

## TERMS OF SERVICE

These Terms of Service (hereinafter referred to as the “Terms” “Service Terms” or “Agreement”) apply to the use of products or services provided by ISP Management, Inc., Technology Network Communication Access LLC, and its subsidiaries or affiliates are hereafter known as ISP (“ISP”) to the person/entity identified in the Sales Order (the “Customer”) and are an integral part of the agreement between the ISP and Customer. By ordering, purchasing, or using the ISP’s services, Customer agrees to be bound by these Terms.

PURSUANT TO FCC REQUIREMENTS, THE ISP IS REQUIRED TO ADVISE ITS VOIP SERVICE CUSTOMERS OF ANY LIMITATIONS THAT E911 SERVICE MAY HAVE IN COMPARISON TO TRADITIONAL E911 SERVICE, WHICH ARE SET FORTH AT SECTION 31 BELOW AND IN THE E911 DISCLOSURE NOTICE AND ACKNOWLEDGEMENT, WHICH IS INCORPORATED HEREIN BY REFERENCE.

**1. Terms, Conditions and Policies.** These Terms incorporate all additional terms, conditions and policies that are set forth in the Sales Order, the Acceptable Use Policy (“AUP”), the E911 Acknowledgement and Disclosure, schedule, exhibit, or amendment to a Sales Order or this Agreement (collectively, the “Terms”). The ISP may update or replace the AUP and E911 Acknowledgement from time to time, and will provide notice to Customer at the email address on file. Such updates will become effective 14 days after such notice to Customer. ISP reserves the right to change the Terms at any time (herein referred to as a “Policy Change”), with such change being on a prospective, and not retroactive, basis. The ISP will provide Customer with 14 days advance written notice of such change as follows: If such Policy Change is (a) applicable to Customer, and (b) materially and detrimentally alters any Service and/or the applicable terms and conditions under which such Service is then being provided to Customer, notice shall be provided through Customer’s invoice or by e-mail to Customer’s email address on file. Upon receipt of notice, Customer will have 14 days to notify the ISP that such changes are materially and adversely impacting, stating specifically which changes are impactful, and the Parties will engage in an up to 30-day executive escalation to reach a mutually agreeable workaround agreement. Notwithstanding the foregoing, Customer’s right to object or terminate shall not apply to Policy Changes required by applicable law, regulation or governmental authority to which the ISP or Customer is subject, or to AUP changes required to protect the security, operability and integrity of the ISP facilities, services, or factors that would adversely affect its other customers, or to comply with reasonable acceptable use policies of its providers supporting the Services. Customer’s continued use of the ISP’s Services or payment for Services after a Policy Change will be considered to be Customer’s acquiescence to the Policy Change.

**2. Authorizations.** Customer shall provide the ISP, at no cost to the ISP, all permissions, consents or authorizations necessary to activate, maintain, inspect, and repair the products and/or Services and any ISP Equipment, including (if applicable) the right to access and enter Customer’s Location with advanced notice. The parties will agree in advance on the day(s) and time(s) of any such access.

**3. Internet Speeds.** Customer understands and acknowledges that the advertised internet speed represents the maximum speed that Customer would receive under these Terms. Customer understands and acknowledges that internet speeds are **NOT guaranteed** in any way. There are many factors that affect internet speeds, some of which ISP controls, but a substantial amount is out of control of the ISP as described in the ISP's Open Internet Transparency Statement.

**4. Equipment.** Customer understands and acknowledges that activation of the Services may require the use of certain Customer Equipment and/or ISP Equipment.

**(a) Installation.** Customer agrees to the location and nature of the installation of equipment installed by an ISP technician. Customer understands and acknowledges that installation and physical alterations that are made to Customer's premise in the process of installation cannot be reversed. Neither the ISP nor its technicians are liable for any damages or alterations that may occur during or as a result of the installation process. Customer certifies to have full authority and permission to approve all facets of the installation.

**(b) ISP's Equipment.** With respect to ISP Equipment rented, leased, loaned or otherwise provided by the ISP for use by Customer, Customer will not: (i) repair or otherwise modify any ISP Equipment without the ISP's prior written consent; or (ii) create or allow any liens or other encumbrances to be placed on any ISP Equipment. Customer must notify the ISP prior to relocating any ISP Equipment.

**i.** Customer will use commercially reasonable efforts to protect and maintain the ISP Equipment in a secure location at the Customer Location within conditions (including room temperature) that are customary and reasonable for such equipment, and shall be fully liable for all costs, charges or expenses associated with damage to or loss, including the replacement cost of the ISP Equipment beyond normal wear and tear. Damage to the ISP Equipment caused by power surges, lightning, or other forces of nature is considered beyond normal wear and tear, and Customer is liable for such damaged ISP Equipment.

**ii.** During the Term of any applicable Service, ISP shall have 24/7 access to ISP Equipment to service, upgrade, or repossess. During the Term of any applicable Service, the ISP shall repair or replace defective ISP Equipment rented (or otherwise provided by the ISP for use) by Customer. Notwithstanding the foregoing, the ISP shall not be obligated to replace ISP Equipment if it is determined by the ISP, at the ISP's sole discretion, that Customer or another third party is responsible for damage to the ISP Equipment. Customer will be responsible for the replacement costs of such damaged equipment including labor costs.

iii. Upon the termination of this Agreement or any Service, or if Customer is returning the ISP Equipment during the Service Term, all wires, cables and power supplies provided with ISP Equipment must be returned with ISP Equipment. The ISP may retrieve ISP Equipment for Customer's convenience and at Customer's request, if satisfactory conditions exist to retrieve such ISP Equipment. The determination of whether satisfactory conditions exist shall be made by the ISP in the ISP's sole discretion. If the ISP Equipment has not been timely returned to the ISP as of the termination date of the applicable Service, the ISP shall invoice Customer and/or charge Customer's method of payment (if paying via credit card or ACH), and Customer shall pay for the full replacement value.

iv. In the event that Customer is liable for damage to the ISP Equipment or failing to return the ISP's Equipment, the ISP shall invoice Customer and/or charge Customer's method of payment (if paying via credit card or ACH) in an amount up to three hundred dollars (\$300).

## **5. Service Term and Service Cancellation.**

(a) **Service Term.** Each Sales Order forms a contractual fixed term subscription and is effective and binding on Customer on the Effective Date (the "Service Term"). Customer agrees it is liable for the full value of each Sales Order. The Service Term will begin on the activation date.

i. **Month-to-Month Services.** For Services provided on a month-to-month basis, Subscriber may terminate the Services at any time without penalty in accordance with all terms set forth in paragraph 5 (b) below,

ii. **Fixed Term Services.** For Services provided on a fixed-term basis, the Service Term will automatically convert to Month-to-Month Services upon completion of the Initial Fixed Term unless ISP receives a duly executed notice of cancellation in accordance with all terms set forth in paragraph 5 (b) below not less than 60 days prior to the expiration of the then-current Service Term.

(b) **Contract Termination** : Customers desiring to cancel service **must** submit a signed, written notice of cancellation 60 days in advance of termination date. Billing shall not cease and Contract will remain in full force and effect until Customer fully completes the following 3 items: 1) proper notice of cancellation, 2) account paid and in good standing through termination date and 3) all equipment provided by the ISP is satisfactorily returned to the ISP in working order, normal wear and tear accepted.

i. **Early Retrieval of the ISP Equipment.** If Customer requests that the ISP retrieve ISP's Equipment and satisfactory conditions exist to retrieve the ISP Equipment before the final date of service as determined by the date of Customer's termination notice, Customer shall be responsible for full

payment for service for that period regardless of the date of retrieval. ISP will not prorate Customer's bill because of early retrieval of ISP Equipment.

ii. **Early Termination Fees.** If Customer receives any type of discount on services or installation as part of the Sales Order and Customer terminates such services prior to the expiration of the Service Term, Customer shall be responsible for payment to ISP in the amount of such discount, in addition to any other fees due from Customer.

**6. Payment.** Customer acknowledges the ISP services are prepaid services due and payable on the first day of the service period. Customer may be eligible to receive a five dollar (\$5) per month discount by enrolling in the automatic payment discount program and adhering to the terms and conditions therein. Customer understands and acknowledges that there are certain instances in which the ISP may process a credit card by manually entering the credit card information over the phone, rather than through use of the physical credit card. Customer agrees that the ISP is not responsible for any possible claims resulting from claims their payment information be processed in the above described manner if Customer calls the ISP and requests such payment processing. Customer understands, acknowledges and agrees to pay a Paper Statement Fee of up to \$5.00 per occurrence for paper invoices or statements sent via the U.S. Postal Service or any other manual form of delivery.

**7. Default.** Accounts are in default if payment is not received by due date of invoice. If your payment is returned to us unpaid, you are immediately in default and subject to a returned payment charge up to \$35.00. Accounts unpaid ten days after due date of invoice will be assessed a \$10.00 Late Payment Fee and/or have their service interrupted. Such interruption does not relieve you from the obligation to pay the monthly charge. Accounts in default are subject to a collection fee, a late payment fee, and an interest charge of 1.5% per month on the outstanding balance. If your state law does not allow an interest rate of 1.5% per month, the maximum allowable rate for your state will be charged. Accounts in default may be subject to further collection action. If you default, you agree to pay the ISP its reasonable expenses, including attorney and collection agency fees, incurred in enforcing its right under these Terms and Conditions.

**8. Regulatory and Legal Changes.** The ISP may discontinue, limit, modify any Service, or impose additional requirements to the provision of any Service, as may be reasonably required to comply with any applicable laws. If changes in applicable laws materially and adversely affect the delivery of Service (including the economic viability thereof) or would impose further compliance requirements, then the ISP will provide notice to Customer to the extent that said changes impact Customer's obligations and details of regulatory changes and if requested by Customer, the Parties will use good faith efforts to negotiate appropriate changes to this Agreement. If the parties cannot reach agreement within 14 days after the ISP's notice requesting renegotiation, the ISP may, on a prospective basis after such 14-day period, pass any increased costs (if applicable) resulting from such changes on to Customer; provided, however, that the ISP shall provide Customer written notice of any increased costs or charges and Customer may upon notice

given to the ISP within 60 days after delivery of the notice of the increased charges terminate Service without liability for an early termination fee or charge. If Customer does not terminate Service within such 60-day period, Customer's termination right shall expire and Customer shall be obligated to accept and pay for the Service until expiration or termination of the Service Term.

**9. Prohibited Use of the Services and Service Use Restrictions - AUP.** Customer shall use the Services only in a manner that fully complies with all applicable laws, the terms and conditions of this Agreement, and the ISP's AUP.

**10. Third Party Networks.** Any access to other networks connected to the ISP's network must comply with the rules appropriate for that other network. Use of our services itself may be for any lawful purpose. Use of our services for lawful commercial purposes is both permitted and encouraged within the realms of your account or service scope. Connectivity is provided for your organization only. Resale or use of the connection by another organization or party is prohibited.

**11. Required Maintenance; Customer Support.** The ISP has the right to perform repair and maintenance or to upgrade, update or enhance (collectively, the "Maintenance") its network, infrastructure, website(s), Services and/or equipment with prior notice if such Maintenance would cause a partial or full disruption of the Services. In addition, ISP reserves the right to perform emergency maintenance ("Emergency Maintenance") without prior notice to maintain the security and stability of the ISP services and network. Notice will be provided as soon as reasonably practicable following an Emergency Maintenance event.

**12. Limitation of Liability.** NEITHER THE ISP, NOR ITS AFFILIATES, VENDORS, SUPPLIERS, DISTRIBUTORS, CHANNEL AND OTHER MARKETING PARTNERS OR OTHER REPRESENTATIVES SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, REPLACEMENT COSTS, OR ANY LOSS OF REVENUE OR PROFITS, CONTENT, DATA, OR DATA USE, EVEN IF THE ISP HAS BEEN INFORMED IN ADVANCE OF SUCH DAMAGES OR SUCH DAMAGES COULD HAVE REASONABLY BEEN FORESEEN BY THE ISP. THE ISP'S AGGREGATE LIABILITY FOR ALL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT, OR OTHERWISE, SHALL IN NO EVENT EXCEED THE TOTAL AMOUNTS ACTUALLY PAID TO THE ISP UNDER THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO A CLAIM SUBJECT TO THIS SECTION. THE PARTIES ACKNOWLEDGE AND ACCEPT THE REASONABLENESS OF THE DISCLAIMERS AND LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION.

**13. Indemnification.** Customer agrees to defend, indemnify and hold harmless the ISP from and against any loss, damage or costs (including reasonable attorney's fees) incurred in connection with claims made or brought against the ISP by a third party arising from or relating to: (i) the gross negligence or willful misconduct of Customer; (ii) use of the

Services in a manner not authorized by this Agreement; (iii) any claim by any employee or invitee of Customer or user other than a claim based on the gross negligence or willful misconduct of the ISP; (iv) any claim by any customer of Customer, end user or other third party relating to, or arising from, Customer Data or Customer's use of the Services; or (v) violation of any applicable laws by Customer or any Customer employee, contractor or agent.

**14. EMERGENCY 911 SERVICES.** BY USING THE SERVICE AND/OR THE ISP'S EQUIPMENT, CUSTOMER ACKNOWLEDGES THE LIMITATIONS OF THE ISP'S E911 SERVICE AS DESCRIBED IN THE E911 DISCLOSURE, AS WELL AS THOSE SET FORTH IN THIS SECTION. CUSTOMER AGREES AND ACKNOWLEDGES THAT WHILE MOST ISP SERVICES OFFER ACCESS TO E911 SERVICE, OTHERS MAY NOT. CUSTOMER IS ADVISED TO THOROUGHLY READ AND UNDERSTAND THE E911 DISCLOSURE AND THE OPTIONS AVAILABLE. CUSTOMER ACKNOWLEDGES THAT IT HAS RECEIVED, READ, UNDERSTANDS AND AGREES TO THE TERMS AND CONDITIONS OF THE E911 DISCLOSURE, AND ASSUMES THE RISKS ASSOCIATED WITH ISP E911 SERVICE LIMITATIONS.

**15. Electronic Recording.** Customer acknowledges that there are federal and state laws governing the electronic recording of telephone conversations and/or internet activity and that the ISP is not liable for any illegal use of the Services. It is Customer's responsibility to determine and comply in full with its own compliance obligations. No Services or products offered by the ISP are represented or warranted to comply with electronic recording laws. Customer agrees that the ISP may, in its sole discretion, record any call between Customer and the ISP for quality control and training purposes.

**16. Right to Review Use of Services.** The ISP reserves the right to review Customer's use of the Service for purposes of confirming compliance with this Agreement.

**17. Warranties.** The ISP exercises no control whatsoever over the content of the information passing through the ISP computer and data systems. The ISP makes no warranties of any kind, whether expressed or implied, for the service it is providing. The ISP also disclaims any warranty of merchantability or fitness for a particular purpose. The ISP will not be responsible for any damage Customer suffers. This includes loss of data resulting from delays, non-deliveries, missed-deliveries, or service interruptions caused by its own negligence or your error or omissions. Use of any information obtained via our service is at your own risk. The ISP specifically denies any responsibility for the accuracy or quality of information obtained through its services.

Pursuant to the Electronic Communications Privacy Act of 1986 (18 U.S.C 2510 et seq.), notice is hereby given that there are NO facilities provided by the ISP for sending or receiving private or confidential electronic communications. The System Administrators of this system reserve the right to delete or cancel mail, news, or any other electronic communications if the need arises for its own or another user's protection.

**18. Amendments.** This Agreement constitutes the complete understanding of the ISP and Customer as to the service and specifically excludes all previous written or oral representations.

**19. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan. Customer irrevocably consents and submits to the personal jurisdiction of the state or federal courts in such State.