailing address.

If you need to send notice to TWN or if you have any questions or comments, you can reach TWN by calling 1-877-877-6861, sending e-mail to [customersvc@twncorp.com](mailto:customersvc@twncorp.com), or by writing to:

TRANSWORLD NETWORK, CORP  
ATTN: CUSTOMER SERVICE  
255 PINE AVE N  
OLDSMAR, FL 34677

#### **IMPORTANT E911 INFORMATION:**

##### ***E911 service limitations:***

The Federal Communications Commission (FCC) requires that TransWorld Network, Corp. ("TWN"), provide E911 service to all end users within the United States. All sections apply to all end users who use TWN services within the United States.

**911 acknowledgement and warning labels:** End user acknowledges that TWN equipment and services do not support 911 emergency dialing or other emergency functions in the same way that traditional wireline 911 services work. The differences are detailed in this document and end user agrees to notify any potential user of the services, who may place calls using end user's services, of the 911 limitations described herein. TWN will provide end user with warning labels regarding the limitations or unavailability of 911 emergency dialing. End user agrees to place a label on and/or near each telephone or other customer premise equipment on which the services may be utilized. If additional labels are required, end user may request them from TWN. TWN will provide end user with advisory notices regarding 911 emergency dialing and request acknowledgments from end user. End user also agrees to respond and affirmatively acknowledge that TWN has advised end user of the circumstances under which TWN E911 service may not be available or may be limited in comparison to traditional 911 emergency dialing. TWN advises end user to maintain an alternative means of accessing traditional 911 services.

**Electrical power:** End user acknowledges that the services will not function in the absence of electrical power.

**Internet access:** End user acknowledges that the services will not function if there is an interruption of end user's broadband or high-speed internet access service.

**Non-voice systems:** End user acknowledges that the services are not set up to function with outdialing systems including home or business security systems, medical monitoring equipment, TTY equipment, and entertainment or satellite television systems. End user has no claim against TWN or its under-carriers for interruption or disruption of such systems by the services.

**TWN E911 service is a mandatory component of all inbound/outbound voice service plans:** E911 service is not offered on virtual numbers, toll-free numbers or similar service accessories or add-on plans. **E911 service is only available in selected areas.** End users who subscribe to TWN E911 service will be **required to register the physical location of their equipment** (DTA or videophone) with TWN by calling customer service, and **agree to update the location whenever the physical location of service changes.** End user acknowledges that TWN's only mechanism for routing 911 calls to the correct emergency call taker is the physical location currently registered for the account. End user acknowledges and understands that any enhanced location information passed to an emergency operator by TWN will be based upon the physical location provided to TWN by end user. In the event

that the physical location has not been updated or is not complete, TWN may attempt to route a 911 call based upon the bill-to or ship-to addresses associated with the end user's account or initial order.

**End users who are required to subscribe to TWN E911 service will be subject to a one-time provisioning fee:** The provisioning fee shall be in addition to the applicable residential or business plan charges for the associated line. TWN reserves the right to adjust the level of charges associated with the provision of E911 services to reflect increases or decreases in the costs it incurs.

**End user also acknowledges that TWN E911 service has certain characteristics that distinguish it from traditional, legacy, circuit-switched 911 service:** These characteristics may make TWN E911 services unsuitable for some end users. Because end user circumstances vary widely, end users should carefully evaluate their own circumstances when deciding whether to rely solely upon TWN E911 service. End user acknowledges that it is end user's responsibility to determine the technology or combination of technologies best suited to meet end user's emergency calling needs, and to make the necessary provisions for access to emergency calling services (such as maintaining a conventional landline phone or wireless/cellular phone as a backup means of completing emergency calls). The following characteristics distinguish TWN E911 service from traditional, legacy, circuit-switched 911 service:

\*\* TWN's E911 service will not function if end user's data, phone or videophone fails or is not configured correctly or if end user's TWN service is not functioning for any reason, including, but not limited to, electrical power outage, broadband service outage, or suspension or disconnection of service because of billing or other issues. If there is a power outage, end user may be required to reset or reconfigure the equipment before being able to use the TWN service, including for E911 purposes.

\*\* after initial activation of the E911 service, and following any change of and update to end user's physical location, there may be some delay before the automatic number and location information is passed to the local emergency service operator. This information is typically populated into our nomadic E911 databases prior to service activation, but no guarantee can be made that the automatic number and location information will be activated within this schedule.

\*\* the local emergency service operator receiving TWN E911 emergency service calls may not have a system configured for E911 services or be able to capture and/or retain automatic number or location information. This means that the operator may not know the phone number or physical location of the person who is making the TWN E911 call. Due to technical factors in network design, and in the event of network congestion on the TWN network, there is a possibility that a TWN 911 call will produce a busy signal or will experience unexpected answering wait times and/or take longer to answer than 911 calls placed via traditional, legacy, circuit-switched telephone networks.

\*\* if end user does not correctly identify the actual location where the TWN equipment will be located at the time of activation of the service, TWN E911 communications may not be directed to the correct local emergency operator.

**End user acknowledges and understands that TWN will not be liable for any service outage and/or inability to dial 911 or any other emergency telephone number using TWN or to access an emergency service operator due to the 911 dialing characteristics and limitations set forth in this agreement:** End user agrees to defend, indemnify, and hold harmless TWN, its officers, directors, employees, affiliates and agents and any other service provider who furnishes services to end user in connection with the services, from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without Limitation, reasonable attorney fees) by, or on behalf of, end user or any third party or user of the service relating to the failure or outage of the service, including those related to 911 dialing.

## **EMERGENCY SERVICES- 911 DIALING –**

**Notice:** 911 Dialing service will not function in the event of a broadband or power outage or if your broadband, power, ISP or TWN Digital Phone Service is terminated or suspended.

**Alternative 911 and/or E911 Arrangements -** You acknowledge that VoIP Service does NOT offer lifeline services. Given the Service's limitations, you should retain your existing local telephone service, or make other arrangements for, accessing traditional 911 services.

**Customer Duty to Inform Other Users of Emergency Service Limitations -** You must inform any household residents, guests and/or other third parties who may be present at the physical location where you utilize the Service that they should NOT rely upon the Service for access to emergency services. The documentation that accompanies each Device for use with the Service should include a sticker describing the limitations of the system for access to emergency services. If your device does not include a sticker, you must call 1-877-877-6861 and one will be shipped to you. You should not use the Device until a sticker is attached. You must ensure that this sticker is prominently displayed on the Device before use by any person.

**E911/911 Dialing System Limitations -** Any emergency or 911 operator who may answer or receive a call through the Service will not be able to automatically obtain your phone number and/or your location. Therefore the

operator will not be able to call you back if the call is not completed or is not forwarded, is dropped or disconnected, if you are unable to speak to tell the operator your phone number, or if the Service is not operational for any reason. Moreover, the operator will not be able to automatically dispatch emergency first responder assistance to your location. You should not assume that an E911/911 call will be forwarded to the appropriate or closest emergency first responder.

**Reduced Speed for Routing or Answering 911 Dialing Calls** – There may be a greater possibility of network congestion and/or reduced speed in the routing of a 911 Dialing call made utilizing the Service as compared to traditional 911 dialing over traditional public telephone networks.

**E911/911 Indemnification and Limitation of Liability** – You should not allow 911 calls under this Service to be used by others. Neither TWN nor its officers, directors, employees, agents, or under-carriers may be held liable for any claim, damage, or loss, and you hereby waive any and all such claims or causes of action, arising from or relating to 911, E911 and/or emergency calls. You agree to indemnify and hold harmless TWN, its officers, directors, employees, agents, and its third-party provider(s) for any third party claims arising from the use of your Devices and/or Service.

**APPLICATION FOR SERVICE** - You warrant and represent that all information provided to TWN for purposes of applying for service is complete, accurate and true. If TWN subsequently determines that any statements made while applying for service are false, incomplete or inaccurate, TWN may declare you to be in default under this agreement and may exercise any remedies it has under this agreement at law or in equity. Applications are subject to approval by TWN.

You agree to promptly update your account information whenever your personal or billing information changes (examples include: your name, billing address, physical/service address, e-mail address, etc). If notices are sent by us to either the last e-mail or mailing address you provided, you agree we provided sufficient notice and you waive any rights to assert failure of notice.

**TRANSFER OR RESALE OF SERVICE** – Customer agrees that they will not share, transfer, or resell their Service or any associated devices, equipment, software, firmware, etc without first obtaining TWN's prior written consent.

**CREDIT APPROVAL / ESTABLISHMENT OF CREDIT, DEPOSITS** - TWN requires all Customers to establish credit worthiness to the reasonable satisfaction of the Company. Upon application for service, you shall be deemed to have authorized TWN to obtain such routine credit information and verification as TWN shall require in accordance with its then existing credit policies. Any applicant whose credit has not been duly established and acceptable to the Company may be required to make a deposit to be held as a guarantee of payment of charges. TWN shall have the right to require you to make a deposit prior to or at any time after provisioning of any service. Waiver of initial deposit for any one Customer shall not act as a waiver for any other customer. At TWN's option, the deposit may be refunded or credited to the Customer at any time prior to the termination of service or if any balance is outstanding on the Customer's account at the time of cancellation, TWN reserves the right to apply the Customer's deposit against any unpaid balance. In the event TWN requires the prospective customer to make a deposit and the Customer refuses to make a deposit or advance payment, TWN may reserve the right to refuse to provide service to the Customer.

**USE OF SERVICE, FRAUD, TERMINATION OR DENIAL OF SERVICE BY THE COMPANY** - The Customer, not TWN, shall be responsible for compliance with FCC Rules for all Customer premise equipment and/or facilities once the equipment has been installed on the customer's premises. The Customer understands that Services are furnished subject to the condition that there will be no abuse, fraudulent and/or illegal use thereof. Such activity includes, but is not limited to: (1) Using the Service for any purpose which is in violation of any law. (2) Obtaining or attempting to obtain Services through any scheme, false representation and/or use of any fraudulent means or devices whatsoever with the intent to avoid payment, in whole or in part, of charges for Services, or assisting any other person or firm in such regard. (3) Attempting to, or actually obtaining, accessing, altering, or interfering with the communications and/or information by rearranging, tampering with or making any connection with any facilities of the Company or assisting any other person or firm in such regard. (4) Using the Services in a manner that interferes unreasonably with the use of Service by one or more other Customers. (5) Using the Service to convey information deemed to be obscene, salacious, or prurient, to impersonate another person with fraudulent or malicious intent, to contact another person or persons so frequently, at such times, or in such a manner as to annoy, abuse, or harass, or to convey information of a nature or in a manner that renders such conveyance unlawful. The Company may immediately cancel the provision of services to the Customer, without incurring liability, for any of the following reasons: Non-payment of any sum due to the Company for any

service on a timely basis; use of any service in a fraudulent or suspected fraudulent manner; unauthorized attempts resell the service; failure to comply with any material provision of these Terms and Conditions; any tampering with the service and/or equipment; or the violation of any law or requirement of any governmental agency. If Customer fails to comply with this section, Customer acknowledges release of TWN from all liabilities or obligations and agrees to pay TWN for all costs or damages that TWN incurs as a result.

**LIABILITY OF THE COMPANY, INDEMNITY** - The Company shall not be liable for any failure of performance hereunder due to causes beyond its control, including, but not limited to: (1) acts of God, fires, flood or other catastrophes; (2) any law, order, regulation, directive, action or request of the United States Government, or any other government, including state and local governments having jurisdiction over the Company, or of any civil or military authority; or (3) national emergencies, insurrections, riots, wars or other labor difficulties. In addition, the Company shall not be liable for any damages or losses due to the failure or negligence of any Customer or due to the failure of the provided equipment, facilities or services. TWN is not liable for, and shall be fully indemnified and held harmless by the Customer against any claim of special, consequential, punitive or incidental damages including loss of use, profits, revenue or goodwill. TWN shall not be liable for any failure or performance of any equipment due to causes and/or circumstances beyond its control, nor shall TWN be liable for any act or omission for any other company furnishing any portion of Service to Customer, including, but not limited to, any equipment owned or leased by Customer, any equipment supplied to Customer by TWN or any other supplier of equipment to Customer, or any network Service contracted by Customer or TWN. Further, TWN shall not be liable for and shall be fully indemnified and held harmless by the Customer against any claim, loss, expense or damages of any kind, whether direct, indirect, special or consequential, arising from, or in any way attributable to, acts or omissions of the Company relating to the installation, provision, termination, maintenance, repair, restoration, or billing of any service, feature or option available under these Terms and Conditions.

**NO WARRANTIES** – You agree that the Service is provided “as is” and TWN makes no warranties, express or implied, including without limitation, any implied warranty of merchantability or fitness for a particular purpose, to Customer in connection with use of the Service. In no event shall TWN be liable for incidental or consequential damages to the full extent the same may be disclaimed by law. Customer acknowledges that Service interruptions will occur from time to time and agrees to hold TWN harmless for all such interruptions.

**CHANGES TO RATES, TERMS AND CONDITIONS** - TWN may change Rates, access numbers, authorization codes, Network Addresses, domains, promotion periods, and/or Terms and Conditions from time to time. TWN will generally notify Customers of increases via bill message, bill insert or other reasonable commercial method prior to the effective date for the increases except: TWN will not send notice of rate changes for international calls. TWN may decrease rates and charges without providing advance notice. Continued use of the services constitutes the Customer’s agreement to TWN’s rates and terms and conditions that are in effect at the time the Customer uses the services.

**AVAILABILITY** - Services, Products, Plans and Promotional Offerings are subject to the availability of services and facilities and may be limited to a specific geographical area, a subset of a specific market, affinity group, or customer type (business, residential). Customer acknowledges that all Plans, Products, and Promotional Offerings may be offered for a limited time and/or subject to restrictions. Please note that Wi-Power Digital Phone Service is currently offered as a stand-alone product. It is also available to active Wi-Power Wireless Broadband Internet Access subscribers. Terms and Conditions for use of TWN’s Wi-Power broadband Internet access services can be accessed at [www.wi-power.com](http://www.wi-power.com).

Customer acknowledges that Wi-Power Digital Phone Service is only offered and supported within the continental U.S. and agrees not to use the Service while away from their account service address.

**SERVICE:** Service is provided and billed on a regular basis until cancelled by the Customer through notice given to TWN or until cancelled by TWN for non-payment or other breach of terms & conditions. The Customer is responsible for payment of all charges for service(s) furnished by the Company. This includes payment for calls, usage or services (a) originated at the Customer’s number(s) whether individually authorized or not; (b) accepted at the Customer’s number(s) whether individually authorized or not (e.g. Inbound Service/Toll-Free Service); (c) billed to the Customer’s number via a calling card, a company-assigned authorization code, travel card number, or other special billing number whether individually authorized or not; and/or (d) incurred at the specific request of the Customer. Customer assumes responsibility for security of their assigned numbers (card numbers) and access codes (PIN’s, Account Codes) and is responsible for any calls made on their assigned access numbers and access codes. The Customer must report lost/stolen cards to TWN’s customer service department

immediately. The Customer agrees to assume all liability for fraudulent usage incurred up to the proper notification of TWN.

You will be responsible: (i) for providing all compatible equipment, software, facilities and IP connectivity necessary for the Service; and (ii) to provide, prior to installation, the IP address(es) for the SIP proxy server, the Service and/or any other applicable hardware/software solution. Information you provide may be submitted to applicable national databases, including, but not limited to, Automatic Local Identification (ALI) Database, Line Information Database (LIDB) and Caller ID with NAME Database (CNAM). You shall also provide valid postal addresses that can be confirmed against the Master Street Address Guide ("MSAG"). In the event such postal address cannot be validated through MSAG, you will, upon notification of the same, immediately deliver a corrected address that can be validated against MSAG.

The Service is designed to be user friendly. To the extent possible, the Service is designed such that equipment is pre-configured for plug-and-play use. In order to achieve this simplicity of use, only approved equipment may be used with the Service. **Not all equipment will work with the Service.** Additionally, equipment purchased for use with the Service may not work with a different VoIP service.

**Service Distinctions** –You acknowledge and understand that the Service is not a traditional telephone service. Important distinctions exist between telephone service and the Service offering provided by TWN. **Examples of some, but not all, of the important differences between traditional telephone service and this Service include the functionality of the Service in the event of a power shortage, fax communications capabilities, voice clarity and Variability of service level** The Service is subject to different regulatory treatment than telephone service. This treatment may limit or otherwise affect your rights of redress before Federal, State or Provincial telecommunications regulatory agencies.

**0+ Calling; May Not Support x11 Calling** - TWN's Service may not support all 0+ calling features (including without limitation collect, third party billing or calling card calling). TWN's Service may not support 311, 511, 976, 900 and/or other x11 (other than 911 and 411, which are provided for elsewhere in this Agreement) services in one or more (or all) service areas.

**Number Assignment** –TWN will endeavor to obtain and assign to the Customer a phone number within their local rate center and/or local calling area. The Customer acknowledges this may not always be possible and agrees to accept the number assigned by TWN. The Customer can request a number from a different calling area. For details, please contact TWN toll-free at 1-877-877-6861 for rate information and details.

**Directory Listing** –Numbers assigned by TWN to the Customer (or transferred to TWN's digital phone service by the Customer) will be listed in directory listing if the number is within the Customer's local rate center. Any phone numbers assigned outside of the Customer's local rate center will not be listed. For an additional fee, the Customer may choose to not have their number(s) appear in directory listing. Please contact TWN toll-free at 1-877-877-6861 for rate information.

**OTHER SERVICES** – Where available, TWN offers other services, including: Dial-up Internet Access, standard land-line based long distance telecommunications services, toll-free inbound calling, and post-paid calling cards. Terms and Conditions for use of TWN's other services can be accessed via the Internet at: <http://www.twncorp.com> or <http://www.wi-power.com>.

**TERM OF SERVICE AND BUNDLED PLANS** – Wi-Power Digital Phone service is offered on a month-to-month term. TWN offers customers the opportunity to bundle their Wi-Power digital phone service plan(s) with their Wi-Power broadband Internet access plan. Bundled plans may or may not offer discounted rates for one or more of the services bundled. Restrictions and conditions apply. See subsequent sections for details.

**BILLING AND INVOICING** - TWN will issue invoices for Service charges on a regular (typically monthly) basis, which are due and payable 30 days from the invoice date. Recurring fees are billed in advance and usage based charges are billed in arrears. Usage charges are based on actual calls/minutes not previously billed. All fixed monthly and nonrecurring charges for services ordered will be billed monthly in advance. If an existing TWN customer adds digital phone service, TWN may, at its discretion, pro-rate the first billing period of digital phone service to coincide with the billing period of existing service or may change the Customer's billing cycle. The Company will bill the Customer directly for services rendered. Fees are due on or before the due date on the bill. Service will continue to be provided until canceled by the Customer or discontinued by the Company as set forth

in these Terms and Conditions. TWN reserves the right to correct any billing errors or omissions. Customer acknowledges that TWN will neither refund nor credit any amounts paid towards their pre-paid service plan or period. Customer further acknowledges that non-usage of the service or misdialing while using the service will not entitle the Customer to a credit or refund. Customer further understands that no credits will be given for any interruption of the Service, including international calling services.

Customers are automatically enrolled in TWN's *Paperless E-Bill* program, where a link to the Customer's invoice will be sent via electronic mail instead of via the U.S. Postal Service. The Customer understands and accepts that they will not receive a paper invoice. The Customer also agrees to ensure that the Customer has the proper hardware, software and Internet services in order to receive the *Paperless E-Bill* Service. Failure to access invoices via the *Paperless E-Bill* option does not relieve the Customer of any obligation relating to these terms and conditions of service. For an additional monthly recurring charge, Customers may choose to receive paper invoices. Please note that customers subscribing only to TWN's digital phone service may receive a monthly paper bill at no additional charge.

***Unlimited Plans Subject to Fair and Normal Usage Limitations:*** Service is provided to be used in a manner that is consistent with fair and normal usage for the service or plan. If the Customer uses the service in a way that is inconsistent with the fair and normal use of the plan, and/or has traffic in excess of 3,000 outbound minutes during a billing period on an unlimited residential plan, the Customer will be considered as having exceeded the fair and normal usage limitations. TWN may, at its sole discretion, immediately transfer the Customer to another plan, or suspend or terminate service. The Customer acknowledges that if the service is terminated under this provision, the Customer will be subject to all applicable charges. TWN's right to terminate your account is not limited by this provision. Below are other examples of uses of TWN's service inconsistent with normal residential use:

- Non-residential uses – Commercial, not-for profit, governmental or other similar use
- Use of the service at a multi-residential address for more than one single residence
- Use of the service by others not residing in your personal residence primarily by reason of its unlimited feature

***Usage Based Billing:*** Billing Increments for digital phone calls are as follows: Residential and small business customers; Domestic (calls made within the 48 contiguous United States only) direct dialed outbound and domestic inbound calls are billed in one minute increments with a 1 minute minimum. For purposes of TWN's Digital Phone Service, domestic inbound and outbound calls include calls within the contiguous 48 states in the United States as well as calls to/from Canada and Puerto Rico. International calls are billed in 1 minute increments with a one minute minimum. All calls reduce available plan minutes by the same increments. Customer is advised that call detail records for included plan calls will not appear on their invoice. Call detail records for international calls will appear on their invoice. Customers wishing to view call detail records for their current invoice should contact TWN toll-free at 1-877-877-6861.

***Per Call Charges:*** Per Call Charges will be assessed on calls to customer toll-free numbers originating at payphones (Payphone Surcharge) and for directory assistance calls. Per call charges may vary by state, accordingly, Customers are encouraged to contact TWN for applicable rates.

***International Calls Terminating to Mobile/Wireless Devices and International Audiotext Calls:*** International calls terminating to a wireless device (including, but not limited to: a cellular phone, pager, personal computer, or personal digital assistant), may incur a higher rate than standard land-line termination rates. International Audiotext calls may also incur higher rates than standard land-line termination rates. Rates are subject to change without notice. Customers are encouraged to contact TWN for applicable rates.

***Activation Fee:*** Customer acknowledges and agrees that a one-time activation fee will apply to each new plan/line.

***Equipment Fee:*** A monthly Equipment Fee also applies. This is a recurring monthly equipment rental fee that applies to each line on an account. This fee covers the rental and replacement of faulty or damaged Company provided equipment and/or Company installed wiring at no cost to the Customer in most cases. Causes of replacement not covered include, but are not limited to: theft, negligence, vandalism, damages by animals or rodents, acts of god, fires, flood or other catastrophes, national emergencies, insurrections, riots, or wars. In cases where the replacement is not covered, the Customer will be billed for the service call and for the replaced equipment and/or wiring at the then current prices. At its own discretion, TWN may waive not-covered

replacement charges on a case by case basis, usually due to extraordinary circumstances. Waiver of charges for any Customer or circumstance does not imply or require waiver for any other Customer(s) or similar situation(s).

**TAXES AND OTHER CHARGES** - In addition to payment for Services, Customer must pay all taxes, fees, surcharges and other charges that TWN bills the Customer related to Services. Taxes and other charges will be in the amounts that federal, state and local authorities require or allow TWN to bill Customer. TWN will not provide advance notice of changes to taxes and other charges, except as required by applicable law. The Company may modify its rates and charges or impose additional rates and charges on its services in order to recover amounts it is required to collect or pay to governmental or quasi-governmental authorities in support of statutory or regulatory programs. Examples of such programs include, but are not limited to, the State Universal Service Funds, the Local Number Portability charges, and compensation to payphone service providers for the use of their payphones to access the Company's service. In order to recover regulatory costs that are not separately itemized on Customer invoices, the Company imposes Regulatory Cost Recovery fees on services.

**PAYMENTS, PAYMENT OPTIONS, REFUNDS, AND ADMINISTRATIVE FEES** - You are responsible for paying all fees and charges (plus any applicable taxes or regulatory fees) associated with use of the Service. TWN reserves the right to change the amount of, or basis for determining, any fee or charge, and to publish online or institute e-mail notice to the customer.

You may remit payment (US Funds only) in the form of check, money order, credit card or via ACH/Auto payment plans where TWN is authorized by you to automatically charge the current balance due to either a credit card or bank account. ACH/Auto payments are processed 15 to 20 days after date of invoice. In order to cancel ACH/Auto payment plans Customer must provide written notice to TWN and allow 30 days for TWN to process the request. **Refunds**-Customers with credit balances exceeding \$1 have the option of obtaining a refund check by calling TWN Wi-Power Customer Service toll-free at 1-877-877-6861. **Credits**-Customer is hereby notified that credits posted by TWN to Customer accounts for promotional offerings, goodwill, and other similar credits are to be applied against services consumed and are not redeemable for cash/refund.

The base recurring and usage charges currently in effect for use of the service are located on the customer's service contract agreement. Other charges may apply. Prices may be changed without notice.

Each negotiable instrument (Check, Credit Card, ACH) submitted as payment that is returned to TWN as non-negotiable for any reason shall be assessed a Returned Item fee of \$30 and the original amount due will be considered unpaid until received by TWN. All applicable federal, state, and local sales and excise taxes, if any, applicable to your use of the Service will be added to the basic fees described herein above. TWN reserves the right to require payment by money order, cashier's check or similarly secure form of payment, at TWN's discretion.

You understand and agree that the fees and charges described in this section are solely for the use of the service as described above. Various products and services other than those described in this Agreement are offered by vendors and providers other than TWN on or over the Internet, for which separate fees or charges are levied by those vendors. You are solely responsible for payment of all fees charged for products and services incurred by your use or purchase thereof.

**MISCELLANEOUS ADMINISTRATIVE FEES** - You also agree to pay any miscellaneous administrative fees your account may incur including, but not limited to: Paper invoice charges, Invoice reprint charges, late payment fees and Abandoned Credit Transfer Fees.

(1) The *Paper invoice charge* is a monthly recurring charge that applies to Customers choosing to receive paper invoices. Please note that TWN Customers are provided with their invoices free of charge via *Paperless E-Bill*, and customers subscribing only to TWN's digital phone service may choose to receive a monthly paper bill at no additional charge. (2) *Invoice reprints* are subject to the following fees: for the current billing period and the 2 prior periods, there is no charge for reprinting and sending invoices to a paper billing Customer. From the 3<sup>rd</sup> period prior to the current invoice period there is a \$5 fee per invoice plus delivery charges. Delivery charges are as follows: if by fax, \$1 per page, if by U.S. Postal Service or expedited delivery, actual cost would be assessed. Customers on TWN's *Paperless E-Bill* program are subject to these reprint and delivery fees for all invoice print requests, regardless of the age of the invoice. (3) *Late payment fees* are assessed to Customers that fail to pay by their due date. (4) Customers may be subject to *Abandoned Credit Transfer Fees* of up to \$15 per year. Accounts affected by the Abandoned Credit Transfer Fee are accounts with unclaimed credit balances at time of

closing or accounts remaining dormant for 6 months or more. If the credit balance is less than \$15, the initial fee will be an amount equal to the credit balance. If the credit balance on the account is greater than \$15, the initial fee will be \$15 with a recurring annual fee of the lesser of either \$15 or the then remaining credit balance on the account.

**BILLING DISPUTES** - Customers may notify TWN of billing or other disputes in writing as follows: TransWorld Network, Corp. ATTN: Customer Service, 255 Pine Ave N, Oldsmar, FL 34677. Customers may also contact TWN at the following toll-free number, 1-877-877-6861. The Customer must pay the undisputed amount set forth in the invoice and submit written explanation by the due date on the invoice. If notice of a dispute with respect to a charge is not received in writing by the due date of the invoice, such invoice shall be deemed to be correct and binding upon the Customer. Customer complaints and billing disputes will be promptly and thoroughly investigated by TWN. TWN will promptly advise the Customer as to outcome. Once the Customer has received the results of TWN's investigation, the Customer shall submit payment by the due date of the invoice, or if the due date has passed, within five working days for any disputed amounts determined to be owed to the Company. Failure to then make full payment or payment arrangements satisfactory to TWN shall be grounds for termination of service.

**LATE PAYMENT, NONPAYMENT, DISCONNECTIONS, AND RECONNECTIONS** - Accounts not paid by the due date stated on the invoice will be considered delinquent. When payment is received by TWN after the due date, Customer acknowledges responsibility for late fees on their outstanding balance. Late fees are assessed monthly at 1.5% of the outstanding balance on the account or \$2.50, whichever is greater. Customer further acknowledges that in the event of nonpayment of charges or any other breach of the terms and conditions of this agreement, in addition to any other remedies that TWN may have, TWN has the right to temporarily or permanently disconnect accounts after reasonable notification (if required) to Customer. Customer is hereby notified that accounts disconnected for non-payment (regardless of plan) will be charged \$30 to reconnect, must reapply for service, are subject to approval, re-establishment of credit, and may require a deposit and activation or installation fee prior to reconnection of service. Details regarding additional fees are found in the appropriate sections. Termination of service for non-payment does not relieve the customer from their payment obligation.

**Termination of Access to the Service:** TWN shall terminate your access to all or any part of the Service, without notice, for conduct that TWN believes is a violation of this Agreement, any policies or guidelines posted by TWN on the Service, or for other conduct that TWN believes harmful to others (hereafter referred to as termination for "cause"). Further, we reserve the right to terminate without cause. Upon termination of the Service without cause, TWN may refund any unused portion of prepaid fees after satisfying any outstanding balances owed TWN. Termination for cause shall not entitle the terminated party to any refund or reimbursement whatsoever. TWN is not responsible for notifying anyone other than you of a termination of your access to the Service. Upon termination of access, any banking, brokerage, or other third-party relationships will no longer be accessible through the Service. TWN will not have any responsibility for consequences of such lack of access.

**COLLECTIONS** - Accounts in default for more than 30 days are subject to submission to a collection agency. Customer acknowledges that any collections actions or litigation will be commenced in Florida, and consents to jurisdiction in Florida. Customer also acknowledges liability for attorney's fees or collection costs incurred in having to collect on Customer's account. Customers are also hereby notified that TWN reports collections actions to the appropriate credit bureau(s) and Customer agrees to allow TWN to share credit information about the Customer with credit reporting agencies/bureaus.

**DISCONNECTION OF SERVICE BY CUSTOMER** - Disconnection fees and policies vary. Customers may contact TWN's customer service center to disconnect service, or may request disconnection in writing. Customers will receive a pro-rated bill for their last month of digital phone service.

Customers cancelling bundled term plans (Digital phone service plus Internet) prior to their minimum term end date will also be liable for any early termination fees, etc applicable the Internet portion of their service. Details can be found in the Wi-Power Internet access terms and conditions of service.

Please note that customers cancelling a service included in a bundled plan (i.e. Digital phone service plus Internet bundle) will also lose any bundling discounts provided under the previously bundled plan.

Customer is advised that simply returning their equipment to TWN, without providing TWN with notice of disconnection, will not terminate service and the Customer will remain responsible for all costs and fees associated with the account.

**CUSTOMER REQUESTED SUSPENSION OF SERVICE** – Residential Wi-Power Internet customers may request temporary suspension of their Internet access service. The Customer understands and accepts that suspension of service will affect their ability to use other products and services (including VOIP digital phone services), whether provided by TWN or not, that require Internet access.

**Porting Number to TWN and/or away from TWN after Disconnect:** Customer may be able to “port” or transfer their digital phone service number from or to another provider. Customer will remain responsible for all TWN charges and fees through the end of the billing cycle that includes successful completion of the port. If the port is not successful, for any reason, the Customer agrees to hold TWN harmless against any claim regarding the inability to transfer their number.

**Port Cancellation/ Port Disconnection Fees:** Customer acknowledges and understands that, should they cancel the port/transfer order of their phone number prior to completion of the order, or if they disconnect their number after porting, additional charges may apply. These charges may include, but are not limited to: Standard Port Cancellation Fee, Expedited Port Cancellation Fee, Snapback Fee, Disconnect Fee.

**LOSS OF SERVICE DUE TO POWER FAILURE OR INTERNET SERVICE OUTAGE OR TERMINATION OR SUSPENSION OR TERMINATION BY TWN** – You acknowledge and understand that the Service does not function in the event of power failure. You also acknowledge and understand that VoIP Service requires a fully functional broadband connection to the Internet and that, accordingly, in the event of an outage of, or termination of service with or by, your Internet service provider ("ISP") and/or broadband provider, and/or electric provider, the VoIP Service will not function, but that you will continue to be billed for the Service unless and until you or TWN terminate the Service in accordance with this Agreement. Should there be an interruption in the power supply or an ISP outage, the Service will not function until power is restored or the ISP outage is cured. A power failure or disruption may require the Customer to reset or reconfigure equipment prior to utilizing the Service. Power disruptions or failures or ISP outages will also prevent dialing to emergency service numbers including the 911 calling feature. Should TWN suspend or terminate your Service, the Service will not function until such time as TWN restores your Service (which may require payment of all invoices and reconnection fees owed by you or cure of any breach by you of this Agreement).

**EQUIPMENT, INSTALLATION, MOVING, AND REMOVAL** - You authorize TWN authorized personnel/installers to enter your premises at mutually acceptable times to install, maintain, inspect, repair and remove the equipment provided by the Company. The customer or an authorized party on the account must be on-site during the installation. The customer agrees to pay the Installation fee during the installation site visit prior to actual installation. TWN customer premise equipment is generally installed and maintained by TWN employees. You are hereby advised that TWN is not required to be a licensed contractor.

If you are not the owner of the location at which the equipment is to be installed, you represent and warrant that you have obtained the consent of the owner of said premises for TWN personnel and/or its authorized agents to enter the premises for the purposes described above. You shall indemnify and hold TWN harmless from and against any claims of the owner of the Premises arising out of the performance of this Agreement.

You agree to indemnify and hold TWN harmless from and against any claims of damage that may result from incidents or accidents that may occur during or later determined to have been caused by the installation or maintenance of the equipment. Incidents or accidents include, but are not limited to, unintentional damage/harm to property, persons, property, or animals.

To use Wi-Power Digital Phone service you will need Wi-Power digital phone service equipment, typically including at least an Analog Telephone Adaptor (ATA). The equipment is provided for your use by TWN. The equipment is the property of TWN, and we must be allowed access to remove said property upon cancellation or termination of the service. You agree to allow TWN personnel safe and timely access to your premise to remove the equipment upon cancellation or termination of service as well as for routine maintenance and service calls that may be required from time to time. You further acknowledge that should you fail to provide safe and timely access, or if the equipment is found to be damaged or otherwise faulty upon return, you agree to pay TWN for the replacement of said equipment at the then current price. (See also sections of this document describing

Equipment Recovery and Equipment Restocking Fees). Should the Customer sell or otherwise transfer their rights of ownership to another, the Customer agrees to notify TWN in a timely fashion to disconnect service and allow TWN to remove the equipment. Customer agrees that failure to do so will cause the customer to be liable for the replacement cost of the equipment at the then current price and further acknowledges liability for any additional fees, or charges that may be levied as a result. Alternatively, TWN may allow/require, at its own discretion, the customer to return Wi-Power digital phone service equipment via the US postal service or another alternate delivery solution (courier, etc).

**EQUIPMENT RECOVERY FEE** – This is a non-recurring fee that applies to disconnection of digital phone service on an account, whether cancelled by the customer or terminated by TWN. This fee covers the cost of Wi-Power digital phone service equipment located at the customer premise and will be credited back to the customer's account once TWN receives its equipment (in good working condition) within 10 days of disconnection.

**EQUIPMENT RESTOCKING FEE** – This is a non-recurring, non-refundable fee that applies to disconnection of digital phone service on an account, whether cancelled by the customer or terminated by TWN. This fee covers the cost of restocking Wi-Power digital phone service equipment received from the customer.

**Equipment Tampering, Prohibited Devices:** The Customer agrees they will not tamper with their equipment and understands that they are prohibited from using the Service with any devices other than TWN those provided and/or approved by TWN for use with the Service.

**Equipment Warranties:** TWN makes no warranties of any kind express or implied, and specifically disclaim any warranty of merchantability, fitness of any device for a particular purpose, title or non-infringement, or any type of warranty arising by usage of trade, course of dealing, or course of performance, or any warranty that any device, software or firmware is "free from error" or will meet your needs or requirements. You may have other rights that vary from state to state.

**MINIMUM INTERNET ACCESS SPEED REQUIREMENTS** – Customers accessing TWN's digital phone service over their broadband Internet service are advised that speed will have a direct and substantial impact upon the results obtained in using the Service. Customers are advised that they must have at least a speed of 512k in both directions to adequately utilize the Service.

**USE OF THE INTERNET AND DIGITAL PHONE SERVICE** - TWN has no control over opinions, advice or statements given or made by anyone other than authorized TWN spokespersons in any manner on or through the Service.

TWN exercises no control over the content or the information passing through its service and you are advised that sometimes information you may receive may be considered offensive or obscene. By accessing this service you acknowledge that you have read this warning and will not hold TWN responsible for information or content viewed or heard by you through the Service that you may consider obscene or offensive. Use of any information obtained via the Services is at your own risk. TWN specifically denies any responsibility for the accuracy or quality of information obtained through its service.

You agree that you will not use or attempt to use the Service in any way for any of the following purposes: 1. to seek to gain unauthorized access to unauthorized resources; 2. to disrupt the intended use of the Service; 3. to waste resources (people, capacity, and computer) through such actions; 4. to compromise the privacy of users; and/or 5. to seek to commit an illegal act through the use of the system.

It is your responsibility to comply with all international laws and all U.S. laws with respect to your use of the Service, including, but not limited to, copyright laws, obscenity laws, defamation laws, etc. You are reminded that conduct which is illegal in other media (for example, violations of copyright laws, etc.) is also illegal on Internet based digital phone service, and you are fully and solely responsible for the consequences of engaging in any illegal conduct by use of the Service.

TWN is not responsible in any way for any programs or devices used or intended for use in connection with the Service, even if such programs or devices are made available through the Service. Most of the programs used on the Service are third-party programs beyond the control of TWN.

You hereby agree to indemnify and hold TWN harmless from all claims, awards, judgments, costs, expenses (including costs of defense) and damages to which TWN is made subject as a result of any illegal, unethical or other improper use by you, of the Service, and/or a breach by you of this Agreement.

**PRIVACY** – The Customer understands that the Service uses public and third party networks to transmit communications. TWN will not be held liable for any lack of privacy the Customer may experience or encounter as a result of using the Service.

**ACCEPTABLE USE POLICY** – TWN's Acceptable Use Policy is intended to help enhance the use of the Service by preventing unacceptable use. All users of the Service must comply with this Policy. By using the Service, you confirm your acceptance of, and agree to be bound by, this Policy.

While TWN does not actively monitor use of its services under normal circumstances, TWN does reserve the right to monitor any customer's activity if it suspects that user is violating terms or conditions of this agreement or if TWN suspects the user is engaged in some other unlawful or destructive activity. TWN may remove or block all communications if we suspect a violation or if such action is necessary to protect TWN, the Service, or any affiliates or employees from harm.

The Service and devices provided may be used for only lawful, proper, and appropriate purposes. The Customer may not use the Service or any devices provided in any way or for any purpose that is illegal, improper or inappropriate.

#### **Violations of the Acceptable Use Policy –**

You are responsible for your communications via, and your use of the Service. The following constitute a non-exhaustive list of Violations of the Service Acceptable Use Policy:

1. **Illegal Use:** Use the Service to distribute or disseminate defamatory, infringing, obscene or other unlawful material or information via the Service, or violate any applicable local, state, national or international law either intentionally or unintentionally;
2. **Harassment/Harm:** Use the Service in a libelous or defamatory manner, to threaten, harass, stalk, abuse, deceive, defraud, invade privacy, impersonate or otherwise violate the legal rights (including rights of privacy and publicity) of others; this includes threats of bodily harm or destruction of property and encouragements to others to cause bodily harm or destruction of property. Any attempt to use the Service to cause harm to individuals or anyone's network in any way is a violation of the acceptable use policy.
3. **Child Exploitation:** You may not use the Service to harm or attempt to harm a minor. This includes, but is not limited to: hosting, possessing, disseminating, or transmitting material or information that is unlawful, including child pornography or obscene material or material that in any way constitutes a violation of Federal child exploitation statutes.
4. **Unauthorized Access:** Attempting to access the accounts of others, or attempting to penetrate TWN's or another entity's security measures, equipment, communications or telecommunications system, whether or not the intrusion resulted in corruption or loss of data. This includes, but is not limited to, intentionally seeking information on, obtaining copies of, or modifying files, email or other data, or passwords belonging to other users or third parties without their permission.
5. **Copyright or Trademark Infringement:** Violating any third party's software or other material protected by intellectual property laws, rights of privacy or publicity, copyright, trademark, patent, trade secret or any other applicable law unless you own or control the rights thereto or have received all necessary consents.
6. **Fraudulent Activity:** Use of the Service to make fraudulent offers to sell or buy products, items, or services or to advance any type of financial scam such as "pyramid schemes", "ponzi schemes" or "chain letters" is expressly prohibited.
7. **Security and Resource Infringements:** Use the Service in a manner that adversely affects the availability of its resources to other users including unauthorized security probing activities or other attempts to evaluate the security integrity of a network or host system without permission. Including but not limited to port scanning, network attacks, and the transmission of viruses or virus hoaxes. It is the customer's responsibility to ensure that their network is configured in a secure manner. A Customer may not allow others, with or without authorization, to use their network or Service for illegal or inappropriate actions. A customer may not allow their network or Service to be configured in such a way that gives allows another party the capability to use their network or Service in any illegal or inappropriate manner.
8. **Unsolicited / Bulk Calling / Telemarketing / Auto-dialing:** Communications to others for any purpose other than personal communications, including but not limited to; transmit unsolicited commercial (or other)

calls/faxes/messages, voicemail or fax broadcasts/blasts, telemarket/advertise or offer to sell goods or services to others, auto-dialing, extensive or continuous call-forwarding, inbound or outbound call center activity of any type.

9. **Theft of Service:** Unauthorized use of the Service, either by the Customer directly or by a third party as allowed or not reported by the Customer. The Customer shall take measures to secure any devices and information necessary to access the Service and will immediately report any theft thereof. Customer is responsible for any misuse of their Service and any associated devices.

#### **Reporting of Violations of Acceptable Use Policy**

TWN requests that anyone who believes that there is a violation of this Acceptable Use Policy direct the appropriate information to [customersvc@twncorp.com](mailto:customersvc@twncorp.com). In order to pursue a violation report, the following information is necessary:

- The IP Address or originating number used to commit the alleged violation, if available
- The date and time of the alleged violation in Eastern Time
- Description and Evidence of the alleged violation

Please note: Other situations will require different methods of providing the information above. TWN may take any of the following actions in response to a violation report: a written or verbal warning, suspension of offending user's account, termination of offending user's account, bringing legal action against offending subscriber, reporting the violation to governmental authorities.

**LAW ENFORCEMENT / EMERGENCIES** – TWN will fully cooperate with all members of law enforcement agencies conducting investigation of illegal activities involving current and/or former customers' use of TWN's services. This cooperation may involve the sharing of network transactions, call detail records and customer specific information with third parties. Customer acknowledges this and authorizes TWN release the information.

Customer acknowledges and agrees that TWN may release any and all of the Customer's relevant information to law enforcement or TWN legal advisors for the purpose of investigation and/or prosecution of unlawful use of the Service or violation of this agreement or as necessary to protect and preserve TWN's rights and property.

Customer acknowledges and agrees that TWN may release any and all of the Customer's relevant information in the case of an emergency situation where disclosure of such information is necessary to protect the Customer, TWN, or another party from harm.

**DAMAGES** - TWN reserves the right to claim monetary damages from Customers that cause significant economic harm to TWN through a violation of this agreement or by any other means.

**DISPUTE RESOLUTION** – Customer and TWN both agree to attempt in good faith to resolve any dispute promptly. If the parties are unable to resolve the dispute, the Customer agrees to pursue resolution of their claim/dispute through final and binding arbitration before a neutral arbitrator instead of in a court by a judge or jury.

**NO THIRD PARTY BENEFICIARIES** – There is no remedy, claim, liability, reimbursement, or other cause of action available to any party that is not a party to this agreement. No third party beneficiary rights are created by this agreement.

\*Should any part of this agreement be deemed unenforceable, the unenforceable part is to be interpreted in accordance with applicable law as nearly as possible to the original intention, and remaining provisions shall remain in full force and effect. Failure to enforce any portion of this agreement is not to be taken as a waiver of any provision or right.

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[\(http://www.skybeam.com/\)](http://www.skybeam.com/)



## LEGAL

# ActivePhone™ Terms and Conditions of Service

### ALL PHONE SERVICES

The terms and conditions of this Service Agreement (“Terms” or “Agreement”) constitute the agreement (“Agreement”) between SKYBEAM (“Company”, “We”, “Us”) and the User (“You,” “User” or “Customer”) of the Company’s residential and small business communications Services, and any related products or services (“Service”). This Agreement governs both the Service and the Analog Telephone Adapter or any other IP connection Device (“Device” or “Equipment”), used in conjunction with the Service.

BY USING THE SERVICE, YOU REPRESENT THAT YOU ARE OF LEGAL AGE TO ENTER INTO THIS AGREEMENT AND THAT YOU HAVE READ AND UNDERSTAND FULLY THE TERMS AND CONDITIONS OF THIS AGREEMENT. PLEASE READ THIS AGREEMENT CAREFULLY BECAUSE IT INCLUDES MANY IMPORTANT TERMS, INCLUDING: WARNINGS THAT **YOU MAY BE UNABLE TO USE THE VOIP SERVICE FOR 911 OR OTHER EMERGENCY CALLS UNDER CERTAIN CIRCUMSTANCES;** LIMITS AND DISCLAIMERS ON COMPANY’S LIABILITY; AND THE REQUIREMENT THAT YOU COMMIT TO A MINIMUM TERM OF SERVICE.

### SERVICE

Service is offered on a monthly basis for a term that corresponds with the date Your SKYBEAM Internet service was activated and ends on the day before the same date in the following month. Subsequent terms of this Agreement automatically renew unless You give SKYBEAM written notice of non-renewal at least ten (10) days before the end of the monthly term in which the notice is given. You are purchasing the Service for full monthly terms, meaning that if You attempt to terminate Service prior to the end of a monthly term, You will be responsible for the full month’s charges to the end of the then-current term,

including, without limitation, unbilled charges, plus a termination fee, if applicable, all of which will immediately become due and payable. Expiration of the term or termination of Service will not excuse You from paying all accrued and unpaid charges due under this Agreement.

If You subscribe to the Company's Residential Services, which is defined as Service intended solely for the subscriber's residence, or home, and not for commercial purposes ("Residential Services"), the Service and the Device are provided to You solely for such residential use. You shall not resell or transfer the Service or the Device to another party. You are prohibited from using the Service or the Device for auto-dialing, continuous or extensive call forwarding, telemarketing (including, without limitation, charitable or political solicitation or polling), fax or voicemail broadcasting or fax or voicemail blasting. We reserve the right to immediately terminate or modify Your Service if We determine, in our sole and absolute discretion, that Your use of the Service or the Device is, or at any time was, inconsistent with normal residential usage patterns. In addition, You will be required to pay our higher rates for commercial Service for all periods in which Your use of the Service or the Device was inconsistent with normal residential use.

If You subscribe to the Company's Business Services, which is defined as Service intended solely for the subscriber's use to support commercial, for-profit or not-for-profit, non-residential enterprises ("Business Services"), the Service and Device are provided to You as a small business User. Because We have no control over Your power or Internet connectivity You may experience occasional outages. For this reason We recommend that You maintain another backup provider so that You have backup contact ability. It is recommended that You use a "failover" number that can be configured in the website <http://phone.SKYBEAM.net> so that You can receive calls in the event of an outage. You shall not resell or transfer the Service or the Device to another party. You are prohibited from using the Service or the Device for auto-dialing, continuous or extensive call forwarding, telemarketing (including, without limitation, charitable or political solicitation or polling), fax or voicemail broadcasting or fax or voicemail blasting. We reserve the right to immediately terminate or modify Your Service if We determine, in our sole and absolute discretion, that You have at any time used the Service or the Device for any of the aforementioned or similar activities.

If Your usage pattern for calls to the forty-eight (48) contiguous state local calling areas is in the ninety-fifth (95th) percentile for two months out of any three month period Your account will automatically convert from an unlimited domestic long distance account to a metered use account. A metered use account will have a domestic long distance use allowance of

1500 minutes per user or per line, and additional domestic use for calls to the 48 contiguous state local calling areas will be billed at the then in effect domestic long distance rate, currently \$.03 per minute.

## **LIMITATIONS OF SERVICE**

Customer acknowledges, and agrees, to the following limitations of service:

- a. Not a telecommunications service . The Service is not a telecommunications service and the Company provides it on a best efforts basis. Important distinctions exist between telecommunications service and the Service offering that We provide. The Service is subject to different regulatory treatment than telecommunications service. This treatment may limit or otherwise affect Your rights of redress before regulatory agencies.
- b. Operator assisted calling. The Service does not support 0+ or operator assisted calling (including, without limitation, collect calls, third party billing calls or calling card calls). The Service may not support 311, 511 and/or other x11 (other than certain specified dialing such as 911 and 411, which are provided for elsewhere in this Agreement) Services in one or more (or all) Service areas.
- c. Phone numbers. The phone numbers You obtain from Us for Residential Service will not be listed in any telephone directories. Phone numbers transferred from Your local phone company may, however, be listed. As a result, someone with Your phone number may not be able to utilize a reverse directory to lookup Your address. Subscribers to our Business Services are eligible for a free white page listing and may request the listing when signing up for service.
- d. Compatibility with other devices and systems. The Service may not be compatible with fax machines and DVR-type services. All non-voice communications equipment, including but not limited to, home security systems or alarm systems that are set up to make automatic phone calls, modems, data modems, any device that relies upon a modem, or other hearing impaired devices, and medical monitoring devices (“Non-Voice Systems”), are not compatible with the Service and may be interrupted or permanently disabled by installation or operation of the Service. You should maintain a telephone connection through Your local exchange carrier in order to use any alarm monitoring functions for any security system installed in Your home or business. You are solely responsible for the operation and use of such Non-Voice Systems with the Service, including taking any necessary steps, as permitted under Your agreements with the Company, to ensure compatibility between such Non-Voice Systems and the Service.

e. Other providers. You authorize the Company to act on Your behalf, as Your agent, in moving Your telephone number and related local and long distance services from Your current provider to the Company or any of its wholesale service providers. You acknowledge that the Company may change wholesale providers from time to time and may move Your phone number from one wholesale carrier to another at any time. You acknowledge that the Company will become the customer of record for all phone numbers that We move or “port” to the Service.

f. Security. The Service relies upon portions of the public Internet, and third party networks, to transmit voice and other communications signals. The Company cannot, and does not, guarantee that the Service is secure, or can be used in a secure manner.

g. High-Risk Uses. **The Service is not fail-safe or designed or intended for use in situations where error-free or uninterrupted service is essential, including uses involving vital communications in which an error or interruption in the Service could lead to injury to business, persons, property or the environment (“High-Risk Uses”).**

## **REVISIONS, AMENDMENTS, OR MODIFICATIONS TO THESE TERMS**

The current version of this Service Agreement can be found at: our [Legal \(/legal/\)](#) page. The Company may change this Service Agreement or the Service from time to time by posting a revised version of this Service Agreement or announcing Service changes on the Company’s website currently located at: <http://SKYBEAM.net>. Such changes may include, without limitation, increasing the charges for the Service, including any additional features that may be offered in conjunction with the service. Changes will become effective once posted, and Your continued use of the Service will constitute Your acceptance of any such changes. However, if You do not wish to continue Service after a change or modification in features or functionality that materially effects the Service to You, You may terminate this Service Agreement by providing written notice to the Company within twenty (20) days of the effective date of the modification, and You will not be charged any Termination Fee (as defined below).

## **TERMINATION OF SERVICE – RESIDENTIAL AND BUSINESS**

To cancel or terminate the Company’s Residential or Business Service, You must contact our offices at 1-888-SKYBEAM and provide written notice at least ten (10) days before the end of the monthly term in which the notice is given. If You DO NOT notify Us that You are porting (moving) Your phone number to a new phone company, We will turn off Your SKYBEAM Phone service and terminate billing at the end of the current billing term. If You DO notify Us that You are porting (moving) Your phone number to a new phone company,

We will be required to leave Your SKYBEAM Phone Service active until You or Your new phone company notify Us that the port-away has completed. The phone service must remain active until the port-away has occurred or your phone number may be lost. Once We're notified that the port-away has completed (either by Your new phone company or by You returning the Linksys Phone Adapter to Us), We'll turn off Your SKYBEAM Phone Service and terminate billing at the end of the current billing term. You are leasing the Linksys Phone Adapter, which has a value of \$70. It must be mailed or delivered to our Corporate offices. It should not be left with a company representative. It should be returned to: SKYBEAM Phone, 619 SW 14th, Loveland, CO 80537. You authorize the Company and its agents to charge the Equipment replacement charge to the credit card or bank account on file with the Company if the Linksys Phone Adapter is not returned within 30 days of Your notice to cancel. If the Company is unable to obtain a charge authorization for the full amount due, You agree to provide alternative payment in the form of a money order, cashiers check, or other certified bank check within 10 days of notification of the amount due. You bear all risk of loss of, theft of, casualty to or damage to the Equipment; from the time it is shipped to You until the time (if any) when it is returned to Us in accordance with this Agreement.

If You are canceling Service it is Your responsibility to notify Us if You have requested SKYBEAM to port Your number from another company and it has not yet completed the porting process. The Company will attempt to cancel the porting of Your number to SKYBEAM once You've notified Us of Your intent to cancel. If the porting has completed, it is Your responsibility to notify Your new phone provider to port Your number from Us.

For Residential Services, We reserve the right to suspend or discontinue the Service generally, or to terminate Your Service, at any time in Our sole and absolute discretion. If We discontinue the Service generally, or terminate Your Service without a stated reason, You will only be responsible for charges accrued through the date of termination, including a pro-rated portion of the final month's charges. If Your Service is terminated on account of Your breach of any provision of this Agreement, You will be responsible for the full month's charges to the end of the current term, including, without limitation, unbilled charges, plus the termination fee, if applicable, all of which will immediately become due and payable.

For Business Services, We reserve the right to suspend or discontinue the Service generally, or to terminate or suspend Your Service for failure to rectify a violation of the Service Agreement within 10 days after receiving notice thereof from the Company. If We discontinue the Service generally, or terminate Your Service, You will only be responsible for charges accrued through the date of termination, including a pro-rated portion of the final

month's charges. If Your Service is terminated on account of Your failure to correct any breach of any provision of this Agreement, You will be responsible for charges to the end of the current term, including, without limitation, unbilled charges, plus the termination fee, if applicable, all of which will immediately become due and payable. Service may be suspended by the Company without prior notice if necessary to comply with applicable laws or to preserve the integrity of service to other Customers. If service is suspended without prior notice, the Company will use reasonable efforts to notify Customer of the suspensions and the reason for suspension within one (1) business hour of suspension.

## **SERVICE REQUIREMENTS AND AVAILABILITY**

You must supply certain equipment and facilities, such as a phone handset or equivalent, installed phone wiring and outlets, and a powered electrical outlet. You are responsible for supplying and ensuring that the equipment You supply is compatible with the Service and meets federal and other applicable standards. You represent that You either own Your equipment or have the right to use that equipment in connection with the Service. The Company shall have no obligation to provide, maintain, support or service Your equipment. If Your Internet Access Service is terminated, suspended or disconnected for any reason, the Service will not be available until You reestablish Your Internet Access Service with the Company.

## **FEES, TAXES AND OTHER CHARGES**

We publish on our website, [www.skybeam.com](http://www.skybeam.com), an explanation of the taxes and fees for this service. These fees and charges may change from time to time. If You make calls to locations outside the US, It's Territories, and Canada, International rates will apply. These rates are published on the website <http://phone.SKYBEAM.net>. You will be charged \$.89 for each call You make to Directory Assistance.

## **911 EMERGENCY SERVICES**

Carefully read the information below. By acceptance, and use, of the VOIP Service You acknowledge and accept any limitations of 911/E911 service, and You agree to convey these limitations to all persons who may have occasion to place calls over the VOIP service. If You have any questions about 911/E911, call 1-888-SKYBEAM.

**LIMITATIONS ON 911 EMERGENCY SERVICE: The VOIP Service includes 911/Enhanced 911 functionality ("911/E911") that may differ from the 911 or Enhanced 911 function furnished by other providers.** As such, it may have certain limitations. E911 service includes

transmission of your telephone number, and information you provide to SKYBEAM about the physical location of the equipment and facilities that are used to provide your VOIP Service (“Registered Location”). When you dial 911, your emergency services call will be routed to the applicable Public Safety Answering Point, or other applicable emergency services call center, or local emergency authority (“PSAP”). If the PSAP is capable of receiving your telephone number and Registered Location (“E911 Information”), such information will also be conveyed to the PSAP when you dial 911.

REGISTERED LOCATION: **USE OF THE VOIP SERVICE FROM A LOCATION OTHER THAN YOUR REGISTERED LOCATION MAY CAUSE YOUR 911 CALL OR E911 INFORMATION TO BE ROUTED TO THE WRONG PSAP, MAY CAUSE EMERGENCY RESPONSE PERSONNEL TO BE DISPATCHED TO THE WRONG ADDRESS, AND MAY RESULT IN OTHER PROBLEMS WITH ACCESSING AND OBTAINING EMERGENCY SERVICES, INCLUDING BUT NOT LIMITED TO YOUR INABILITY TO RECEIVE EMERGENCY SERVICES.** AS A RESULT, YOU MUST UPDATE YOUR REGISTERED LOCATION WITH SKYBEAM BEFORE USING THE VOIP SERVICE AT A NEW LOCATION. TO UPDATE YOUR REGISTERED LOCATION, CONTACT SKYBEAM CUSTOMER CARE AT 1-888-SKYBEAM OR AT THE ADDRESS SET FORTH AT [www.skybeam.com/contact-us/](http://www.skybeam.com/contact-us/)

**EVEN IF YOU USE THE VOIP SERVICE FROM YOUR REGISTERED LOCATION, TRYING TO CALL 911 OR OBTAIN EMERGENCY SERVICES THROUGH A 911 CALL MAY FAIL FOR A NUMBER OF REASONS, INCLUDING:**

- a. POWER FAILURE – IF THERE IS A POWER OR INTERNET OUTAGE OR INTERRUPTION, YOU WILL NOT BE ABLE TO USE THE VOIP SERVICE FOR ANY 911 OR OTHER EMERGENCY CALLS (AFTER SUCH AN EVENT, YOU ALSO MAY NEED TO RESET OR RECONFIGURE THE EQUIPMENT BEFORE YOU CAN CALL 911).
- b. TERMINATION OR SUSPENDED SERVICE – IF YOUR VOIP SERVICE OR INTERNET ACCESS SERVICE IS INTERRUPTED, SUSPENDED OR CANCELLED FOR ANY REASON (INCLUDING DUE TO TECHNICAL PROBLEMS, YOUR FAILURE TO PAY SKYBEAM, OR TERMINATION OF THIS VOIP SERVICE AGREEMENT), YOU WILL NOT BE ABLE TO USE THE VOIP SERVICE TO CALL 911;
- c. TRANSFERRED NUMBER – AS DESCRIBED FURTHER BELOW, IF YOU TRANSFER A TELEPHONE NUMBER FROM YOUR TRADITIONAL TELEPHONE SERVICE, THERE MAY BE A DELAY OR INTERRUPTION IN YOUR ABILITY TO USE THE VOIP SERVICE TO CALL 911;

d. UPDATED LOCATION INFORMATION – AS DESCRIBED FURTHER BELOW, IF YOU USE THE VOIP SERVICE AT A NEW REGISTERED LOCATION, IT MAY TAKE SEVERAL DAYS AFTER YOU NOTIFY SKYBEAM OF THE NEW REGISTERED LOCATION BEFORE 911 CALLING OR E911 FUNCTIONS WILL BE AVAILABLE; AND

e. TECHNICAL LIMITATIONS – NETWORK CONGESTION, RADIO INTERFERENCE, WEAK WIRELESS SIGNALS, OR OTHER CAUSES OF REDUCED INTERNET ACCESS SERVICE PERFORMANCE MAY PREVENT YOU FROM USING THE VOIP SERVICE TO CALL 911 OR MAY DELAY THE ROUTING OF YOUR 911 CALL OR E911 INFORMATION. **YOU SHOULD NOT RELY ON THE VOIP SERVICE AS YOUR PRIMARY METHOD TO OBTAIN EMERGENCY SERVICES. IF YOU DO NOT FEEL COMFORTABLE WITH THESE LIMITATIONS, WE SUGGEST YOU MAKE ALTERNATIVE METHODS AVAILABLE TO CALL 911 OR OTHERWISE OBTAIN EMERGENCY SERVICES, SUCH AS THROUGH A TRADITIONAL TELEPHONE LINE OR A MOBILE PHONE.**

LIABILITY: YOU ACKNOWLEDGE AND AGREE THAT SKYBEAM WILL NOT BE LIABLE FOR ANY SERVICE OUTAGE, INABILITY TO DIAL 911, AND/OR INABILITY TO ACCESS EMERGENCY SERVICE PERSONNEL. YOU AGREE TO DEFEND, INDEMNIFY, AND HOLD HARMLESS SKYBEAM AND ITS ASSOCIATED PARTIES FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, FINES, PENALTIES, COSTS, AND EXPENSES (INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEY FEES) BY, OR ON BEHALF OF, YOU OR ANY THIRD PARTY OR USER OF THE SERVICES RELATING TO THE FAILURE OR OUTAGE OF THE SERVICES, INCLUDING THOSE RELATED TO 911/E911. YOU ACKNOWLEDGE THAT YOU ARE AWARE OF AND UNDERSTAND THE FOREGOING LIMITATIONS AND AGREE TO ADVISE ALL PERSONS WHO MAY CONDUCT CALLS USING YOUR VOIP SERVICE OF THE SAME.

“REVERSE 911” SERVICE: “Reverse 911” service is a telephonic community notification system that may be used to deliver outbound messages in the event of an emergency. The system employs a combination of database and mapping technologies to allow emergency responders to pinpoint a specific geographic area and deliver the appropriate message to residents in the affected area. Certain systems have the ability to call both listed and unlisted phone numbers. Subscribers should contact their local public safety agencies to determine if the number used in the provision of the VoIP Service can be registered with the local public safety agency. The technical limitations associated with the provision of Reverse 911 service are due entirely to the local public safety agency’s network and systems capabilities. The Company shall not be liable for any failures, loss of service, interference, or

incompatibility of the VoIP Service and any Reverse 911 service offered by local public safety agencies. Further, the Company offers no warranties, either express or implied, as to the availability of such Reverse 911 services, or their compatibility with the Service.

## **PROHIBITED USES**

You shall use the Service and the Device only for lawful purposes. We reserve the right to immediately terminate Your Service if, in our sole and absolute discretion, We determine that You have used the Service or the Device for an unlawful purpose. In the event of such termination, You will be responsible for the full month's charges to the end of the current term, including, without limitation, unbilled charges, plus a termination fee, if applicable, all of which will become immediately due and payable upon termination of Your Service. If We believe that You have used the Service or the Device for an unlawful purpose, We may forward the relevant communication and other information, including Your identity, to the appropriate authorities for investigation and prosecution. You hereby consent to our forwarding of any such communications and information to these authorities. In addition, SKYBEAM will provide information in response to law enforcement requests, subpoenas, court orders, to protect its rights and property and in the case where failure to disclose the information may lead to imminent harm to the Customer or others.

You shall not use the Service or the Device in any way that is threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, or any similar behavior. We reserve the right to immediately terminate Your Service if, in our sole and absolute discretion, We determine that You have used the Service or the Device in any of the aforementioned ways. In the event of such termination, You will be responsible for the full month's charges to the end of the current term, including, without limitation, unbilled charges, plus a termination fee, if applicable, all of which will become immediately due and payable upon termination of Your Service. In addition, SKYBEAM will provide information in response to law enforcement requests, subpoenas, court orders, to protect its rights and property and in the case where failure to disclose the information may lead to imminent harm to the Customer or others.

Although We encourage You to use the Service to place calls to foreign countries from within the United States, We do not presently offer or support the Service in any countries other than the United States. If You use the Service or the Device outside of the United States, You will be solely responsible for any violations of local laws and regulations

resulting from such use. We reserve the right to terminate Your Service immediately if We determine, in our sole and absolute discretion, that You have used the Service or the Device outside of the United States.

You agree not to: use the Service in connection with surveys, contests, pyramid schemes, chain letters, junk e mail, spamming or any duplicative or unsolicited messages (commercial or otherwise); defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights of privacy and publicity) of others; publish, distribute or disseminate any inappropriate, profane, defamatory, infringing, obscene, indecent or unlawful material or information; advertise or offer to sell or buy any goods or Services for any non personal purpose; harvest or otherwise collect information about others, including e mail addresses, without their consent; create a false identity for the purpose of misleading others as to the identity of the sender or the origin of a message; use, download or otherwise copy, or provide (whether or not for a fee) to a person or entity that is not a Service member any directory of the Service members or other User or usage information or any portion thereof other than in the context of Your use of the Service as permitted under this Agreement, and these terms of service; transmit or upload any material that contains viruses, trojan horses, worms, time bombs, cancel bots, or any other harmful or deleterious programs; transmit or upload any material that contains software or other material protected by intellectual property laws, rights of privacy or publicity or any other applicable law unless You own or control the rights thereto or have received all necessary consents; interfere with or disrupt networks connected to the Service or violate the regulations, policies or procedures of such networks; attempt to gain unauthorized access to the Service, other accounts, computer systems or networks connected to the Service, through password mining or any other means; host any type of publicly accessible file sharing, gaming, or email server including, but not limited to HTTP, FTP, SMTP, POP3, and Peer-to-Peer; interfere with another member's use and enjoyment of the Service or another individual or entity's use and enjoyment of similar Services.

The Company has no obligation to monitor the Service or any User's use thereof or retain the content of any User session. However, the Company reserves the right at all times to monitor, review, retain and/or disclose any information as necessary to satisfy any applicable law, regulation, legal process or governmental request. The Company reserves the right to implement reasonable network management practices to ensure service quality levels are maintained.

You agree not to share (or re-sell) the Service with anyone not residing at the Service address.

## RELOCATION REQUIREMENT

The Service may be used only at the Registered Location You provide to the Company. If You wish to relocate the Equipment, You must contact the Company for information on Service availability at the new location. If the Service is available at Your new location, You must update and register the new location with the Company in order to update our records for the Service and help make 911 services and E911 features available to You. If Service, 911 calling or an E911 feature is not available at the new location, Your Service will be terminated or suspended until You return the Equipment to a location with Service, 911 and E911 availability and provide Us updated information for the new location. Using or moving, or attempting to use or move, the Equipment or Service to a location without complying with this Section 9 is a violation of this Service Agreement and You do so at Your own risk.

## LOCAL NUMBER PORTABILITY

If You are transferring Your existing phone number from another service provider for use with the Service, the following terms and conditions also shall apply:

- a. You will cooperate fully with the Company and provide promptly all information, including a letter of authorization or other documentation, as requested by the Company in connection with the processing of Your order for Service;
- b. You authorize the Company to notify Your current telephone service provider of Your decision to switch Your local, local toll and long distance services to the Service, and You represent You are authorized to take such actions;
- c. You acknowledge that if You set up the Service prior to the date that the number switch becomes effective (the "Port Effective Date"), You may be able to place outgoing calls but not receive incoming calls over the Service, and may not be able to make 911 or other emergency calls over the Service, until the Port Effective Date (in such a case, You should keep another phone connected to an existing phone extension at Your service location to receive incoming calls until the Port Effective Date); and
- d. You acknowledge that if the Service is not yet activated as of the Port Effective Date, Your existing phone service for the number You are transferring will be disconnected and You will have no service for that line. To help avoid an interruption in Your phone service, You should install the Service prior to, or on, the Port Effective Date. An estimate of the Port Effective Date may be sent to You by the Company following Your completion of the ordering process, but this is only an estimate and not a guarantee of the Port Effective Date; and

e. You acknowledge that the Company may use call detail, and customer proprietary network information, for all lawful purposes, including but not limited to actions related to the initiation, rendering, billing and collection of the Service. Further, such actions also include the use of such information for the purposes of testing, verifying, and otherwise assuring that the Service is delivered to You.

#### LIMITATION OF LIABILITY

IN NO EVENT SHALL THE COMPANY BE LIABLE FOR ANY CLAIMS, DAMAGES, LOSSES OR LIABILITIES, AND YOU HEREBY WAIVE ANY AND ALL SUCH CLAIMS OR CAUSES OF ACTION, ARISING FROM OR RELATED TO:

- a. DEVELOPING, INSTALLING, OPERATING, PROVIDING, IMPLEMENTING, MAINTAINING OR PARTICIPATING IN A 911 EMERGENCY TELEPHONE SYSTEM OR SIMILAR EMERGENCY SYSTEM OR ENHANCED 911 TELEPHONE SERVICE, INCLUDING WITHOUT LIMITATION (i) RECEIVING, DEVELOPING, COLLECTING, OR PROCESSING INFORMATION FOR E911 DATABASES, (ii) RELAYING, TRANSFERRING, OPERATING, MAINTAINING, OR PROVIDING 911 OR E911 SERVICES OR SYSTEM CAPABILITIES, OR (iii) PROVIDING EMERGENCY TELEPHONE AND RADIO COMMUNICATIONS FOR AMBULANCE, POLICE AND FIRE DEPARTMENTS;
- b. INTERFERENCE OR INCOMPATIBILITY WITH OR DISRUPTION OF ANY NON-VOICE SYSTEMS, WHETHER CAUSED BY THE VOIP SERVICE, INTERNET ACCESS SERVICE, ANY EQUIPMENT, OR OTHERWISE;
- c. ANY LACK OR BREACH OF SECURITY YOU OR ANY OTHER PARTY MAY EXPERIENCE OR BE EXPOSED TO WHILE USING THE VOIP SERVICE; OR
- d. USE OF THE SERVICE FOR OR IN CONNECTION WITH ANY HIGH-RISK USES.
- e. Our liability under this agreement will not exceed the Service charges for the affected time period. The Company will not be responsible for third-party fees or charges, including but not limited to, banking fees, overdraft fees, cellular phone or other wire line charges, technician charges, or other similar charges.
- f. This Section 11, Limitation of Liability, will survive termination or expiration of this Service Agreement, whether terminated by You or the Company, for any reason.

#### UNLIMITED USE OF SERVICE

The Company offers unlimited local and domestic long distance calling for residential or business use subject to the following limitations. Use of the service, including for any telemarketing purposes, that results in excessive use is strictly limited. The Company determines excessive use according to criteria identified at its sole discretion and control, regardless of prior history. Subscribers that engage in excessive use will, at the Company's discretion, be subject to immediate termination, or will be converted to a metered rate plan which will be subject to rates calculated as described in paragraph 1d, above.

## PRIVACY

The Company utilizes, in part, the public Internet and third party networks to transmit voice and other communications to and from the Subscriber. The Company is not liable for any lack of privacy which may be experienced with regard to the Service. Furthermore, the Service is offered over a platform that does not allow for the Company to encrypt the voice signals delivered over its network. Finally, the Company can not guarantee, or protect, against the possibility that third parties may improperly attempt to capture signals, or communications, sent over the network.

Additional information concerning the steps that the Company takes to protect Your privacy, and related issues, is provided in the Company's privacy policy, CALEA and CPNI compliance policies, which are available upon request.

BY SIGNING THE INSTALLATION AGREEMENT, YOU AGREE TO BE BOUND BY ALL OF THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO ALL OF THESE TERMS, YOU SHOULD NOT SIGN THE AGREEMENT OR USE THE SERVICE.

I HAVE READ AND UNDERSTAND THIS SUBSCRIBER AGREEMENT AND AGREE TO BE BOUND BY ALL OF THE TERMS.

Rev. 12/1/2011



[\(http://www.skybeam.com/\)](http://www.skybeam.com/)

888-SKYBEAM (TEL:1-888-759-2326)

