



VOIP SERVICE AGREEMENT – TERMS AND CONDITIONS

This VoIP Service Agreement – Terms and Conditions (“Agreement”) is made by and between IT Architek, LLC d/b/a IT Architek VoIP, a Texas Limited Liability Company, with its principal place of business located at 4645 Avon Lane, Suite 240, Frisco, Texas 75033 (“IT Architek”), and the Client found on the applicable Order or Service Description (sometimes referred to as “you,” or “your,”) and, together with the Order, Master Services Agreement, and other relevant Service Attachments or Descriptions, forms the Agreement between the parties the terms to which the parties agree to be bound.

RECITALS

- A. IT Architek is in the business of providing cloud-based, hosted Private Branch Exchange (“PBX”) that combines the benefits of both a uniquely customizable PBX system and an internet-based communication solution, and is generally referred to as Voice Over Internet Protocol (“VoIP”).
- B. Customer desire to purchase from IT Architek, and IT Architek desires to sell to Customer, VoIP Services in accordance with the terms and conditions set forth in this Agreement
- C. This Agreement governs the VoIP Services, as well as the lease of any and all equipment to Customer by IT Architek, including but not limited to IP phones, routers, hardware, equipment, technology, and any other IP connection equipment (“Equipment”) provided or leased to Customer by IT Architek, and all other services provided to Customer by IT Architek in conjunction with the VoIP Services (the “ VoIP Services”).

NOW, THEREFORE, in consideration of the terms, conditions, representations, and limitations set forth in this Agreement, the Parties hereby agree as follows:

1. **Description of Services.** IT Architek shall provide VoIP Services and Equipment, and Customer shall purchase and utilize the VoIP Services, and lease the Equipment per the terms and conditions of this Agreement. The Parties may, by mutual written agreement, add and incorporate additional Services by executing additional Attachment(s) and incorporating them herein.
2. **Equipment.**
 - 2.1. **Ownership of Equipment.** “Equipment” shall mean and refer to any and all equipment, hardware, devices, and software installed on the Equipment, including but not limited to the leasing of IP phones, routers, hardware, equipment, technology, and any other IP connection equipment provided or leased to Customer by IT Architek in conjunction with this Agreement for VoIP Services. This Agreement does not transfer any right, title, or interest in the Equipment to Customer. At all times, the Equipment shall remain the exclusive property of IT Architek, unless otherwise mutually agreed in writing between the Parties.

2.2. Return of Equipment. Unless otherwise agreed upon, Customer agrees that within thirty (30) days after the expiration of the Term of this Agreement or termination of this Agreement, Customer will promptly return all provided or leased Equipment to IT ArchiTeks. Customer will be solely responsible for (i) any damage to the Equipment as assessed by IT ArchiTeks, within its sole discretion, upon receipt, (ii) the replacement cost of such Equipment if it is lost, misplaced, not delivered or stolen during transit, and (iii) shipping/handling costs.

Customer agrees to pay the full retail cost for the repair or replacement of any Equipment or part that is lost, stolen, damaged, modified, sold, transferred, leased, encumbered or assigned together with any costs incurred by IT ArchiTeks in obtaining or attempting to obtain possession of any Equipment. Unless otherwise provided, Equipment not returned upon cancellation, expiration, or termination of the VoIP Services will be charged to the Customer.

2.3. No Warranty. Equipment may or may not be covered by respective factory warranties, if any, only. IT ArchiTeks does not offer any warranty in addition to, or in replacement of any factory warranties.

2.4. Tampering with Equipment. Customer may not change, modify, alter, or otherwise tamper with the electronic serial number or equipment identifier of any Equipment. Customer further agrees and acknowledges it shall not perform a factory reset of any Equipment without first obtaining IT ArchiTeks' prior written consent.

2.5. Buy-Out Option of Equipment. Customer agrees and acknowledges that it may, or may not, have the option to buy-out certain Equipment at the expiration of the Term of this Agreement, which will be afforded at IT ArchiTeks' sole and absolute discretion. In the event Customer elects, and IT ArchiTeks authorizes, the buy-out of any and all Equipment utilized by Customer during the Term of the VoIP Services, such buy-out of the Equipment will be expressly subject to a separate buy-out agreement and additional terms and conditions, all of which shall be subject to IT ArchiTeks' sole and absolute discretion.

3. Term. This Agreement is effective on the date specified on the Order (the "Service Start Date"). This agreement will remain in effect through the end of the term specified on the Order (the "Initial Term") and thereafter shall automatically renew for equivalent successive renewal Terms unless terminated by either Party pursuant to this Agreement. Notwithstanding the foregoing, either Party may terminate this Agreement, or any Services provided thereunder at any time during the Term, or any renewal thereof, by providing a thirty (30) day prior written notice of termination to the other Party. The term of each specific Service shall be set forth in the attached relevant Attachment(s) hereto but in any event it is understood and agreed that the terms of this Agreement shall at all times govern the provision of Services by IT ArchiTeks. In the event of early termination or cancellation, Customer shall remain fully liable to IT ArchiTeks for the Minimum Commitment for the remainder of the term of this Agreement, or any renewal term if applicable, as well as any charges due and owing to IT ArchiTeks, including but not limited to local loop charges, equipment lease, and other related charges to Customer utilizing the Services and/or Equipment provided by IT ArchiTeks.

4. Operational Matters. Where applicable, the Customer shall be responsible for connecting to IT ArchiTeks' VoIP network and the Customer shall be responsible for procuring, at its own expense, the necessary facilities and/or equipment required to interconnect to such locations. IT ArchiTeks will endeavor to provide the Services on the Service Date and the Customer shall be solely responsible for coordinating the provisioning of its respective matching facilities

and/or equipment (where applicable) by the Service Date. The Parties shall coordinate the management of their respective system facilities, with each Party being responsible for providing and operating, at its own expense, its respective network facilities.

THE SERVICE IS PROVIDED TO CUSTOMER "AS IS". THE PARTIES AGREE THAT NOTWITHSTANDING ANYTHING CONTAINED IN OR IMPLIED BY THIS AGREEMENT TO THE CONTRARY, NO WARRANTY, EXPRESS OR IMPLIED, IS MADE CONCERNING THE SERVICES OR IT ARCHITEKS' SYSTEMS, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANT-ABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IT ARCHITEKS DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SERVICES OR IN IT ARCHITEKS' SYSTEMS WILL MEET CUSTOMER'S REQUIREMENTS, OR WILL OPERATE IN THE MANNER DESIRED BY CUSTOMER, OR THAT THE SERVICES OR IT ARCHITEKS' SYSTEMS WILL BE ERROR FREE, OR FREE FROM UNAUTHORIZED INTRUSION.

CUSTOMER HEREBY WAIVES ANY CLAIM THAT THESE EXCLUSIONS AND DISCLAIMERS DEPRIVE IT OF AN ADEQUATE REMEDY OR CAUSE THIS AGREEMENT TO FAIL OF ITS ESSENTIAL PURPOSE.

- 5. Pricing, Billing, and Caps.** For the VoIP Services and Equipment provided pursuant to this Agreement, the fees and charges for VoIP Services and Equipment are supplied to Customer during the ordering process unless otherwise provided for in this Agreement. Customer agrees to pay any applicable one-time and recurring charges. Customer further agrees that any taxes and other charges, including but not limited to, account setup fees, equipment fees, adapter fees, device charges, shipping and handling, installation, and other nonrecurring charges will be charged to Customer.

In no event shall IT ArchiTeks be liable for fraudulent or illegal use of the Services by any customers or end-users of Customer, or for any amounts that Customer is unable to collect from its customers, end users or others. If Customer in good faith disputes any invoiced amount, it shall submit to IT ArchiTeks within thirty (30) days following receipt of such disputed invoice the written documentation identifying the disputed invoiced amounts. It should include IT ArchiTeks. -supplied Call Detail Records (CDR) for the disputed calls and the reason for the dispute. IT ArchiTeks shall investigate the disputed invoiced amounts and IT ArchiTeks, within its sole and absolute discretion, may issue a credit against future invoices. Failure to contest a charge within thirty days (30) days of the date of the invoice will create an irrefutable presumption of the correctness of the charge, absent manifest error, defined as a clerical error obvious to both parties. Any amounts due hereunder that are not paid when due shall accrue interest at the rate of the lesser of one and one-half percent (1.5%) per month or the maximum amount allowable by law, compounded daily, beginning with the day following the date on which payment was due, and continuing until paid in full. Further, IT ArchiTeks shall have the right to set off any amounts due hereunder which are not paid when due against any amounts owed to Customer by IT ArchiTeks or any of its affiliates pursuant to any other agreement or arrangement. IT ArchiTeks may make billing adjustments for IT ArchiTeks' Services for a period of ninety (90) calendar days after the date a Service is rendered, and for Third Party Services at any time within three (3) months of IT ArchiTeks' receipt of any invoice from the third party, or any other timeframe allowed by contract, law, or government rule or regulation, whichever is later. IT ArchiTeks may, at any time and from time to time, at its option establish such commercially reasonable usage limits for Customer as IT ArchiTeks. may in its reasonable discretion determine to be appropriate. IT ArchiTeks may also establish reasonable usage limits at any time if the Customer's financial condition cannot be verified or

Customer is not reasonably creditworthy. If Customer exceeds any reasonable usage limit established pursuant to this Agreement, IT ArchiTeks may immediately, and without incurring any liability, restrict, suspend, or discontinue providing the Services. All calculations of Customer's usage shall include both billed and unbilled charges as well as all amounts in dispute.

6. Acceptable Use Policy. By contracting for or using IT ArchiTeks' VoIP Services, in addition to any other agreements Customer may have entered into with IT ArchiTeks, Customer agrees to be bound by the terms of this Acceptable Use Policy ("AUP"). IT ArchiTeks reserves the right to modify this AUP at any time and in its sole discretion, with such modifications being effective once written notice is given. Any use of IT ArchiTeks' Services after such modification constitutes acceptance of the AUP as revised.

6.1. Termination/Suspension. Any Customer that IT ArchiTeks determines, in its sole discretion, to have violated any element of this AUP may be subject to suspension or termination of service, with or without notice. IT ArchiTeks has the right, but not the obligation, to take further action as it deems to be appropriate under the circumstances to eliminate or preclude repeated violations. IT ArchiTeks shall not be liable for any damages of any nature suffered by any Customer, or any third party, resulting in whole or in part from IT ArchiTeks' exercise of its rights under this AUP.

6.2. Prohibited Conduct. Customer agrees and acknowledges that IT ArchiTeks' Services and Equipment must be used for lawful purposes only, and in a manner consistent with the intended purpose of IT ArchiTeks' Services. Users shall not use IT ArchiTeks' Services to distribute, transmit, receive, use or store any type or kind of material: (1) in violation of any local, state, or federal laws and regulations; or (2) that may adversely affect IT ArchiTeks' Services or other Customers. Customers are further prohibited from facilitating the violation of any of this AUP and from violating or facilitating the violation of another provider's AUP, including distributing, transmitting, receiving, using, storing or otherwise providing any product or service that violates this AUP or another provider's AUP. Any time a Customer accesses another provider or network using IT ArchiTeks' Services, such Customer must comply with the provider or network's rule and policies. In addition, Customer agrees and acknowledges that it will not engage in the following, non-exclusive prohibited conduct:

- Customer shall not resell, re-brand, or commercially exploit in any form IT ArchiTeks' Services and Equipment in order to aggregate traffic from more than one customer, client, vendor, or third party, over an unlimited line;
- Customer shall not engage in any conduct which is fraudulent, illegal, harassing, and/or directly or indirectly results in significant network congestion or degradation;
- Customer shall not engage in any conduct involving auto-dialing, predictive-dialing, or robo-dialing;
- Customer shall not engage in continuous, repetitive or extensive call-forwarding methods;
- Customer shall not engage in harassing, threatening, or abusive calls, and/or unsolicited calls and activities;

- Customer shall not supply any false information to any users or third parties of the VoIP Services;
- Customer shall not engage in continuous or extensive conference call participation;
- Customer shall not engage in free conference calling or similar services that participate in traffic simulation practices or schemes that result in excessive charges;
- Customer shall not engage in calls that consist of uninterrupted recorded messages;
- Customer shall not participate in any call center/contact center environment;
- Customer shall not engage in continuous call session connectivity; and
- Customer shall not engage in fax broadcasting and/or blasting, telemarketing, or any other activity that would be inconsistent with reasonable business use patterns, causes network congestion, or jeopardizes the integrity of IT ArchiTeks' VoIP Services and Equipment.

CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD IT ARCHITEKS HARMLESS FROM ANY AND ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES (INCLUDING ATTORNEYS' FEES AND EXPENSES) RESULTING FROM OR ALLEGEDLY RESULTING FROM SUCH CUSTOMER'S USE OF ITS VOIP SERVICES AND EQUIPMENT, SPECIFICALLY INCLUDING CUSTOMER'S PROHIBITED AND/OR NON-PROHIBITED USE(S) OF IT ARCHITEKS' VOIP SERVICES AND EQUIPMENT.

7. **Net of Taxes.** All Services, pricing, and other charges due hereunder are exclusive of all applicable taxes, including value added tax, sales taxes, duties, levies and universal service fund fees imposed by any authority, government or government agency, the payment of which shall be the sole responsibility of Customer, and Customer agrees to indemnify and hold IT ArchiTeks harmless from any liability therefore.
8. **Termination.** In addition to any other rights at law or in equity, or those stated elsewhere in this Agreement, IT ArchiTeks may immediately suspend the delivery of Services and/or terminate this Agreement in the event that Customer (i) fails to make payment when due, or fails to make payment for other measured VoIP Services and/or Equipment when due; (ii) becomes insolvent or bankrupt or ceases paying its debts generally as they mature;. or (iii) commits a breach of any of the terms of this Agreement and fails to remedy such breach within three (3) days after receipt of notice thereof from IT ArchiTeks. In the event of any termination of this Agreement, Customer shall pay IT ArchiTeks for all VoIP Services and Equipment rendered through and including the date of termination, in addition to any other charges established by this Agreement. IT ArchiTeks reserves the right to back bill at any time for any possible access or reciprocal compensation fees should those arise. In the case of early termination of the fixed term pursuant to this other than a material breach solely attributable to IT ArchiTeks, Customer shall remain liable to IT ArchiTeks for monthly charges or minimum commitments for the remainder of the then-current Term, in addition to any other charges established by this Agreement, or in IT ArchiTeks' sole and reasonable discretion. Customer understands and agrees that any breach by Customer of its obligations under this Agreement

shall also be deemed a breach by Customer of its obligations under any other agreements it has entered into with IT ArchiTeks and/or its affiliates and understands and agrees that such breach shall authorize IT ArchiTeks and/or any of its affiliates to immediately suspend performance under, and/or terminate, said agreements with Customer for default if such breach(es) have not been cured within the time provided for in this Agreement.

9. Cancellation for Cause by IT ArchiTeks. IT ArchiTeks may discontinue the furnishing of any and/or all VoIP Services to Customer, without incurring any liability, immediately and without notice if IT ArchiTeks deems, in its sole discretion, that such action is necessary to prevent or to protect against use of automatic dialers, short duration calls, fax blasting, fraud, tricks, tampering, schemes, false or invalid numbers, false credit devices, electronic devices, or any other fraudulent means or devices or to otherwise protect its personnel, agents, facilities or services or to protect against actual or potential adverse financial effect. IT ArchiTeks may discontinue the furnishing of any and/or all Service(s) to Customer, without incurring any liability, immediately and without notice if Customer refuses to furnish information to IT ArchiTeks regarding the Customer's creditworthiness, its past or current use of IT ArchiTeks' Services, the jurisdictional nature or characteristics of the Services or its planned use of Services. IT ArchiTeks may discontinue the furnishing of any and/or all Services to Customer, without incurring any liability, immediately and without notice if Customer provides false information to IT ArchiTeks regarding the Customer's identity, address, creditworthiness, past or current use IT ArchiTeks' Services, jurisdictional nature or characteristics of the Services or its planned use of Service(s).

10. Emergency Services – 911 Dialing. Customer acknowledges and understands that IT ArchiTeks' VoIP Services and Equipment are wholly different than traditional 911 services. Customer acknowledges and understands that the IT ArchiTeks' VoIP Services and Equipment does not support 0+ or operator assisted calling, including, without limitation, collect calls, third party billing calls, 900, calling card calls or dial-around calls. IT ArchiTeks' VoIP Services and Equipment may not support 311, 511, and other x11 services in one or more service areas.

10.1. No 0+ or Operator Assisted Calling; May Not Support X11 Calling. Customer acknowledges and understands that IT ArchiTeks' VoIP Services and Equipment does not support 0+ or operator assisted calling, including, without limitation, collect calls, third party billing calls, 900, calling card calls or dial-around calls. IT ArchiTeks' VoIP Services and Equipment may not support 311, 511, and other x11 services in one or more service areas.

10.2. Required Registration of Address. Many, but not all, 911 systems now automatically report the telephone number and address of 911 calls made from wire line phones ("E911"). If E911 is available within your 911 system, it will work with IT ArchiTeks' VoIP Services and Equipment only if you register the physical address where you will be using IT ArchiTeks' VoIP Services and Equipment with that phone number. If you move the Equipment to another address, any call that you make using the E911 system may result in emergency service being sent to the registered address rather than the new address. It is your sole and complete responsibility to register the physical address where you will be using IT ArchiTeks' VoIP Services and Equipment.

10.3. Other Limitations. 911 services will not function if your equipment, or any other equipment through which a 911 call is processed, fails or is not configured correctly or if your IT ArchiTeks' VoIP Services and Equipment is not functioning for any reason,

including, but not limited to: a loss of electrical power or power outage, broadband service (internet service) outage, or suspension or disconnection of your IT ArchiTeks' VoIP Services and Equipment. If there is a loss of power or power outage, you may be required to reset or reconfigure your Equipment prior to being able to use your VoIP Services, including for 911 purposes. 911 calls may not connect to the PSAP, or may improperly ring to the administrative line of the PSAP, which may not be staffed after hours, or by trained 911 operators, or 911 call may correctly connect to the PSAP, but not automatically transmit the user's phone number and/or location information. There may be a greater possibility of 911 calls not going through, or taking longer to be answered, due to network congestion, as compared to traditional 911 dialing over traditional public telephone networks.

10.4. Disclaimer. IT ArchiTeks does not have any control over whether, or the manner in which, calls using its VoIP Services are answered or addressed by any local emergency response center. IT ArchiTeks disclaims all responsibility and liability for the conduct of local emergency response centers and the national emergency calling center. IT ArchiTeks relies upon the Customer's sole responsibility, as well as third parties to assist in routing 911 Dialing calls to local emergency response centers and to a national emergency calling center. IT ArchiTeks disclaims any and all liability or responsibility in the event such third party data used to route calls is incorrect or yields an erroneous result. IT ArchiTeks disclaims all liability for any VoIP Service outage and/or inability to dial 911 using IT ArchiTeks' VoIP Services and Equipment, or to access emergency service personnel due to the 911 dialing characteristics and limitations set forth in this Agreement.

10.5. INDEMNIFICATION. CUSTOMER ACKNOWLEDGES AND AGREES THAT NEITHER IT ARCHITEKS, ITS UNDERLYING CARRIER(S), NOR ANY OTHER THIRD PARTIES INVOLVED IN THE ROUTING, HANDLING, DELIVERY OR ANSWERING OF EMERGENCY SERVICES OR IN RESPONDING TO EMERGENCY CALLS NOR THEIR OFFICERS OR EMPLOYEES, MAY BE HELD LIABLE FOR ANY CLAIM, DAMAGE, LOSS, FINE, PENALTY OR COST (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES) AND YOU HEREBY WAIVE ANY AND ALL SUCH CLAIMS OR CAUSES OF ACTION, ARISING FROM OR RELATING TO THE PROVISION OF ALL TYPES OF EMERGENCY SERVICES TO CUSTOMER. CUSTOMER FURTHER AGREES AND ACKNOWLEDGES THAT CUSTOMER IS INDEMNIFYING AND HOLDING HARMLESS IT ARCHITEKS FROM ANY CLAIM OR ACTION FOR ANY CALLER PLACING SUCH A CALL WITHOUT REGARD TO WHETHER THE CALLER IS CUSTOMER, OR ANY EMPLOYEE, CUSTOMER, OR AGENT OF CUSTOMER. CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT ANY INJURY ARISING OUT OF A LACK OF OR MISROUTING OF 911 CALLS, REGARDLESS OF WHETHER THE CALL FAILED OR WAS ROUTED BY A PUBLIC SAFETY ANSWERING POINT OR AN OFFICIAL EMERGENCY OPERATOR, IS NEITHER THE FAULT NOR LIABILITY OF IT ARCHITEKS AND CUSTOMER HOLDS IT ARCHITEKS AND ITS SUBSIDIARIES AND AFFILIATES, AS WELL AS ITS RESPECTIVE OFFICERS, DIRECTORS, MANAGERS, EMPLOYEES AND AGENTS HARMLESS FROM ANY DAMAGES OR LIABILITIES. THESE LIMITATIONS APPLY TO ALL CLAIMS REGARDLESS OF WHETHER THEY ARE BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, PRODUCT LIABILITY, TORT AND ANY OTHER THEORIES OF LIABILITY.

10.6. Incompatibility with Other Services. Customer acknowledges and understands that

IT ArchiTeks' VoIP Services and Equipment is not compatible with all non-voice communications equipment, including but not limited to, some home and office security systems that are set up to make automatic phone calls, emergency phones in elevators, some aspects of satellite TV systems, digital entertainment systems, fax machines, modems and medical monitoring devices. By accepting this Agreement, Customer waives any claim you may have against IT ArchiTeks for interference with or disruption of such systems due to IT ArchiTeks' VoIP Services and Equipment.

There may also be other services with which IT ArchiTeks' VoIP Services and Equipment may be incompatible. Some providers of broadband service may provide modems that prevent the transmission of communications using IT ArchiTeks' VoIP Services and Equipment. IT ArchiTeks does not warrant that IT ArchiTeks' VoIP Services and Equipment will be compatible with all broadband services and expressly disclaim any express or implied warranties regarding the compatibility of the VoIP Services and Equipment with any particular broadband service.

10.7. Use Outside of the United States. As previously noted, there are limitations with IT ArchiTeks' VoIP Services and Equipment access to 911. IT ArchiTeks' VoIP Services and Equipment does not provide access to emergency services in any country outside of the United States. IT ArchiTeks' VoIP Services and Equipment disclaims any obligation to provide you with access to emergency services in any jurisdiction.

11. Limitation of Warranties. IT ArchiTeks makes no express or implied warranty regarding the VoIP Services or Equipment, made the basis of this Agreement, or the installation of same and disclaims any implied warranty, including any warranties of merchantability and/or fitness for a particular purpose. IT ArchiTeks does not warrant that the VoIP Services or Equipment will function without failure, delay, interruption, error, degradation of voice quality or loss of content, data or information. IT ArchiTeks does not authorize anyone, including but not limited to its employees, agents or representatives, to make a warranty of any kind on its behalf and you should not rely on any such statement. Customer agrees that it accepts the VoIP Services and Equipment "as is" and that Customer is not entitled to replacement or refund in the event of any defect. The provisions of this section shall be applied to the fullest extent of the law, but if any portion of this section is determined to be unlawful, then this section shall be construed to limit liability against IT ArchiTeks to the fullest extent possible under the law. We will not give you credit for any interruption of VoIP Services, including international calling services.

12. Limitation of Liability. IN NO EVENT SHALL IT ARCHITEKS BE LIABLE TO YOU, YOUR REPRESENTATIVES OR AUTHORIZED ASSIGNS OR ANYONE ELSE FOR ANY INCIDENTAL, DIRECT, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, OR FOR ANY DAMAGES FOR LOSS OF DATA, LOSS OF REVENUE OR PROFITS, RELATING TO OR ARISING OUT OF THE VOIP SERVICES OR EQUIPMENT, THE USE OF OR INABILITY TO USE THE VOIP SERVICES, THE ABSENCE, DELAY, FAILURE OR OUTAGE OF THE VOIP SERVICES, THE INABILITY TO DIAL 911 OR E911 TO ACCESS EMERGENCY SERVICE PERSONNEL, THE INABILITY TO DIAL SECURITY, LAW ENFORCEMENT OR FIRE PREVENTION/ PROTECTION SERVICES OR SYSTEMS, THE DEVICE, THE USE OF AND/OR INABILITY TO USE THE EQUIPMENT, THE INSTALLATION OF THE EQUIPMENT, AND/OR THIS AGREEMENT. NOR SHALL IT ARCHITEKS BE LIABLE FOR ANY DELAY OR FAILURE TO PROVIDE THE VOIP SERVICES, INCLUDING 911 DIALING, AT ANY TIME OR FROM TIME TO TIME, OR FOR ANY INTERRUPTION OR DEGRADATION OF VOICE QUALITY CAUSED BY ANY

REASON INCLUDING BUT NOT LIMITED TO THE FOLLOWING: AN ACT OR OMISSION OF AN UNDERLYING CARRIER, SERVICE PROVIDER, VENDOR OR THIRD PARTY, EQUIPMENT, NETWORK OR FACILITY FAILURE, EQUIPMENT, NETWORK OR FACILITY UPGRADE, SERVICE, MAINTENANCE, MODIFICATION, SHORTAGE, OR RELOCATION, FORCE MAJEURE EVENTS SUCH AS BUT NOT LIMITED TO ACTS OF GOD, ADVERSE WEATHER, STRIKES, FIRE, WAR, RIOT, GOVERNMENT ACTIONS OR TERRORISM, SERVICE, DEVICE, EQUIPMENT, NETWORK OR FACILITY FAILURE CAUSED BY THE LOSS OF POWER OR INTERNET SERVICE TO IT ARCHITEKS OR CUSTOMER, AND ANY CAUSE THAT IS BEYOND ARCHITEKS' CONTROL, INCLUDING WITHOUT LIMITATION THE FAILURE OF AN INCOMING OR OUTGOING COMMUNICATION, THE INABILITY OF COMMUNICATIONS TO BE CONNECTED OR COMPLETED, INCLUDING 911 DIALING, OR DEGRADATION OF VOICE QUALITY. IT ARCHITKES SHALL NOT BE LIABLE FOR UNAUTHORIZED ACCESS TO IT ARCHITEKS' OR CUSTOMER'S 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 IT ARCHITEKS' NEGLIGENCE OR OTHER ACTS OR OMISSIONS. IT ARCHITEKS' LIABILITY FOR ANY ACT OR OMISSION SHALL IN NO EVENT EXCEED THE SERVICE CHARGES WITH RESPECT TO THE AFFECTED TIME PERIOD. THE LIMITATIONS SET FORTH HEREIN APPLY TO ALL 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 IT ARCHITEKS WAS INFORMED OF THE LIKELIHOOD OF ANY PARTICULAR TYPE OF DAMAGE. FURTHER, YOU AGREE TO REIMBURSE IT ARCHITEKS FOR ALL COSTS AND EXPENSES RELATED TO THE DEFENSE OF ANY SUCH CLAIMS, INCLUDING ATTORNEYS' FEES AND LITIGATION COSTS. THE PROVISIONS OF THIS SECTION SHALL BE APPLIED TO THE FULLEST EXTENT OF THE LAW, BUT IF ANY PORTION OF THIS SECTION IS DETERMINED TO BE UNLAWFUL, THEN THIS SECTION SHALL BE CONSTRUED TO LIMIT LIABILITY AGAINST IT ARCHITEKS TO THE FULLEST EXTENT POSSIBLE UNDER THE LAW.

13. INDEMNIFICATION AND WAIVER OF CLAIMS. CUSTOMER IS LIABLE FOR ANY AND ALL USE OF THE VOIP SERVICES AND EQUIPMENT BY CUSTOMER AND BY ANY PERSON MAKING USE OF THE VOIP SERVICES OR EQUIPMENT, AND CUSTOMER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS IT ARCHITEKS AGAINST ANY AND ALL LIABILITY FOR ANY SUCH USE THAT FAILS TO COMPLY WITH THIS AGREEMENT. CUSTOMER FURTHER AGREE TO DEFEND, INDEMNIFY AND HOLD HARMLESS IT ARCHITEKS FROM ANY AND ALL CLAIMS AND/OR LIABILITY FOR DAMAGES, PERSONAL INJURY, DEATH, FINES, PENALTIES, COSTS, EXPENSES, LOSSES, LOST PROFIT, LOST REVENUE, PROPERTY DAMAGE, ATTORNEYS' FEES, AND ANY AND ALL OTHER DAMAGES OF WHATEVER KIND AND NATURE RELATING TO OR ARISING OUT OF THE VOIP SERVICES, THE USE OF OR INABILITY TO USE THE VOIP SERVICES, THE ABSENCE, FAILURE OR OUTAGE OF THE VOIP SERVICES, THE INABILITY TO DIAL 911 OR E911 TO ACCESS EMERGENCY SERVICE PERSONNEL, THE INABILITY TO DIAL SECURITY, LAW ENFORCEMENT OR FIRE PREVENTION/ PROTECTION SERVICES OR SYSTEMS, THE EQUIPMENT, THE USE OF AND/OR INABILITY TO USE THE EQUIPMENT, THE INSTALLATION OF THE EQUIPMENT, AND/OR THIS AGREEMENT UNLESS THE CLAIMS OR CAUSES OF ACTION ARISE FROM OUR GROSS NEGLIGENCE, RECKLESSNESS, OR WILLFUL

MISCONDUCT. THIS SECTION SHALL SURVIVE THE AGREEMENT.

- 14. Attorneys' Fees and Costs.** Each party agrees to pay such party's own attorneys' fees and costs associated herein; however, if litigation is brought to construe or enforce this Agreement, the prevailing party shall be entitled, in addition to any other remedy available at law, to recover its reasonable attorneys' fees, court costs, and expenses.
- 15. Warranty of Capacity.** Each signatory warrants and represents that such person has authority to bind the party or parties for whom such person signs and the claims, suits, rights, and/or interests that are the subject matter hereto are owned by the party asserting same, and have not been assigned, transferred or sold, and are free of any encumbrance.
- 16. Representation of Comprehension of Documents.** The Parties to this Agreement expressly warrant and represent that before executing this Agreement, they have received independent legal advice from attorneys of their choice with respect to the advisability of making this Agreement or had the opportunity to do so and independently without duress decided not to seek such advice, that they have fully informed themselves of the Agreement's terms, contents, conditions, and effect, and that they voluntarily agree to the Agreement's terms. The Parties further agree that this instrument is executed as their voluntary act and deed.
- 17. Counterparts / Duplicate Originals.** This Agreement may be executed in one or more counterparts. Facsimile signatures on this Agreement shall have the same force and effect as original signatures. A copy of this Agreement is as effective as an original.
- 18. Entire Agreement.** The Parties agree that this Agreement contains the entire agreement between the Parties and supersedes any and all prior agreements, arrangements or understandings between the Parties relating to the subject matter hereof, the Agreement. No oral understandings, statements or promises contrary to the terms of this Agreement exist. This Agreement may be amended only by written instrument signed by the Parties.
- 19. Construction of the Agreement.** The terms of this Agreement are contractual in nature and not merely recitals, and the agreements expressed herein, and the consideration specified are to delineate investment terms, conditions, and provisions. Each party and counsel for each party has reviewed and revised this Agreement. Thus, the rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.
- 20. Waiver and Severability.** The Parties agree that a waiver of any term or condition of this Agreement will not be deemed to be, and may not be construed as, a waiver or any other term or condition hereof. The Parties agree that if any provision of this Agreement is adjudicated to be unenforceable or invalid for any reason, that part will be severed from the Agreement but that the validity and enforceability of the remainder of this Agreement shall in no way be affected or impaired.
- 21. Choice of Law.** This Agreement and any claim or dispute arising out of or related to this Agreement or the transactions contemplated hereby, whether in contract, tort or otherwise, shall be governed by and construed in accordance with the laws of the State of Texas, without giving effect to its conflicts of law principles and venue shall lie exclusively in Collin County, Texas.

