



VoIP SYSTEMS USA, LLC

Terms of Service

These Terms of Service constitute the agreement ("Agreement") between VoIP Systems USA, LLC, (and/or its affiliates, U ½ 2, Inc., dba USAPhone.com and dba The PhoneOwners Group) referred to herein as "we," "us" or "VoIP Systems USA") and the user (referred to herein as "you," "user", "Customer" or "Subscriber") of VoIP Systems USA's business services and any related products or services ("Service").

This Agreement governs both the Service and any devices, including but not limited to phones, Network Services Gateways, Analog Telephone Adapter, switches, routers or any other IP connection device ("Device" or "Equipment"), used in conjunction with the Service. If you provided the Equipment, then we offer no warranty coverage for such Equipment.

BY ACTIVATING OR USING THE SERVICE, YOU REPRESENT THAT YOU ARE OF LEGAL AGE TO ENTER INTO THIS AGREEMENT AND THAT YOU HAVE READ, UNDERSTAND AND FULLY ACCEPT THE TERMS AND CONDITIONS OF THIS AGREEMENT.

Service Activation Form and Agreement or Service Activation Form or Contract- This represents the agreement or contract between VoIP Systems USA, LLC and Customer. These Terms of Service apply to those agreements. It may only be changed only by subsequent mutual agreement in writing or as described herein. Such subsequent written agreement may be called a Change Order or an Add-On Order.

These Terms of Service are divided into several general sections for convenience only:

- 1.0 to 3.0 **Devices and Equipment, Installation and Similar (Non-Recurring Charges)**
- 4.0 to 6.0 **Hosted and Other Telephone Services (Recurring Charges)**
- 7.0 to 14.0 **Miscellaneous Other Contractual Terms, Conditions and Obligations.**

DEVICES and EQUIPMENT and their INSTALLATION and Similar Non-Recurring Charges

1.0 MANUFACTURER'S PARTS WARRANTY –

We offer a "pass-through" of the parts warranty provided by the manufacturer. This covers the cost of repair or replacement of a part, which fails due to defective materials or workmanship or normal wear-and-tear during the manufacturer's warranty period, which is specified on the Proposal or Contract. A "failure" is, for the purposes hereof, defined as failure of a mechanical or electronic part of a covered component, or faulty workmanship on a covered component. Failed parts may be repaired or replaced at the option of the manufacturer or VoIP Systems USA, LLC. No VoIP Systems USA labor is included even to test, troubleshoot, remove, install or reprogram the defective or replacement component. The cost of this LIMITED Parts warranty coverage is included in the part-price and/or on the applicable Proposal, Contract or Service Activation Form and Agreement.

1.1 Other Limited Warranty. Except as set forth herein, if you received the Device new from us and the Device included a limited warranty at the time of receipt, you must refer to the separate limited warranty document provided with the Device for information on the limitation and disclaimer of certain warranties. Remedies for breach of any such warranties will be limited to those expressly set forth in such documentation.

1.1.1 No Warranty. If your Device did not include a limited warranty from us at the time of receipt, you are accepting the Device "as is". You are not entitled to replacement, repair or refund in the event of any defect.

1.1.2 Disclaimer. OTHER THAN WARRANTIES AS TO THE DEVICE EXPRESSLY SET FORTH IN THE DOCUMENTATION PROVIDED WITH THE DEVICE AND THE RETAIL CUSTOMER LIMITED WARRANTY EXPRESSLY SET FORTH HEREIN, WE MAKE NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIM ANY WARRANTY OF MERCHANTABILITY, FITNESS OF THE DEVICE FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE OR ANY WARRANTY THAT THE DEVICE OR ANY FIRMWARE OR SOFTWARE IS "ERROR FREE" OR WILL MEET CUSTOMER'S REQUIREMENTS. THE FOREGOING WILL NOT BE DEEMED TO LIMIT ANY DISCLAIMER OR LIMITATION OF WARRANTY SET FORTH IN THE DOCUMENTATION PROVIDED WITH THE DEVICE.

1.1.3 Trouble Dispatch Call If a dispatch to the customer's site is authorized by the customer to investigate and repair a problem, and in the end, the problem is NOT found to be with the Hosted Service or with any equipment provided by VoIP Systems USA which is still covered by the manufacturer's warranty, there will be a charge to the customer as follows for the Trouble Dispatch Call. This charge will be reduced if the Customer has REMOTE MANAGED SUPPORT – LABOR COVERAGE ONLY

2.0 REMOTE MANAGED SUPPORT – LABOR COVERAGE ONLY

2.1 COST: This is an additional cost item which may be specifically described and priced separately or bundled with other items. Pricing based upon the size of the system ad must be detailed on a Proposal or Contract, and on a PAID invoice. It may be included with the cost of a new system:

2.2 Provides REMOTE LABOR ONLY support for equipment and systems provided by VoIP Systems USA including priority service, troubleshooting, testing, ordering parts, programming or reprogramming, etc. It includes administration of any manufacturer's parts warranty, extended parts coverage, White Glove Service or USAPHONecare, which may be in effect and free ongoing employee training through our WEBEX channel. Also includes reduced cost for onsite work for moves, adds and changes. Does not include labor for maintenance, moves, adds and changes to system.

2.3 TERM - This coverage is in effect for the entire term described on your Service Activation form and Agreement, Change Order or Add-On Order when this item appears and is priced and for any renewal/extended terms as described herein.

2.4 REDUCED PRICING for onsite moves adds or changes.

- a. Standard billing rate reduced to preferred billing rate.
- b. Increment reduced to one half hour from one hour after the first hour.
- c. Trip charge (in lieu of travel time or mileage) reduced to preferred rate from regular rate within our local service area.

3.0 USAPHONecare (or White Glove Service) - ADVANCE REPLACEMENT COVERAGE ONLY FOR NEW PHONES All new phones are sold with the manufacturer's warranty. At the end of the one year warranty period, USAPHONecare or White Glove Service automatically takes over providing advance replacement for phones which fail due to defective workmanship or materials at a cost per month per phone. This special low-cost coverage can be canceled by the Customer at any time by providing notification in writing to VoIP Systems USA.

3.1 COST: This is a separately priced item usually priced at \$2.50 per phone (or other covered device) per month. Other covered devices include expansion modules and similar devices. Actual pricing is determined by the specifics on the contract or agreement.

3.2 Covers PARTS ONLY. Covers the additional cost of the Advance Replacement only. There is no coverage for labor in USAPHONecare.

3.3 TERM: This coverage is in effect for the balance of entire term described on your Service Activation form and Agreement, Change Order or Add-On Order when this item appears and is priced and for any renewal/extended terms as described herein. It also applies to any renewal terms

3.4. An advance replacement for a failed, covered part will be shipped to the customer via UPS or FEDEX GROUND, usually within one working day. A "failure" is, for the purposes hereof, defined as failure of a mechanical or electronic part of a covered component, or faulty workmanship on a covered component.

Note: Advance replacement items must often be programmed for use on our customer's Hosted System and/or have their MAC address entered into the customer's PBX for proper operation. Therefore, advance replacements may first need to be shipped to us for programming and then reshipped to the customer. This usually causes a short additional delay.

3.5 **The defective item must then be returned to us** using the label provided and using the same shipping materials and packaging as was used to ship the advance replacement. **Return** shipping to us is always at the expense of the customer.

3.6 The customer will be invoiced for the advance replacement upon shipment and credited in full when the defective item is received, properly packed using the same shipping materials and packaging as was used to ship the advance replacement. Items packed otherwise or improperly will incur a per-item repackaging fee, which will be deducted from the credit issued.

3.7 Coverage applies only to failures due to normal wear and tear or defects in materials or workmanship. Coverage does not apply to failures due to (1) Deliberate abuse thereof by any person; (2) The negligence of customer or its agents or employees; (3) Improper or negligent alteration of covered equipment or a component part thereof; (4) misuse, negligence, accident, theft or unexplained loss, abuse, connection to direct current, fire, flood, wind, lightning, power surge, Acts of God or public enemy, insurrection, terrorism, water or other liquid damage; (5) Insufficient heating ventilating or air conditioning (HVAC) or HVAC system failure, (6) water damage, lightning damage and power surge or due to the consequences of over-voltage.

3.8 Coverage does not provide for: (1) Repair or replacement without proper authorization from VoIP Systems USA; (2) repair or replacement of any equipment which is identified as "refurbished," "used," "customer provided" or similarly described on the contract. In the absence of other explanation, such equipment is furnished "as is." (3) Repairs to equipment serviced or repaired by someone not authorized by VoIP Systems USA, LLC (5) Coverage for any equipment not purchased from VoIP Systems USA, LLC.

3.9 When such a non-covered failure occurs, we will still advance replace the failed equipment, but no credit will be issued.

3.10 Equipment not covered by USAPHONEcare

3.10.1 Defective items must be returned to us for repair or replacement. The defective item will be repaired or replaced by us, by the manufacturer or by the manufacturer's authorized representative and returned to the Customer. There will be no charge for the repair or replacement if the equipment is within the warranty period AND if the equipment was provided by VoIP Systems USA AND if the defect is covered by the manufacturer's warranty terms.

3.10.2 If the item is determined to be out of warranty for any reason, a price will be quoted for approval prior to proceeding with repair or replacement of the defective item. A handling charge per item will apply. An inspection charge may apply for items not repaired.

3.10.3 A shipping charge per item will apply for all shipments to the manufacturer for repair and/or for all shipments to the Customer.

HOSTED AND OTHER TELEPHONE SERVICES **(Recurring Charges)**

4.0. EMERGENCY SERVICES - 911 DIALING

4.1 **Non-Availability of Traditional 911 or E911 Dialing Service.** The Service does not support traditional 911 or E911 access to emergency services in all locations. Where we do not offer traditional 911 or E911 access, we offer a feature known as "911 Dialing" which is a limited emergency calling service available only on VoIP Systems USA certified Devices or Equipment. The 911 Dialing feature may not work at all when used in conjunction with a Soft Phone, Virtual Numbers or Subscriber provided Customer Premise Equipment. Our 911 Dialing feature is not automatic and must be separately registered for each address where you will use the Services in order to activate the 911 Dialing feature. VoIP Systems USA will properly register and program all phone numbers and phone installation locations for proper "911 dialing" at the time of installation or when additional phones or lines are added. This must be done for each VoIP Systems USA, LLC phone number that you obtain. The 911 Dialing feature of the Service is different in a number of important ways from traditional 911 or E911 service as herein.

4.2 **Registration of Physical Location Required.** Each phone number that you use for the Service, must be registered with VoIP Systems USA associating it with the physical location where you will be using the Service with that phone number. If you move the Device to another location, it must be re-registered to be associated with the new ADDRESS. If it is not properly reregistered to the new location, any call you make using the 911 Dialing feature may be sent to an emergency center near your old address.

4.3 PURPOSELY BLANK

4.4 **How Emergency Personnel are Contacted.** We contract with a third party to use the address of your registered location to determine the nearest emergency response center and then forward your call to a general number at that center. When the center receives your call, the operator may not have your address or phone number. You must therefore provide your address and phone number in order to get help. Some local emergency response centers may decide not to have their general numbers answered by live operators 24 hours a day. If we learn that this is the case, we will send your call instead to a national emergency calling center and a trained agent will contact an emergency center near you to dispatch help. You hereby authorize us to disclose your name and address to third-party service providers, including, without limitation, call routers, call centers and public service answering points, for the purpose of dispatching emergency services personnel to your registered location.

4.5 **Service Outages.**

(a) **Service Outages Due to Power Failure or Disruption.** 911 Dialing may not function in the event of a power failure or service disruption. If there is an interruption in the power supply, the 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 Service, including 911 Dialing.

(b) **Service Outages Due to Internet Outage or Suspension or Termination of Broadband Service or ISP Service.** Service outages or suspensions or terminations of service by your broadband provider or ISP will prevent all Service, including 911 Dialing, from functioning.

(c) **Service Outage Due to Suspension or Termination of Your VoIP Systems USA account.** Service outages due to suspension or termination of your account will prevent all Service, including 911 Dialing, from functioning.

(d) **Service Outages Due to ISP or Broadband Provider Blocking of Ports or Other Acts.** Customer's 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 VoIP Systems USA 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, that 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 terminate the Service in accordance with this Agreement.

(e) **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.

4.6 **Re-Activation** Required if You Change Your Number or Add or Port New Numbers. 911 Dialing does not function if you change your phone number or if you add or port new phone numbers to your account, unless and until you successfully register your location of use for each changed, newly added or newly ported phone number.

4.7 **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.

4.8 **Possible Lack of Automatic Number Identification.** It may or may not be possible for the local emergency personnel to automatically obtain your phone number when you use 911 Dialing. Our system is configured to send the automatic number identification information; however, one or more telephone companies, not us, route the traffic to the emergency response center and that center may not be capable of receiving and passing on that information. As a result, the operator who answers your 911 Dialing call may not be able to automatically obtain your phone number and 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.

4.9 **No Automated Location Identification.** In most service areas, it is not possible at this time to transmit to the local emergency response center the address that you registered for 911 Dialing. You will need to state the nature of your emergency promptly and clearly, including your location (and possibly your telephone number), as the operator will not have this information. Emergency personnel will not be able to find your location 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 location, or if the Service is not operational for any reason.

4.10 **Disclaimer of Liability and Indemnification.** VoIP Systems USA does not have any control over whether, or the manner in which, calls using our 911 Dialing service are answered or addressed by any local emergency response center. We disclaim all responsibility for the conduct of local emergency response centers and the national emergency calling center. We rely on third parties to assist us in routing 911 Dialing calls to local emergency response centers and to a national emergency calling center. We disclaim any and all liability or responsibility in the event such third party data used to route calls is incorrect or yields an erroneous result. Neither VoIP Systems USA, LLC nor its officers or employees 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 our 911 Dialing service unless such claims or causes of action arise from our gross negligence, recklessness or willful misconduct. You shall defend, indemnify, and hold harmless VoIP Systems USA, LLC, its officers, directors, employees, affiliates and agents and any other service provider who furnishes services to you in connection the Service, from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without limitation, attorneys fees) by, or on behalf of, you or any third party relating to the absence, failure or outage of the Service, including 911 Dialing, incorrectly routed 911 Dialing calls, and/or the inability of any user of the Service to be able to use 911 Dialing or access emergency service personnel.

4.11 Alternate 911 Arrangements. If you are not comfortable with the limitations of the 911 Dialing service, you should consider having an alternate means of accessing traditional 911 or E911 services or terminating the Service.

4.20 End-Of-Life Products. Once a product is declared "End-Of-Life" by the manufacturer, the ability to obtain (new, used or reconditioned) replacement parts and technical support becomes more difficult. VoIP Systems USA and affiliates shall only be required to apply their best-efforts to obtain replacements for failed components and/or to obtain any required technical support for end-of-life products in order to comply with this agreement.

5.0. SERVICE / Term Extension Options

5.1 Term. Service is offered on an annual or multi-year basis as is determined in your Service Activation Form and Agreement or on a Change Order or Add-On Order. The term begins on the date that VoIP Systems USA activates your Service and ends on the day before the anniversary date of your Term. You are purchasing the Service for full terms. If you attempt to terminate Service prior to the end of a term or an extended term you will be responsible for the full charges to the end of the then-current term, including, without limitation, unbilled charges, plus applicable termination fees as separately defined herein, all of which will immediately become due and payable. Expiration of the term or termination of Service will not excuse payment for all accrued and unpaid charges due under this Agreement.

a) Term Extension Options (listed in most favorable & cost-effective order):

1. Equipment Upgrade. - At least 60 days prior to the anniversary date of your term ask for a quote to Upgrade your phones and equipment to new. We install all new phones and equipment, apply new pricing plans, features and service including Pro Planning, Support and White Glove phone exchange with a new term commitment. (in many cases, your monthly bill is less)
2. Month-to-Month Term Extension. - Renewals for shorter term increments may also be requested in writing at least 60 days prior to the anniversary date of your term. Pricing for such shorter terms will not exceed 30% more than the then-current pricing level at the sole discretion of VoIP Systems USA.
3. Automatic Term Extension. - This agreement automatically renews for another term equal to one year at the same pricing unless you give us written notice of non-renewal at least 60 days prior to the anniversary date of your current term.

5.2 Changes in Service. Services may be added or deleted by mutual written agreement as described elsewhere herein, however, during any agreed-upon term; in no case will the monthly charges to the customer fall below 75% of the Monthly Recurring Charge commitment on the original agreement.

5.3 Use of Service and VoIP Systems USA provided Device. You shall not resell or transfer the Service or the Device to another party without our prior written consent. 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.

5.4 Use of Service only. For Service only customers, you are responsible for supplying, operating and supporting the Customer Premise Equipment for use with the Service. In addition, any Customer-supplied equipment must be pre-approved by VoIP Systems USA in writing. You shall not resell or transfer the Service to another party without our prior written consent. You are prohibited from using the Service 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 for any of the aforementioned or similar activities.

5.5 Prohibited Uses.

(a) Outbound Minutes. VoIP Systems USA offers Service dialing plans that provide unlimited minutes of outbound calls for the reasonable business use of Customers. Such use shall not include certain activities including, but not limited to, any autodialing, robo-calling, continuous or extensive call forwarding, continuous or extensive chat, continuous connectivity, fax or Text Message broadcast or blasting, telemarketing (including without limitation charitable or political solicitation or polling), call center operations (unless properly licensed), junk or Text Message faxing, fax spamming, calling/faxing/Text Messaging any person (through the use of distribution lists or otherwise) who has not given specific permission to be included in such a process or any other activity that would be inconsistent with reasonable business usage and our Fair Usage Policy.

Without limiting any other remedies hereunder, we reserve the right to immediately terminate or modify the Services of any Customer using Unlimited minutes where we determine, in our sole discretion, that Customer is using minutes in excess of reasonable business use. When such unreasonable use is determined, we will implement our Fair Usage Policy and convert the customer to the most economical usage plan based upon actual experience. Upon notification of such change, the customer shall also have the right to terminate service within 60 days by notifying USA in writing and actually paying for all services actually provided, but with no early termination penalties.

Customer shall not transmit through the Services any unlawful, harassing, defamatory, abusive, threatening, harmful, vulgar, obscene, indecent, or otherwise objectionable communications or material of any kind or nature. Customers further agree not to transmit any material that encourages conduct that could constitute a criminal offense, violate the intellectual property rights of others, give rise to civil liability or otherwise violate any applicable local, state, national or international statute, regulation, or other law.

(b) Unlawful. 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, VoIP Systems USA 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.

(c) Inappropriate Conduct. 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. If we believe that you have used the Service or the Device in any of the aforementioned ways, 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, VoIP Systems USA 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.

5.6 Unsatisfactory and non-recommended uses.

(a) Fax and Modem Service. Fax machines and modems may not be compatible with our Hosted service and connectivity (POTS lines) for such equipment may need to be provided by another carrier or by the provider of the fax or modem equipment. In the event that faxing services are not adequately functioning, VoIP Systems USA reserves the right to modify the CODEC on the VoIP network to adequately suit the faxing issues. Provider will make reasonable efforts to ensure service works reliable with Customer's existing fax machine. Customer agrees to set their fax machine to a slower speed if VoIP Systems USA feels that this is necessary. VoIP Systems USA is not responsible for any costs necessary to make this change. If reliable faxing over service is deemed unfeasible by either VoIP Systems USA or the Customer, then the Customer will bear the full cost of ordering and maintaining a POTS line dedicated to faxing via VoIP Systems USA, LEC, RBOC or CLEC. VoIP Systems USA will not be financially liable for its inability to provide reliable faxing with this service. If VoIP Systems USA is unable to provide reliable fax service over this product, VoIP Systems USA agrees to release the Customer from contract liability for the one phone being used to provide service to his fax machine. Customer will continue to be liable for all other contracted services in such a situation.

(b) Modem Service. VoIP Systems USA will make reasonable efforts to ensure that the service works with the Customer's modem. If reliable modem service is deemed unfeasible by VoIP Systems USA or the Customer, then the Customer will bear the full cost of ordering and maintaining a POTS line dedicated to the modem via VoIP Systems USA, LEC, RBOC or CLEC. VoIP Systems USA is not responsible for any integrator costs necessary to make this change. VoIP Systems USA will not be responsible. VoIP Systems USA will not be financially liable for inability to provide reliable modem service with this service. If VoIP Systems USA is unable to provide reliable modem service with this service, VoIP Systems USA agrees to release Customer from contract liability for the one phone being used to provide service to this modem. Customer will continue to be liable for the remainder of the services in such a situation.

(c) Non-recommended uses. Business critical systems such as, but not limited to, burglary or fire alarms, point-of-sale systems, security systems, medical monitoring systems or chemical monitoring systems should not be used with this service.

5.7 Use of Service and Device by Customers Outside the United States. Although we encourage you to use of the Service to place calls to foreign countries from within the United States, we do not presently offer or support originating calls the Service in any countries other than the United States and Canada. You are welcome to use the service or device outside the USA and Canada and there is a strong likelihood that it will work inbound, However the reliability of Internet service and the willingness of Internet Service Providers in foreign countries to carry Voice over Internet Services varies tremendously from country to country and is subject to local laws. We will terminate services to foreign countries upon determination in our sole and absolute discretion that the ISP is blocking service or if we determine that, again, in our sole and absolute discretion that we are in violation of any local laws. We will continue to provide any service not affected by such laws and interruptions and will provide a full credit for time periods where we could not provide service. Furthermore, since you are resident in the foreign jurisdiction and we are not, we require that you hold us harmless for any judgements against us resulting from our provision of these services to you in that jurisdiction.

5.8 Copyright, Trademark, Unauthorized Usage of Device, Firmware or Software.

(a) Copyright, Trademark. The Service and Device and any firmware or software used to provide the Service or provided to you in conjunction with providing the Service, or embedded in the Device, and all Services, information, documents and materials on our websites are protected by trademark, copyright or other intellectual property laws and international treaty provisions. All of our websites, corporate names, service marks, trademarks, trade names, logos and domain names (collectively "marks") are and will at all times remain our exclusive property. Nothing in this Agreement grants you the right or license to use any of our marks.

(b) Unauthorized Usage of Device, Firmware or Software. You have not been granted any license to use the firmware or software used to provide the Service or provided to you in conjunction with providing the Service, or embedded in the Device, other than a nontransferable, revocable license to use such firmware or software in object code form (without making any modification thereto) strictly in accordance with the terms and conditions of this Agreement. You expressly agree that the Device is exclusively for use in connection with the Service and that we will not provide any passwords, codes or other information or assistance that would enable you to use the Device for any other purpose. We reserve the right to prohibit the use of any interface device that we have not provided to you. You hereby represent and warrant that you possess all required rights, including software and/or firmware licenses, to use any interface device that we have not provided to you. In addition, you shall indemnify and

hold us harmless against any and all liability arising out of your use of such interface device with the Service. You shall not reverse compile, disassemble or reverse engineer or otherwise attempt to derive the source code from the binary code of the firmware or software.

5.9 **Tampering with the Device or Service.** You shall not change the electronic serial number or equipment identifier of the Device or to perform a factory reset of the Device without our prior written consent. We reserve the right to terminate your Service if we believe, in our sole and absolute discretion, that you have tampered with the Device. In the event of such termination, you will remain 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 immediately become due and payable. You shall not attempt to hack or otherwise disrupt the Service or make any use of the Service that is inconsistent with its intended purpose.

5.10 **Theft of Service.** You shall notify us immediately, in writing or by calling our customer support line, if the Device is stolen or if you become aware at any time that your Service is being stolen, fraudulently used or otherwise being used in an unauthorized manner. When you call or write, you must provide your account number and a detailed description of the circumstances of the Device theft, fraudulent use or unauthorized use of Service. Failure to do so in a timely manner may result in the termination of your Service and additional charges to you. Until such time as we receive notice of the theft, fraudulent use or unauthorized use, you will be liable for all use of the Service using a Device stolen from you and any and all stolen, fraudulent or unauthorized use of the Service. IUn no case will VoIP Systems USA be financially responsible for the consequences of the illegal, improper and/or unauthorized acts of others.

5.11 **Service Level Agreement.** Our Service Level Agreement is available upon request and it defines the expected level of service customers can expect and our responsibilities to maintain this level of service.

5.12 **Number Transfer on Service Termination.** Upon the termination of your Service, we may, in our sole and absolute discretion, release to your new service provider the telephone number that you ported (transferred or moved over) to us from your previous service provider and used in connection with your Service if:

- * such new service provider is able to accept such number;
- * your account has been properly terminated;
- * your account is completely current, including payment for all charges and applicable termination fees; and
- * you request the transfer upon terminating your account.

5.13 **Service Distinctions.** The Service is not a telecommunications service and we provide 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.

5.14 **Ownership and Risk of Loss.** You will own the Device and bear all risk of loss of, theft of, casualty to or damage to the Device, from the time it is shipped to you until the time (if any) when it is returned to us in accordance with this Agreement.

5.15 **No 0+ or Operator Assisted Calling; May Not Support x11 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.

5.16 **No Directory Listing.** The phone numbers you obtain from us will not be listed in any telephone directories. Phone numbers transferred from another phone company may, however, already be listed. As a result, someone with your phone number may not be able to utilize a reverse directory to lookup your address unless you initiate a request for a Directory Assistance listening through us.

5.17 **Internet Compatibility and Redundancy.** The service provided by VoIP Systems USA, LLC is carried via broadband Internet separately provided by the Customer (bring your own Internet) since this is the most economical arrangement. There is no Broadband Internet included on any Service Activation Form and Contract unless specifically listed. VoIP Systems USA, LLC will configure the Customer's required Network Services Gateway to maximize voice quality and reliability and this configuration work is included in the PBX setup item on your Service Activation Form and Contract. VoIP Systems USA will, with your permission, also work through you, your Network Administrator and with your Internet Service Provider to resolve problems which may arise with your Internet service which affect voice quality or reliability. However, since we have neither control nor responsibility for the quality of your Internet service, all such work will be billable to Customer at current rates. The service we provide is compatible with virtually all types of BROADBAND Internet except for DSL (in all its varieties) and dial-up services.

You can decide to bring in and use, at your own expense, a separate backup Internet Service Provider to provide you with backup Internet service should your primary Internet provider ever go "down." Most Network Service Gateways provide for "automatic failover and revert" should your primary ISP go "down." Any work we may perform programming and setting this up will be billable to Customer at current rates.

You can also decide to purchase and provide a dedicated direct connection from your site(s) to our Hosted switch. We will provide a proposal for this connection and for provisioning, connecting, programming and ongoing connectivity upon request.

5.18 **Incompatibility with Other Services.**

(a) Security Systems. The Service may not be compatible with security systems. You may be required to 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 responsible for contacting the alarm monitoring company to test the compatibility of any alarm monitoring or security system with the Service.

(b) Certain Broadband and Cable Modem Services. You acknowledge that the Service presently may not be compatible with some broadband services. You further acknowledge that some providers of broadband service may provide modems that prevent the transmission of communications using the Service. We do not warrant that the Services will be compatible with all broadband services and expressly disclaim any express or implied warranties regarding the compatibility of the Service with any particular broadband service.

6.0. **CHARGES; PAYMENTS; TAXES; TERMINATION**

6.1 **Billing.** When the service is activated, you must provide us with a valid email address and a credit or debit card number from a card issuer that we accept. We reserve the right to stop accepting credit or debit cards from one or more issuers. If your credit or debit card expires, you close your account, your billing address changes, or your credit or debit card is canceled and replaced on account of loss or theft, you must advise us at once. We will bill all charges, applicable taxes and surcharges monthly in advance (except for usage-based charges, which will be billed monthly in arrears, and any other charges which we decide to bill in arrears) to your credit or debit card, including but not limited to:

- * activation fees;
- * monthly Service fees;
- * international usage charges;
- * advanced feature charges;
- * equipment purchases;
- * termination fees; and
- * shipping and handling charges.

The amount of such fees and charges shall be published on our website and may change from time to time. Notification of monthly invoices will be sent to you via your email address on file with us. We reserve the right to bill at more frequent intervals if the amount you owe to us at any time exceeds \$250. Any usage charges will be billed in increments that are rounded up to the nearest minute except as otherwise set forth in the rate schedules found on our website.

6.2 **Billing Disputes.** You must notify us in writing within seven days after receiving your credit or debit card statement if you dispute any VoIP Systems USA charges on that statement or you will be deemed to have waived any right to contest such charges. All notices of disputed charges should be sent to:

Customer Care Billing Department
VoIP Systems USA, LLC
1790 Route 70 East
Cherry Hill, NJ 08003
-or-
service@usaphone.com

6.3 **Payment and Collection.**

(a) Payment. We only accept payment by credit card, debit card or ACH transfer, unless other payment terms have been explicitly and mutually agreed to in writing. Your subscription to the Service authorizes us to charge you using one of these methods. This authorization will remain valid until 30 days after we receive written notice from you terminating our authority to use your credit or debit card or ACH authorization. We will charge your credit or debit card or ACH for the termination fee, if applicable, and any other outstanding charges and terminate your Service. We may terminate your Service at any time in our sole and absolute discretion if any charge to your credit or debit card or ACH is declined or reversed, if your credit or debit card expires and you have not provided us with a valid replacement credit or debit card or in case of any other non-payment of account charges. There will be a \$50 per occurrence fee charged to your account when a charge to an authorized credit or debit card is denied by your bank for any reason whatsoever.

(b) Collection. If your Service is terminated, you will remain fully liable to us for all charges pursuant to this Agreement and any and all costs we incur to collect such amounts, including, without limitation, collection costs and attorney's fees.

6.4 **Termination; Discontinuance of Service.** We reserve the right to suspend or discontinue the Service generally, or to terminate your Service, at any time for non payment. 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 including for non-payment of recurring charges per 6.3a above 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, and any applicable termination liability, all of which will immediately become due and payable.

We may, in our sole and absolute discretion reinstate suspended or terminated service after full payment has been received. A reinstatement charge of \$100.00 per account will be assessed and must be paid in full prior to such reinstatement.

6.5 **Taxes.** You are responsible for all applicable federal, state, provincial, municipal, local or other governmental sales, use, excise, value-added, personal property, public utility or other taxes, fees or charges now in force or enacted in the future, that arise from or as a result of your subscription or use or payment for the Service or a Device. Such amounts are in addition to payment for the Service or Devices and will be billed as set forth in this Agreement. If you are exempt from payment of such taxes, you must provide us with an original certificate that satisfies applicable legal requirements attesting to tax-exempt status. Tax exemption will only apply from and after the date we receive such certificate.

6.6 **Termination Fee.** When service is cancelled for non-payment, you will be charged a termination fee of \$9.99 per phone number or phone.

6.7 **Termination Liability** - Termination prior to End of Term

(a) You are responsible for the paying the Recurring Charges for the remaining length of the term if you terminate service prior to the end of the term

6.8 **Pay phone Charges.** If you use our "Toll Free" feature or any toll free feature or International calling that we offer, we will be entitled to recover from you any charges imposed on us either directly or indirectly in connection with such calls billed to your account. We may recover these amounts by means of a per-call charge, rounded up to the next cent, or in such other fashion, as we deem appropriate for the recovery of these costs.

6.9 **Charges for Directory Calls** (411). We will charge you \$1.50 for each call made to VoIP Systems USA directory assistance.

6.10 **Charges for Conference Bridge Calls.** We will charge you prevailing rate, for each caller who calls into your conference bridge. The per-minute usage fee will be levied for each participant on the conference bridge, including on-network and off-network participants.

MISCELLANEOUS OTHER CONTRACTUAL TERMS, CONDITIONS AND OBLIGATIONS

7.0 PRICING:

Prices offered on a Proposal or Contract or Service Activation Form and Agreement or Service Activation Form are valid for 30 days (unless specifically stated differently on the face of a Proposal or Contract or Service Activation Form and Agreement or Service Activation Form) and may only be extended at the option of VOIP SYSTEMSUSA, LLC. Proposals or Contracts or Service Activation Form and Agreements or Service Activation Form and Agreements and Agreement, when executed, constitute a legal and binding contract between VOIP SYSTEMSUSA, LLC and the customer to provide the listed equipment, services, etc. at the agreed upon price to be paid in cash as specified or by lease proceeds at the customer's option. VOIP SYSTEMSUSA, LLC has relied upon the customer's representation of good creditworthiness and the customer agrees to complete and submit an Application for Credit or Lease. VOIP SYSTEMSUSA, LLC reserves the right to approve the selection of a leasing company. Lease payments appearing on our proposals are only informed estimates. Lease terms, rates and commitments, if applicable, are contingent upon separate agreement between and approval by both the customer/lessee and the approved Leasing Company. This Proposal or Contract or Service Activation Form and Agreement or Service Activation Form supersedes all prior discussions, verbal agreements and represents the final agreement as to the nature of the products to be provided and the services to be performed. **This Proposal or Contract can only be canceled or modified by mutual written consent. Cancellation, if mutually agreed upon, would always be subject to a 25% cancellation / restocking charge on equipment included in the non-recurring charges.**

Failure of customer to pay invoices issued by VOIP SYSTEMSUSA, LLC within terms will constitute a breach of this contract by the customer and may, at the discretion of VOIP SYSTEMSUSA, LLC void the remainder of any warranty, Service Level Agreement Managed Services Agreement or any other related agreement. The use of unauthorized personnel to service covered equipment may, at the discretion of VOIP SYSTEMSUSA, LLC, void the warranty or managed Services Agreement. No service will be performed and no parts will be replaced once a warranty or managed Services Agreement is voided. Customers may apply for reinstatement of a voided warranty or Managed Services Agreement by payment of any outstanding account balance plus a reinstatement & inspection fee which fee shall be no less than two hours of labor at that customer's prevailing labor rate. Reinstatement shall be at the sole discretion of VOIP SYSTEMSUSA, LLC.

8.0 NON-SOLICITATION OF EMPLOYEES OF VOIP SYSTEMSUSA, LLC AND IT'S AFFILIATES

During and for two years after the term of any warranty or Managed Services Agreement, the customer shall not solicit the employment of, or employ any employee of VOIP SYSTEMSUSA, LLC (or of its affiliate companies) on a full time, part time, casual, contractual or any other basis without the prior written consent of The VOIP SYSTEMS USA, LLC or without remitting to VOIP SYSTEMS USA, LLC the sum of \$50,000.00

9.0 OTHER CONDITIONS

All Proposals and Contracts assume that the following conditions exist or apply. There will be an additional charge, over and above the Proposal or Contract amount if these conditions DO NOT exist or apply unless specifically detailed on the face of a Proposal or Contract.

9.1 The "point of demarcation" for the telephone lines or Internet (demarc) must be located within the purchaser's premises and also within 6 feet of the telephone system location or Ethernet network hub or switch.

9.2 All cable proposed is minimum CAT5e (non-plenum). All cable runs are estimated to be 100 feet maximum length (and 1 hour of labor) and any substantial additional cable or labor will be billable to Customer at standard rates. All existing cabling to be reused must be minimum CAT5e (non-plenum).

9.3 All ceilings are of the "hung or suspended" type; less than 12 feet high and it is not necessary to use a lift device for ceiling access nor are there any unusual or difficult obstacles or impediments. All cable runs are indoors and within the same structure. Walls are plasterboard with wood or metal studs. While every effort shall be taken to avoid incidental damage to walls and ceilings, some holes or other damage may be unavoidable. The customer/owner/occupant is responsible for the cost of any such repairs. Where outdoor cabling utilizing utility poles is specified, the customer/owner/occupant is responsible for obtaining permission for the use of such poles and for the cost of any required permits.

9.4 Neither Union Labor nor Union Labor Rates nor "Prevailing Rate" wage levels are required. If such labor or rates are required, an additional charge will apply.

9.5 All telephone instruments are configured for placement on desks. Wall mounting usually requires additional parts and/or labor, which is included only if specifically detailed on the Proposal or Contract.

9.6 There are no required building or construction permits or special licenses. Customer agrees to pay, in addition to the Proposal or Contract amount, for any such permits "at cost."

9.7 Satisfactory operation of portable or cordless telephones or other equipment utilizing radio waves depends upon specific site conditions. These conditions were not measured, nor are problems anticipated because the equipment we provide operates in most environments and under most conditions. We will make a good faith effort to make adjustments (without additional cable runs) to achieve satisfactory operation.

9.8 Our pricing is based upon the work proceeding from start to finish without undue interruption. When the customer (or unavoidable job conditions outside of the control of VoIP Systems USA, LLC) requires that the job be interrupted due to construction scheduling, permits or for any other reason, there will be an additional charge of \$175.00 for each such interruption. Furthermore, once an installation/cutover date is scheduled and agreed-upon with the customer, requiring us to have all labor and equipment available and prepared for that date, there will be an additional charge of 10% of the sale price when the customer postpones the installation date. These charges are for the cost of inventory, rescheduling, redeployment and loss of continuity.

9.9 Where the porting of telephone numbers is postponed by the Customer and such porting delay results in penalty charges to VoIP Systems USA, LLC from the carrier, such penalty charges will be the financial responsibility of the Customer at cost.

9.10 The Customer must provide the necessary programming information to us as scheduled, permitting us to program your new system in time to have it ready for your cutover date. If the information is not received, the cutover date may have to be postponed.

9.11 Any required removal of abandoned cable is to be provided by others and is not included in our prices unless specifically detailed as included on the face of a Proposal or Contract.

9.12 Title to and ownership of equipment removed and replaced by the equipment detailed on an executed Service Activation Form an Agreement will pass to VoIP Systems USA, LLC upon completion of the installation. All equipment removed and/or replaced shall become the property of VoIP Systems USA, LLC. Pricing has already been adjusted accordingly to provide a credit for such trade-in of old equipment.

9.13 All prices are based upon our standard Monday - Friday 9:00 am to 5:00 PM schedule. Overtime worked will be charged at the customer's prevailing rate.

9.14 **Audio and Video Recording Notice:** PLEASE NOTE that under certain circumstances, audio/video recording may be restricted or PROHIBITED by law. Your equipment should be used only in

accordance with all applicable federal, state and local statutes, regulations or ordinances. Any and all notifications required to comply with such requirements are the responsibility of the Customer/ end-user/ owner/ operator of the equipment and NOT the responsibility of VoIP Systems USA, LLC.

10.0 INSTALLATION COMMITMENT AND TRAINING

Installation commitments will be confirmed only after all deposits and signed contract documents and any applicable completed lease documents are received. This in no way affects the validity of this Proposal or Contract.

10.1 **BASIC TRAINING** on your new system is included in the price and will be scheduled at, or as close as possible to, system cutover. This basic training includes making, receiving and transferring calls, leaving and retrieving voice mail messages and setting up individual voice mail boxes, etc. **Such training is usually via a scheduled Webinar. Onsite classroom type training is at additional cost and must be scheduled in advance.**

10.11 **ADVANCED (or ADMINISTRATIVE TRAINING)** is also available upon request. Advanced training includes topics such as system administration, telephone and mailbox programming.

10.12 **ADDITIONAL TRAINING** Additional training is always available when required by the customer's personnel due to new employees, changes in responsibility or just as a refresher. Such training should be scheduled with Customer Service

11.0 LTE 4G Cellular Internet Service (Backup Internet Service Offering)

The provisions contained in this section pertain only to the provision of LTE 4G Cellular Internet Services and shall succeed any and all sections and provisions in this Agreement to the contrary as such other terms may pertain to the provision of LTE 4G Cellular Internet Services. Any and all contrary provisions shall remain in full force and effect as they pertain to all other services provided by VoIP Systems USA, LLC contained in this Agreement.

11.1 **Term and Termination** The initial term for the provision of LTE 4G Cellular Internet Service is two (2) years, which shall begin upon the date the LTE 4G Cellular Internet Service device ("Device") is configured and shipped to the Subscriber. If the Subscriber wishes to discontinue LTE 4G Cellular Services at the end of the term, the Subscriber shall notify VoIP Systems USA of its intention not to renew in writing at least thirty (30) days prior to end of the term. If the Subscriber does not notify VoIP Systems USA of its intention not to renew, the provision of LTE 4G Cellular Internet Services shall continue on a month-to-month basis. Should the Subscriber wish to terminate LTE 4G Cellular Services prior to the expiration of the initial two (2) year term, the Subscriber agrees to pay the balance of all Monthly Service Fees remaining on the initial two (2) year term. Upon termination of §11.0, the Subscriber shall be responsible for the return of the Device to VoIP Systems USA. The term for the provision of LTE 4G Cellular Internet Services is not necessarily coterminous with any term provided in this Agreement, but instead is an independent term of service.

11.2 **Initial Service Fees** The Device must be activated and configured by VoIP Systems USA prior to shipping the Device to the Subscriber. Therefore the first month of Monthly Service Fees shall become due and owing upon the signing of this Agreement. The Subscriber agrees to pay the first month's Monthly Service Fee upon executing this Agreement. The Initial Service Fees include the Non-Recurring Charges as set forth in the LTE 4G Cellular Internet Service Activation Form and Agreement, which is incorporated herein as if stated in full.

11.3 **Monthly Service Fees** Subscriber agrees to pay a monthly service fee ("Monthly Service Fee") as provided on the LTE 4G Cellular Internet Service Activation Form and Agreement, which is incorporated herein as if stated in full. The Monthly Service Fee shall include an initial 1GB of data per billing cycle. All Monthly Service Fees subsequent to the first month shall be invoiced to the Subscriber only a monthly cycle.

11.4 **Additional Overage Fees** Additional data beyond the initial 1GB of data per billing cycle shall be billed to the Subscriber at a rate per 1GB, to begin only after the initial 1GB of data has been utilized ("Additional Overage Fee"), as provided on the LTE 4G Cellular Internet Service Activation Form and Agreement, which is incorporated herein as if stated in full. Any Additional Overage Fees shall be included on the Subscriber's monthly bill.

12.0 LIMITATION OF LIABILITY; INDEMNIFICATION; WARRANTIES

12.1 **Limitation of Liability.** We will not be liable for any delay or failure to provide the Service, including 911 Dialing, at any time or from time to time, or any interruption or degradation of voice quality that is caused by any of the following:

- * an act or omission of an underlying carrier, service provider, vendor or other third party;
- * equipment, network or facility failure;
- * equipment, network or facility upgrade or modification;
- * force majeure events such as (but not limited to) acts of God, acts of nature, strikes, fire, war, riot, acts of terrorism and government actions;
- * equipment, network or facility shortage;
- * equipment or facility relocation;
- * service, equipment, network or facility failure caused by the loss of power to you;
- * outage of, or blocking of ports by, your ISP or broadband service provider or other impediment to usage of the Service caused by any third party;
- * any act or omission by you or any person using the Service or Device provided to you; or
- * any other cause that is beyond our control, including, without limitation, a failure of or defect in any Device, the failure of an incoming or outgoing communication, the inability of communications (including, without limitation, 911 Dialing) to be connected or completed, or forwarded.

Our aggregate liability under this agreement will in no event exceed the Service charges with respect to the affected time period.

12.2 **Disclaimer of Liability for Damages.** IN NO EVENT WILL VOIP SYSTEMS USA, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS OR ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICES TO YOU IN CONNECTION THE SERVICE BE LIABLE FOR ANY DIRECT, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER DAMAGES, INCLUDING BUT NOT LIMITED TO PERSONAL INJURY, WRONGFUL DEATH, PROPERTY DAMAGE, LOSS OF DATA, LOSS OF REVENUE OR PROFITS, OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE OR INABILITY TO USE THE SERVICE, INCLUDING INABILITY TO ACCESS EMERGENCY SERVICE PERSONNEL THROUGH THE 911 DIALING SERVICE OR TO OBTAIN EMERGENCY HELP. THE LIMITATIONS SET FORTH HEREIN APPLY TO CLAIMS FOUNDED IN BREACH OF CONTRACT, BREACH OF WARRANTY, PRODUCT LIABILITY, TORT AND ANY AND ALL OTHER THEORIES OF LIABILITY AND APPLY WHETHER OR NOT WE WERE INFORMED OF THE LIKELIHOOD OF ANY PARTICULAR TYPE OF DAMAGES.

12.3 Indemnification and Survival.

(a) Indemnification. You shall defend, indemnify, and hold harmless VoIP Systems USA, its officers, directors, employees, affiliates and agents and any other service provider who furnishes services to you in connection with the Service, from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without limitation, attorney's fees) by, or on behalf of, you or any third party or user of the Service, relating to the Services, including, without limitation, 911 Dialing, or the Device. Similarly, VoIP Systems USA shall defend, indemnify, and hold harmless your officers, directors, employees, affiliates and agents, from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without limitation, attorneys fees) by, or on behalf of, you or any third party or user of the Service, not relating to the Services, including, without limitation, 911 Dialing, or the Device.

(b) Survival. The provisions of this Agreement that by their sense and context are intended to survive the termination or expiration of this Agreement shall survive.

12.4 **Warranties on Service.** WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS OF THE SERVICE OR DEVICE FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE OR ANY WARRANTY THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS. WITHOUT LIMITING THE FOREGOING, WE DO NOT WARRANT THAT THE SERVICE OR DEVICE WILL BE WITHOUT FAILURE, DELAY, INTERRUPTION, ERROR, AND DEGRADATION OF VOICE QUALITY OR LOSS OF CONTENT, DATA OR INFORMATION. NEITHER VOIP SYSTEMS USA NOR ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS, OR ANY OTHER SERVICE PROVIDER OR VENDOR WHO FURNISHES SERVICES DEVICES, OR PRODUCTS TO CUSTOMER IN CONNECTION WITH THE SERVICE, WILL BE LIABLE FOR UNAUTHORIZED ACCESS TO OUR OR YOUR TRANSMISSION FACILITIES OR PREMISES EQUIPMENT OR FOR UNAUTHORIZED ACCESS TO, OR ALTERATION, THEFT OR DESTRUCTION OF, CUSTOMER'S DATA FILES, PROGRAMS, PROCEDURES OR INFORMATION THROUGH ACCIDENT, FRAUDULENT MEANS OR DEVICES OR ANY OTHER METHOD, REGARDLESS OF WHETHER SUCH DAMAGE OCCURS AS A RESULT OF VOIP SYSTEMS USA'S OR ITS SERVICE PROVIDER'S OR VENDORS' NEGLIGENCE. STATEMENTS AND DESCRIPTIONS CONCERNING THE SERVICE OR DEVICE, IF ANY, BY VOIP SYSTEMS USA OR VOIP SYSTEMS USA'S AGENTS OR INSTALLERS ARE INFORMATIONAL AND ARE NOT GIVEN AS A WARRANTY OF ANY KIND.

The equipment we provide is covered by each manufacturer's new equipment warranty for repair or replacement. Our labor, whether for installation or for subsequent service work is warranted to be free from defects in material or workmanship for a period one year and such defects will be promptly cured, repaired or replaced at our discretion.

12.5 **No Third Party Beneficiaries.** No provision of this Agreement provides any person or entity not a party to this Agreement with any remedy, claim, liability, reimbursement, or cause of action or creates any other third party beneficiary rights.

12.6 **Content.** You will be liable for any and all liability that may arise out of the content transmitted by you or to any person, whether authorized or unauthorized, using your Service or Device (each such person, a "User"). You shall assure that your and your User's use of the Service and content comply at all times with all applicable laws, regulations and written and electronic instructions for use. We reserve the right to terminate or suspend your Services and remove your or your Users' content from the Service, if we determine, in our sole and absolute discretion, that such use or content does not conform with the requirements set forth in this Agreement or interferes with our ability to provide Services to you or others. Our action or inaction under this Section will not constitute any review or approval of your or Users' use or content.

12.7 Recording Conversations. VoIP Systems USA provides an additional cost optional; service on that allows Customer personnel to record individual telephone conversations. The laws regarding the notice and notification requirements of such recorded conversations vary by state to state. Customer is solely responsible for applying the local laws in the relevant jurisdiction when using this feature.

13.0 MISCELLANEOUS

12.1 Governing Law. The Agreement and the relationship between you and us is governed by the laws of the State of New Jersey without regard to its conflict of law provisions. To the extent court action is initiated to enforce an arbitration award or for any other reason consistent with Section 5.2, you shall submit to the personal and exclusive jurisdiction of the courts located within the State of New Jersey and waive any objection as to venue or inconvenient forum.

13.2 Legal Fees: The Customer shall be responsible for the cost of any legal fees incurred by VoIP Systems,USA as a result of a breach of this Agreement by the Customer.

13.3 Mandatory Arbitration and No Jury Trial. Any dispute or claim between you, any member of your household or any guest or employee of you and us arising out of or relating to the Service or Device will be resolved by arbitration before a single arbitrator administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules. The arbitration will take place in Camden County, New Jersey. The arbitrator's decision will follow the plain meaning of the relevant documents, and will be final and binding. Without limiting the foregoing, the parties agree that no arbitrator has the authority to: (i) award relief in excess of what this Agreement provides; or (ii) award punitive or exemplary damages. Judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. REGARDLESS OF ANY STATUTE OR LAW TO THE CONTRARY, ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE SERVICE MUST BE FILED WITHIN ONE (1) YEAR AFTER SUCH CLAIM OR CAUSE OF ACTION AROSE OR BE FOREVER BARRED. All claims shall be arbitrated individually. You shall not bring, or join any class action of any kind in court or in arbitration or seek to consolidate or bring previously consolidated claims in arbitration. THIS ARBITRATION PROVISION CONSTITUTES A WAIVER OF ANY RIGHT TO A JURY TRIAL AND AN AGREEMENT TO BE SUBJECT TO JURISDICTION IN, AND CONDUCT ARBITRAL PROCEEDINGS IN, CAMDEN COUNTY, NEW JERSEY.

13.4 No Waiver of Rights. Our failure to exercise or enforce any right or provision of this Agreement will not constitute a waiver of such right or provision.

13.5 Entire Agreement. This Agreement, including any future modifications as may occur within the terms of the Agreement, and the rates for Services found on our website constitute the entire agreement between you and VoIP Systems USA and govern the use of the Service by you, members of your business, employees and guests. This Agreement supersedes any prior agreements between you and VoIP Systems USA and any and all prior or contemporaneous statements, understandings, writings, commitments, or representations concerning its subject matter.

13.6 Severability. If any part of this Agreement is legally declared invalid or unenforceable, all other parts of this Agreement will remain valid and enforceable. Such invalidity or non-enforceability will not invalidate or render unenforceable any other portion of this Agreement.

14.0 PRIVACY

VoIP Systems USA Service utilizes, in whole or in part, the public Internet and third party networks to transmit voice and other communications. VoIP Systems USA is not liable for any lack of privacy, which may be experienced with regard to the Service.

VoIP Systems USA is a trademark owned by VoIP Systems USA, LLC.

Latest revision available at: <http://usaphone.com/pdf/voipsystemsusatems.pdf>