

All Points Broadband  
Residential Service Terms and Conditions Agreement  
FTTH Customers in Virginia  
(Version Date 2022.6.3)

This Residential Service Terms and Conditions Agreement (this “Service Agreement”), consisting of these terms and conditions and all other documents referenced herein, is entered into by and between the Affiliate of Virginia Everywhere, LLC (d/b/a All Points Broadband) set forth on Schedule A attached hereto (“We,” “Us,” “Our,” or “Provider”) and you, the individual or entity that has subscribed for Service from Provider (“You,” “Your” or “Customer”), and sets forth the terms and conditions under which We will provide the services Customer has elected to receive (collectively, the “Service”). This Service Agreement is effective as of the date that You confirm Your order for the Service with Provider. This Service Agreement governs residential customers only and is not applicable for business customers. As used in this Service Agreement, “Affiliate” means an entity that controls, is controlled by or is under common control with Provider.

By using the Service, You agree to be bound by the terms of this Service Agreement and all documents incorporated by reference herein, including without limitation Our Privacy Policy (defined below) and “Open Internet Statement” (as maintained on Our website) and any terms and conditions that will govern a new service offering to which You subscribe (“Additional Terms”), as each may be amended from time to time. If there is a conflict between this Service Agreement and any Additional Terms, the Additional Terms shall govern.

PLEASE READ THIS SERVICE AGREEMENT CAREFULLY TO ENSURE THAT YOU UNDERSTAND EACH PROVISION. **THIS SERVICE AGREEMENT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTION LAWSUITS, AND ALSO LIMITS THE REMEDIES AVAILABLE TO YOU IN THE EVENT OF A DISPUTE. IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS, DO NOT USE THE SERVICE.**

We may update and amend this Service Agreement, the Privacy Policy, the Open Internet Statement, any Additional Terms and other documents incorporated by reference in this Service Agreement at any time and from time to time. Provider will communicate any such updates or amendments to You in accordance with Section 18(h). You may obtain, at no charge, a copy of the current Service Agreement or any of the documents incorporated by reference herein by visiting Our website or by contacting Us.

## 1. GENERAL OVERVIEW

This Service Agreement governs the following components of Our Service and You may customize Your residential Service based on Your needs:

- Internet access service – connectivity to the Internet as described on Our website and as selected by You when subscribing for Service.
- Voice Over Internet Protocol (“VOIP”) telephone service – uses Our Internet access service to allow the customer to make and receive telephone calls over the internet as described on Our website. If You have subscribed for VOIP Service, You should carefully read Section 19 at the end of this Service Agreement, which includes certain terms and conditions of, and limitations with respect to, Your VOIP service.

- Online account management – Customer will be provided with access to an online portal (the “Customer Portal”) for account management.
- Managed router service – By using Our internet gateway (e.g., wireless router), We will be able to remotely configure, manage, update and troubleshoot Your wireless router and network connection, allowing Us to solve many of the problems that may impact the Service without having to send a technician to Your premises.

## 2. MAINTENANCE OF THE PROVIDER NETWORK

(a) Provider and its Affiliates will provide, maintain and repair the Provider-owned facilities and equipment used to provide the Service (the “Provider Network”), up to and including the point at which the Provider Network is made available for interconnection to the Provider Service Equipment (as defined below). Customer shall provide Provider, its Affiliates and/or their contractors reasonable access to Customer’s premises during normal business hours for the purpose of installing, inspecting, testing, rearranging, repairing or removing any Provider Network components, including obtaining approvals, permits or licenses from third parties as necessary. Customer will cooperate in good faith and provide all reasonable information and authorizations required by Provider, its Affiliates and/or their contractors for the purpose of installing the Provider Network Equipment (as defined below), performing routine network grooming, maintenance, upgrades, and addressing emergencies, including but not limited to design layout records of any Customer or third party network elements to be connected to the Provider Network.

(b) Only authorized agents and representatives of Provider and/or its Affiliates may perform maintenance work with respect to the Provider Network. Any repair, alteration, configuration or servicing of the Provider Network, the Service or the Provider Equipment (as defined below) by Customer or third parties without the written consent of Provider is a material breach of this Service Agreement and cause for termination at Provider’s option.

(c) Customer will provide (i) suitable building facilities (including but not limited to space, circuitry, power, backup power, and surge protectors) for the installation, operation, and maintenance of the Provider Network in accordance with the applicable manufacturers’ documentation and Provider’s installation standards and (ii) a well-lighted and safe working area that complies with all local safety standards and regulations.

(d) Provider, directly or through its Affiliates, will manage the Provider Network in Provider’s sole discretion, and reserves the right to substitute, change or rearrange any equipment or facilities used in delivering the Service or provisioning the Provider Equipment. Provider will endeavor to provide reasonable notice prior to any scheduled maintenance, planned enhancements or upgrades, which may result in a temporary degradation or disruption in the Service. Provider reserves the right to suspend the Service for emergency maintenance to the Provider Network without notice to Customer.

## 3. INSTALLATION OF THE SERVICE

(a) You agree to allow Provider, its Affiliates and their contractors to access Your premises in order to install the equipment necessary to make the Provider Network available at Your premises (the “Provider Network Equipment”), which includes, but is not limited to, fiber optic cable and an Optical Network Terminal (“ONT”). We may need to affix Provider Network Equipment on the inside or outside of Your premises, which may include the need to drill holes or utilize existing wiring or conduits. If You do not own the Premises, You represent that You have acquired any necessary permission from the property owner to allow installation of Provider Network Equipment and will hold Provider, its Affiliates and their contractors harmless from any legal action taken by the property owner. If Provider determines that separate

permission from the property owner is necessary, We may condition installation on receiving such additional permission.

(b) Title to the Provider Network Equipment will at all times remain with Provider, its successors or assigns. You acknowledge and agree that You will be responsible for any damage to the Provider Network Equipment.

(c) You agree to grant Provider, its Affiliates and/or their contractors the right to trim, cut, or remove any trees, brush, or other obstruction on Your premises which interfere with Provider's ability to install the Provider Network Equipment. **You acknowledge and agree that You (i) are responsible for marking and communicating any private utilities to Provider, its Affiliates and/or their contractors prior to installation and (ii) will indemnify and hold harmless Provider, its Affiliates and/or their contractors for any liability incurred as a result of Your failure to so mark and/or communicate such private utilities.**

(d) Our standard installation method will be an aerial installation of the Provider Network from a nearby utility pole to Your premises. However, circumstances may arise that require Us to bury the necessary fiber optic cable to Your premises (an "Underground Installation"). If We are unable to perform a required Underground Installation at the scheduled installation appointment, including because You have not marked the underground private utilities on Your premises, Provider, its Affiliates and/or their contractors will install the Provider Network to Your premises and will temporarily leave the necessary fiber optic cable unburied on Your property until such time as the Underground Installation can be completed. You will be able to use the Service while the fiber optic cable is temporarily on Your property. If You do not wish to have the fiber optic cable temporarily on Your property, You are responsible for communicating Your preference with the technician performing Your installation and the technician will install the Provider Network on Your premises and then disconnect the necessary fiber optic cable and remove the fiber optic cable from Your property. You will not be able to use the Service until such time as the Underground Installation can be completed.

(e) Once the Provider Network has been made available to Your premises, Provider, its Affiliates and/or their contractors will install the equipment necessary to make the Service available to Customer (the "Provider Service Equipment", and, together with the Provider Network Equipment, the "Provider Equipment"), including, but not limited to, one or more wireless internet routers (or similar network gateway devices).

#### **4. EQUIPMENT AND REQUIREMENTS FOR PROVISION OF THE SERVICE**

(a) Customer Equipment. To use the Service, You must have a personal computer or other Internet-capable device. Although We are under no obligation to do so, We may, and You authorize Us to, perform any updates and/or changes to Your equipment, on-site or remotely, from time to time as We deem necessary, in Our sole discretion. We do not provide technical assistance for third-party hardware or software. You will direct any questions concerning third-party hardware or software to the manufacturer. Except as set forth below with respect to Provider Service Equipment, We have no responsibility for the operation or support, maintenance or repair of any equipment, software or services that You elect to use in connection with the Service. **As set forth below and in the Device Attachment Rules in the Open Internet Statement, You are not permitted to connect any harmful equipment to the Provider Equipment. You understand that failure to comply with this restriction may cause damage to the Provider Network and subject You to liability for damages and/or other liability. You agree to not alter, modify or tamper with the Provider Equipment or the Service, or permit, encourage or solicit any other person to do the same, unless such person has been authorized to do so by Us.**

(b) Provider Service Equipment. You acknowledge that at the time of installation of the Service, the Provider Service Equipment that You approved when confirming Your order for Service (as identified in Our records) was installed. You further acknowledge that the Provider Service Equipment may, at Provider's sole discretion, be refurbished or otherwise used equipment. You agree that the Provider Service Equipment was installed at a location and in a manner authorized by You. The Provider Service Equipment is and shall remain the property of Provider. At such time as You or Provider terminate the Service, You will return the Provider Service Equipment to Us within 15 calendar days, and in accordance with Provider's then-current return procedures, which will be published on Our website. In the event that You have not returned the Provider Service Equipment within 15 calendar days as set forth in the previous sentence, or in the event that the Provider Equipment is damaged or otherwise inoperable, You will pay each applicable "Equipment Non-Return Fee," at Our then-current rates as published on Our website.

(c) Access to Your Premises. You hereby grant Provider and its Affiliates, and their respective employees, contractors and agents, the right to enter Your property and premises at any time for the purpose of operating or maintaining the Provider Equipment or the Provider Network, retrieving Provider Equipment or fulfilling Provider's obligations or exercising its rights under this Service Agreement. Provider shall provide You with reasonable advance notice of any such planned access, except when, in the reasonable opinion of Provider, an emergency or other exigent circumstance exists that would require Provider to immediately enter Your property and premises.

(d) Customer's Obligation to Maintain Power to Provider Equipment. You understand and agree that: (i) You must provide electrical power and a continuous connection to the power grid to certain Provider Equipment at all times (including, without limitation, when You are not using the Service) and (ii) Your failure to provide such power and continuous connection may result in damage to the Provider Equipment or to Your computer, equipment, property or premises, for which damage You will be solely responsible.

(e) Replacement and Repair of Provider Equipment.

(i) You will be solely liable for, and Provider shall have no obligation to repair, replace or otherwise upgrade, any Provider Equipment that has been, in Provider's sole discretion, damaged or otherwise requires repair, replacement or upgrade as a result of damage or disruption caused by misuse or neglect or otherwise caused by You, including, without limitation, damage or disruption caused by Your failure to comply with Section 4(d) herein or by Your failure to comply with the last sentence of Section 4(a) herein.

(ii) Beginning on the date of installation of the Service and for a one-year period thereafter, Provider provides a limited warranty against any defect in materials or workmanship in the Provider Equipment that is warranted by the manufacturer of such Provider Equipment. During this one-year period, in the event there is a problem with the Provider Equipment, that is, as determined by Provider in its sole discretion, not a result of action or inaction on the part of You, that cannot be corrected either over the telephone or onsite, Provider will, as its sole obligation and Your sole remedy for such problem, repair or replace such Provider Equipment at Provider's expense. This warranty expressly excludes defects in the Provider Equipment caused by acts of nature (such as, but not limited to, lightning damage), damage from misuse or neglect, water damage, damage caused by Your failure to comply with Section 4(d) herein or damage or other disruption caused by Your failure to comply with the last sentence of Section 4(a) herein. After such one-year period, You will be solely liable for any and all damage to any Provider Equipment.

## 5. CUSTOMER'S REPRESENTATIONS, WARRANTIES AND RESPONSIBILITIES

(a) If Customer is an individual, Customer represents and warrants that he or she is at least 18 years of age and has legal authority to approve this Service Agreement. If Customer is a business entity, the individual approving this Service Agreement represents and warrants he or she has legal authority to approve this Service Agreement on behalf of Customer and that Customer has taken all necessary action to approve this Service Agreement and Customer's subscription for Service from Provider.

(b) You agree that the Service is personal to You and agree not to assign, transfer, resell or sublicense Your rights or obligations under this Service Agreement unless specifically permitted by the terms of this Service Agreement. You agree that the Service and the Provider Service Equipment shall be used only by You, members of Your immediate household living with You at the same address and your respective guests, and You will not redistribute or share the Service with any others or transmit the Service over a wireless or other network that is not secured. You acknowledge that You are approving this Service Agreement on behalf of all persons who use the Service by means of the Provider Service Equipment. You agree that You are solely responsible and liable for any and all breaches of the terms and conditions of this Service Agreement and any other documents incorporated by reference in this Service Agreement, whether such breach results from Your use of the Service or by another using Your equipment or the Provider Service Equipment.

(c) You represent and warrant that You will not use the Service in a manner that (i) infringes or violates the intellectual property rights or proprietary rights, rights of publicity or privacy, or other rights of any third party; (ii) violates any local, state or federal statute, ordinance or regulation; (iii) is harmful, fraudulent, deceptive, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, or otherwise objectionable; (iv) impersonates any person or entity, including without limitation any employee or representative of Provider or its Affiliates; or (v) transmits any virus, trojan horse, worm, time bomb, or other harmful computer code, file, or program. Provider reserves the right to suspend Your access the Service at any time upon receipt of claims or allegations from third parties or authorities or if Provider is concerned that You may have breached this Service Agreement. You (and not Provider, its Affiliates or any third party providing services to Provider or its Affiliates that allow Provider to provide the Service (each, an "Operational Service Provider")) remain solely responsible for Your use of the Service and any material transmitted through the Service, and You warrant that You possess all rights necessary to transmit such material.

(d) You represent and warrant that the personal identifiable information ("Personal Information") You provided and will provide to Provider during the term of this Service Agreement, including without limitation Your legal name, email address for communications with Provider (such email address, as the same may be modified from time to time by Customer upon notice to Provider, the "Account Email Address"), Service address, billing address, telephone number(s), and payment data (including without limitation information provided when authorizing Automated Clearing House payments or other recurring payments) and non-Personal Information (all such information, collectively, the "Customer Information") for purpose of this Service Agreement is accurate, complete and current. (In the Privacy Policy (defined below), non-Personal Information may also be classified as Personal Information if it is directly associated with, or reasonably linked to, Your account, computer or device.) You agree to promptly notify Provider, in accordance with the terms of this Service Agreement, upon the occurrence of any change in the status of Your account (including, without limitation, the creation or removal of an Authorized User (as defined below)) or if there is any change in the Customer Information. Your failure to provide and maintain accurate Customer Information with Provider constitutes a breach of this Service Agreement.

(e) You agree that You are responsible for anyone using the Provider Service Equipment, Your computer system and/or other equipment, password, name or Customer name in connection with the Service (with or without Your knowledge or consent) and for ensuring that anyone who uses the Service through the Provider Service Equipment, Your equipment or access to the Service, does so in accordance with the terms and conditions of this Service Agreement. You agree to take all reasonable measures necessary to ensure that the Service is not used by another person without Your consent. You understand, acknowledge and agree that You are responsible for all use of the Service and Your account whether You or someone else uses Your account (with or without Your permission).

(f) You are responsible for procuring and installing patches, any and all anti-virus and firewall software/hardware and operating system patches, updates or supplements that may be necessary for (i) the protection and maximum functionality of Your computer and related equipment and the Provider Equipment and (ii) the protection of the Provider Network and other customers. For purposes of clarification, Provider and its Affiliates hereby disclaim any and all responsibility and liability for any damages that may arise from Your failure to procure or install the aforementioned security or other software and/or hardware and You agree that Provider and its Affiliates shall have no liability for Your failure to do the same.

(g) You represent that there are no legal, contractual or similar restrictions on the installation of the Provider Equipment in the location(s) and in the manner authorized by You. You are responsible for ensuring compliance with all regulations, applicable building codes, zoning ordinances, homeowners' association rules, covenants, conditions or other restrictions related to the installation of the Provider Equipment and Service, for paying any fees or other charges and obtaining any permits or authorizations necessary for the installation of the Provider Equipment and/or provision of the Service (collectively, "Legal Requirements"). You are solely responsible for any fines or similar charges for violation of any applicable Legal Requirements.

(h) You are responsible for backing up the data on Your computer(s) and network(s) and Provider shall have no liability whatsoever for any loss of data.

(i) You agree to comply with the following terms and conditions for the use of Service:

(i) Service is provided for use in conformance with this Service Agreement. Provider reserves the right to investigate suspected violations of the Service Agreement. When Provider becomes aware of possible violations, Provider may initiate investigation which may include gathering information from Customer and/or any other customers involved and the complaining party, if any, and examination of Customer Material on Provider's servers. "Customer Material" collectively includes, but is not limited to, any software, computer programs, applications, data, photographs, video and/or audio content, text, files, and other information, including emails, address book and web storage content.

(ii) During an investigation, Provider may suspend the account or accounts involved and/or remove Customer Material involved from its servers. If Provider believes a violation of this Service Agreement has occurred, it may take responsive action at its sole discretion. Such action may include, but is not limited to, temporary or permanent removal of Customer Material from Provider's servers, warnings to Customer and/or any other customers responsible, and the suspension or termination of the account or accounts responsible. Provider, at its sole discretion, will determine what action will be taken in response to a violation on a case-by-case basis. Violations of this Service Agreement could also subject the Customer to criminal or civil liability.

(j) You agree to comply with the following terms for the use of Customer Material:

(i) Lawful content in the public domain (e.g., images, video, audio, text, data, and programs) may be downloaded or uploaded using the Service. Customer may re-distribute content in the public domain. Customer assumes all risks regarding the determination of whether content is in the public domain.

(ii) Customer is prohibited from storing, distributing, or transmitting any unlawful content through the Service. Examples of unlawful content include but are not limited to direct threats of physical harm, child pornography, and copyrighted, trademarked and other proprietary material used without proper authorization. Customer may not post, upload, or otherwise distribute copyrighted content without the consent of the copyright holder. The storage, distribution, or transmission of unlawful content could subject Customer to criminal as well as civil liability, in addition to the actions outlined in Section 5(i) above.

(iii) Customer represents that when Customer transmits, uploads, posts, or submits any Customer Material using the Service, Customer has, and will have, the legal right to do so and that Customer's use of such Customer Material does not, and will not, violate any copyright or trademark laws or any other third party rights.

(iv) Customer agrees that if Customer's Service is terminated for any reason, Provider has the right to immediately delete all Customer Material stored in or for Customer's account without further notice to Customer.

## 6. **THE SERVICE AND PRIVACY**

(a) Provider has established a Privacy Policy ("Privacy Policy"), which governs Provider's collection, use, disclosure, management and security related to Customer's Personal Information. Customer agrees that Customer received a copy of the then-in-effect Privacy Policy at the time Customer approved this Service Agreement. Subject to Section 18(g) herein, Provider may update or amend the Privacy Policy at any time without Customer's prior consent. Provider will, however, provide notice of any such changes or amendments as stated in Our Privacy Policy. You understand, acknowledge and agree that Your continued use of the Service after notice of any changes or amendments have been provided will indicate Your acceptance of such changes, except where further steps are required by applicable law. All such updates or amendments shall be deemed to be incorporated by reference into this Service Agreement. Provider will maintain a copy of the then-current Privacy Policy on Provider's website and will provide Customer with a copy of then-current Privacy Policy upon request.

(b) Provider has no obligation to monitor content transmitted by use of, or other information related in any way to the provision or receipt of, the Service. However, Customer agrees that Provider has the right to monitor the Service and any and all information or Customer Material transmitted through the Service or by use of the Provider Equipment and information available to Provider regarding Customer's computer and other equipment in accordance with this Service Agreement. Provider has the right at all times and without notice to remove, restrict access to or make unavailable any information or content residing on Provider's, its Affiliates' or their Operational Service Providers' servers. Provider has the right to monitor, review, retain or disclose any content or other information in Provider's possession about or related to Customer (including, without limitation, Customer Information), Customer's use of the Service, or otherwise, as necessary to satisfy any applicable law, or otherwise as Provider deems necessary or appropriate in Provider's sole discretion.

(c) Provider may require that Customer use a username and password combination or other reasonable procedures to confirm Customer's identity when requesting or otherwise accessing account information, making changes to the Service or performing other functions related to the Service through Provider's authorized Customer service channels. Customer may also choose to designate one or more authorized users of Customer's account (each, an "Authorized User"), who will be permitted to access Customer's account information and make certain changes to Customer's account. Customer will be solely liable for any and all action or inaction by any Authorized User.

## 7. SYSTEM SECURITY

(a) Customer is solely responsible for maintaining the security of Customer's computer(s)/device(s) and data and protection of Customer's User ID, password, Personal Information and other data. Provider strongly recommends the use and appropriate updating of commercial anti-virus, anti-spyware, firewall software, and encryption of data, to the extent feasible.

(b) Customer is prohibited from utilizing the Service to compromise the security of, or otherwise tamper with, Provider's system resources or accounts on any of Provider's computers, routers, switches, servers, modems, or any other equipment owned and/or operated by Provider at any site. Use or distribution of tools designed for compromising security is prohibited. Examples of such tools include but are not limited to password guessing programs, cracking tools, and network probing tools. Any attempt to access any of Provider's assets, other than as expressly permitted by this Service Agreement and as necessary for Customer to utilize the Service, is strictly prohibited.

(c) Provider reserves the right to release the login name(s) (or other identifying information) of customers, including Customer, involved in violating system security to system administrators at other sites in order to assist them in resolving security incidents. Provider will also fully cooperate with law enforcement authorities in investigating suspected lawbreakers, subject to Provider's Privacy Policy and applicable law.

## 8. ACCEPTABLE USAGE AND PROHIBITED INTERNET SERVICE ACTIVITIES

(a) Customer agrees that Customer shall only use the Service for Acceptable Uses of Internet Services. Customer further agrees that Customer shall not use the Service for Prohibited Internet Services Activities.

(b) "Acceptable Uses of Internet Service" is hereby defined as the normal and lawful activities associated with the use of the Internet, including but not limited to usage of Provider's systems and network facilities for accessing the World Wide Web.

(c) "Prohibited Internet Service Activities" is hereby defined as activities that are specifically prohibited by Provider, including, but not limited to, the following:

(i) Background and/or server-type applications or processes – Such applications and processes include, but are not limited to, IRC bots, HTTP servers, MUDs, and any similar processes, unless We specifically agree to such application or process.

(ii) Attempts to compromise system and/or network security – Programs such as packet sniffers, password crack programs, and similar utilities found to be running from Customer's account are prohibited. This also includes attempts to hack into non-Provider systems.



(iii) Sharing of accounts – Sharing Customer’s Service with another party for purposes of avoiding payment for a second service is strictly prohibited. Customer may connect multiple computers/devices within a single location to Customer’s modem, router, and/or radio to access the Service, but only through a single Provider-issued IP address.

(iv) Email abuse – Email abuse typically comes in one of three forms, the transfer of a message to unsolicited individuals, the sending of harassing and/or threatening messages to other users, and the forging of email addresses so as to make the email appear to be from another user.

(v) Other abusive behavior – Similar to email abuse, includes forging of addresses, harassment/threats, the posting of the same message to multiple newsgroups (spamming), as well as the posting of information in groups where it is not relevant and unwanted.

## 9. PENALTIES FOR VIOLATIONS OF SERVICE AGREEMENT

(a) If Customer engages in any Prohibited Internet Service Activities as defined in Section 8 herein, Customer’s account will be subject to immediate termination and Customer may be subject to any and all criminal and civil penalties available under the law. Provider reserves the right to modify and/or disable Service at any time the Customer violates this Service Agreement.

(b) Provider will not reimburse Customer when Service has been suspended or disabled due to violations of this Service Agreement.

(c) If Service is disconnected for non-payment, We are not obligated to re-connect Your Service. However, if You desire re-connection, and We agree to do so, You agree to pay the then-applicable re-installment fee plus any amount past due.

## 10. SOFTWARE LICENSES AND THIRD PARTY SERVICES

(a) Provider, directly or through its Affiliates, may provide Customer, or otherwise allow Customer to access, software for use in connection with the Service which is owned by Provider or its third party licensors, third party suppliers, and Operational Service Providers (“Software”). Such Software may be subject to an additional fee. Provider reserves the right periodically to update, upgrade, or change the Software remotely or otherwise and to make related changes to the settings and software on Customer’s computer(s)/device(s) or other equipment, and Customer agrees to permit such changes and access to Customer’s computer(s)/device(s) and other equipment. Customer may use the Software only in connection with the Service and for no other purpose.

(b) Certain Software may be accompanied by an end user license agreement (“EULA”) from Provider or a third party. Provider’s use of the Software is governed by the terms of that EULA and by this Service Agreement, where applicable. Customer may not install or use any Software that is accompanied by or includes a EULA unless Customer first agrees to the terms of the applicable EULA.

(c) For Software not accompanied by a EULA, Customer is hereby granted a revocable, non-exclusive, non-transferable license by Provider or its applicable third party licensor(s) or Operational Service Provider(s) to use the Software (and any corrections, updates and upgrades thereto). Customer may not make any copies of the Software. Customer agrees that the Software is confidential information of Provider or its third party licensor(s)/Operational Service Provider(s) and that Customer will not disclose or use the Software except as expressly permitted herein. The Software contains copyrighted material, trade secrets, patents, and proprietary information owned by Provider or its third party licensor(s)/Operational Service Provider(s). Customer may not de-compile, reverse engineer, disassemble,

attempt to discover any source code or underlying ideas or algorithms of the Software, otherwise reduce the Software to a human readable form, modify, rent, lease, loan, use for timesharing or service bureau purposes, reproduce, sublicense or distribute copies of the Software, or otherwise transfer the Software to any third party. Customer may not remove or alter any trademark, trade name, copyright or other proprietary notices, legends, symbols, or labels appearing on or in copies of the Software. Customer is not granted any title or rights of ownership in the Software. Customer acknowledges that this license is not a sale of intellectual property and that Provider or its third party licensor(s)/Operational Service Provider(s) continue to own all right, title and interest, including but not limited to all copyright, patent, trademark, trade secret, and moral rights, to the Software and related documentation, as well as any corrections, updates and upgrades to it. The Software may be used in the United States only, and any export of the Software is strictly prohibited.

## 11. YOUR PAYMENT OBLIGATIONS

Failure to fulfill any payment obligations in a timely manner as provided herein will be considered to be a violation of this Service Agreement.

(a) Initial Payment. When You sign up for the Service, You will be required to make an initial payment (the “Initial Payment”) to confirm Your order for Service, which will include, at a minimum, an estimated payment of the “Installation Fee” for Provider to install the Service at Your premises and such other amounts as are included in Your order for Service and maintained in Our records. The amount of the Initial Payment, including an itemized list of the elements included in such Initial Payment, will be provided to You prior to confirming Your order for the Service and will be reflected in Our records. You agree that the Initial Payment is to be paid in consideration of Provider’s making the Service available on the terms and conditions set forth in this Service Agreement, that Provider has earned the Initial Payment in full and that the Initial Payment is not refundable. The entire Initial Payment must be received by Provider before Provider will install the Provider Network and/or the Service at Your premises.

(b) Recurring Monthly Charges. You agree to pay the applicable monthly service fees, including any equipment rental fees, for the Service and any Provider Service Equipment (collectively, the “Monthly Fees”), in advance, on or before the first day of Your Monthly Billing Cycle. Your first “Monthly Billing Cycle” will begin on the date Your Service starts, which will be the date on which We have completed the installation of Your Service and confirmed that the Service is functional at Your premises, and each subsequent Monthly Billing Cycle will begin on the same day of the month for each subsequent month. Your aggregate Monthly Fees will be provided to You before You confirm Your order for Service and will be maintained in Our records thereafter. For each Monthly Billing Cycle with respect to which You do not pay on time (including without limitation if Your Monthly Fees are not received by Provider on or before the first day of the Monthly Billing Cycle), You agree to pay the “Billing Administrative Fee” as established by Provider from time to time. You and Provider specifically agree that the Billing Administrative Fee is not a late fee, but rather is intended to compensate Provider for its additional expense incurred in processing irregular payments, and may be changed at any time without notice to You.

(c) Provider shall not be obligated to provide the Service during Monthly Billing Cycles for which You have not paid the applicable Monthly Fees in advance. If at any time Your account has past due amounts or upon Your violation of this Service Agreement (including any documents incorporated by reference herein), Provider may, in Provider’s sole and absolute discretion, suspend provision of the Service to You and/or terminate this Service Agreement. Amounts are past due if not paid before the first calendar day of Your Monthly Billing Cycle. You understand, acknowledge and agree that Provider is not required to provide notice before suspending the Service and/or terminating this Service Agreement, and Provider will not be liable to You or any Authorized User for any such suspension or termination or any damages that may result therefrom. In the event that Your Service is suspended or terminated, We reserve the right

to charge Our then-current fees relating to such suspension or termination, which may include a reactivation fee should You decide to resume Your Service, as published on Our website.

(d) When You confirm Your order for Service, You will be required to confirm the initial term for Your Service, which will be a period of one year from the date on which Your Service begins, unless a different period is selected (the “Initial Contract Term”). Upon expiration of the Initial Contract Term, unless You provide written notice to Us, You agree to pay the applicable Monthly Fees on a month-to-month basis under Provider’s terms and conditions then in effect. In the event You terminate the Service prior to the expiration of the Initial Contract Term, You will pay Provider an “Early Termination Fee” in an amount equal to (a) the number of months remaining in the Initial Contract Term, times (b) the Monthly Fees payable as of the time of termination. Such Early Termination Fee shall be due and payable immediately upon termination of the Service.

(e) Adjustments to the Installation Fee. In connection with Your order for Service, You will be charged an Installation Fee based on the standard installation costs for Our Service. If Provider determines, in its sole discretion, that installing Service to Your service location requires more than what is included in our standard installation, Provider, its Affiliates and/or their contractors will notify You of the additional costs associated with such installation and request Your acceptance of such installation costs as a condition to proceeding (“Long Drop”). A Long Drop will most commonly be required in circumstances where there is a longer-than-normal distance between Your premises and the nearest utility pole and/or where We are required to bury the fiber to Your premises; however, other circumstances may necessitate a Long Drop. Upon notification that Long Drop is required, You will have ten (10) business days to notify Provider of Your acceptance. If You do not agree to the Long Drop within ten (10) business days, You shall be deemed to have cancelled the Service without further liability. If You agree to the Long Drop, You and Provider will execute such documentation as Provider, in its reasonable discretion, determines is necessary to authorize such Long Drop.

(f) Adjustments to the Monthly Fees.

(i) Customer Adjustments. You may upgrade Your Service or add additional Provider Service Equipment at any time by using the Customer Portal or by contacting Customer Support as set forth in Section 18(h) below. Following Your Initial Contract Term You may downgrade Your Service or return certain Provider Service Equipment at any time by using the Customer Portal or by contacting Customer Support as set forth in Section 18(h) below. You will be required to approve the adjustment to Your Monthly Fees in connection with any change to Your Service level or to Your Provider Service Equipment, which changes (and the associated Monthly Fee adjustment) will be reflected in Our records.

(ii) Provider Adjustments. During Your Initial Contract Term, Provider will not increase the Monthly Fees for Your Service or Provider Service Equipment or reduce Your Service level without Your consent; provided, however, Provider reserves the right to increase Your Monthly Fees as necessary to reflect increases in fees or taxes payable by Provider or its Affiliates with respect to Your Service or Provider Service Equipment. Following Your Initial Contract Term, the Monthly Fees for Your Service and Provider Service Equipment may be adjusted from time to time to reflect Provider’s then-current retail rate for the applicable Service level and Provider Service Equipment as set forth above. You will be notified of any adjustment(s) to Your Monthly Fees, which adjustment(s) will be reflected in Our records.

(g) You also agree to pay all applicable federal, state, and local taxes and fees, including, but not limited to, those imposed after the date of acceptance of this Service Agreement and Your order for Service.

(h) Credit Cards; Direct Debit/Electronic Funds Transfer. Subject to acceptance by Provider, You may opt to authorize Provider (or its Affiliate) to charge all amounts payable by You to Provider via Your credit card, direct debit, or electronic funds transfer. By choosing any of these options, You authorize Provider (or its Affiliate) to continue charging, debiting or transferring amounts due for all Monthly Fees (including, without limitation, monthly Service fees and Provider Service Equipment charges, as well as applicable taxes and fees), and any other charges incurred by You which are payable to Provider pursuant to this Service Agreement, until You withdraw consent. You agree to inform Provider immediately of any change in Your credit card (including without limitation, a change in expiration date), direct debit, electronic funds transfer or bank account information. 10 day period for changing payment: You may add a new payment method or revoke a previously authorized payment method at any time; provided, however, that any revocation of an existing authorized payment method shall not take effect until ten (10) business days after notice is provided to Us of such revocation, during which time We may continue to charge such payment method. Use of any credit card to pay for the Service is governed by the applicable card issuer agreement. If We do not receive payment from Your credit card issuer, You agree to pay all amounts due upon demand. If You pay by check You authorize Us to collect Your check electronically. You agree that You may not amend or modify this Service Agreement with any restrictive endorsements (such as “paid in full”), or other statements or releases on or accompanying checks or other payments accepted by Us and any such notations shall have no legal effect.

(i) Electronic Invoices. All invoices will be delivered to Customer through the Customer Portal. Provider will notify Customer by email and/or text message (using Customer’s information on file with Provider) that an invoice has been prepared and is available in the Customer Portal.

## 12. DISCLAIMER OF WARRANTIES

(a) YOU EXPRESSLY AGREE THAT YOU USE THE SERVICE AND THE PROVIDER EQUIPMENT AT YOUR SOLE RISK. THE SERVICE AND PROVIDER EQUIPMENT ARE PROVIDED ON AN “AS-IS” AND “AS AVAILABLE” BASIS AND EXCEPT TO THE LIMITED EXTENT SPECIFICALLY SET FORTH IN SECTION 4 HEREIN, IF APPLICABLE, WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF TITLE, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, OR MERCHANTABILITY. NEITHER PROVIDER NOR ITS AFFILIATES, AGENTS, OPERATIONAL SERVICE PROVIDERS, THIRD PARTY SUPPLIERS OR SOFTWARE LICENSORS WARRANTS: (I) TO UNINTERRUPTED, TIMELY OR SECURE USE OF SERVICE; (II) THAT THE SERVICE WILL MEET CUSTOMER’S REQUIREMENTS; (III) THAT THE SERVICE WILL BE ERROR-FREE OR FREE OF ANY VIRUSES, WORMS, SPAM, POP-UP ADVERTISING, SPYWARE, ADWARE OR OTHER HARMFUL COMPONENTS, EVEN IF COUNTERMEASURES HAVE BEEN DEPLOYED; OR (IV) THAT ANY PERSONAL INFORMATION, NON PERSONAL INFORMATION, DATA OR FILES CUSTOMER SENDS OR RECEIVES VIA THE SERVICE WILL BE TRANSMITTED IN UNCORRUPTED FORM, WITHIN A REASONABLE TIME, OR FREE FROM UNAUTHORIZED ACCESS BY OTHERS OR THAT OTHER USERS WILL BE UNABLE TO GAIN ACCESS TO CUSTOMER’S COMPUTER, DEVICE OR OTHER EQUIPMENT. THIS INCLUDES, BUT IS NOT LIMITED TO, INCIDENTS OF FILE SHARING, PRINT SHARING OR USE OF OTHER MEANS THAT ENABLE INTERNET USERS TO GAIN ACCESS TO YOUR COMPUTER, DEVICE, OTHER EQUIPMENT OR TO THE PROVIDER NETWORK OR PROVIDER EQUIPMENT, OR TO MONITOR YOUR ACTIVITY AND CONDUCT WHILE USING THE SERVICE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY CUSTOMER FROM PROVIDER SHALL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN. SOME STATES DO NOT

ALLOW LIMITATIONS ON THE SCOPE OF A LIMITATION OF WARRANTY OR HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

(b) In addition Provider may, in its sole discretion, make available to You security software, such as anti-virus software, firewall software, “pop-up” advertising blocking software, parental control software, anti-spyware or anti-adware software for Your use on Your computer system(s) in conjunction with the Service. Any such security software provided by Provider to You is intended to provide only a minimal level of protection to Your computer system(s). YOU UNDERSTAND, ACKNOWLEDGE AND AGREE THAT PROVIDER AND ITS AFFILIATES, AGENTS, THIRD-PARTY SUPPLIERS AND LICENSORS OF ANY SUCH SECURITY SOFTWARE, DO NOT GUARANTEE ITS ACCURACY, EFFICACY OR PERFORMANCE. YOU UNDERSTAND AND AGREE THAT PROVIDER AND ITS AFFILIATES, AGENTS, THIRD PARTY SUPPLIERS AND LICENSORS ARE NOT RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM(S) (OR THE INFORMATION STORED THEREIN) THAT MAY RESULT FROM USE OF THE SECURITY SOFTWARE OR FROM ITS NON-PERFORMANCE.

(c) EXCEPT AS SPECIFICALLY SET FORTH IN THIS SERVICE AGREEMENT, YOU UNDERSTAND AND AGREE THAT NEITHER PROVIDER NOR ITS AFFILIATES, AGENTS, OPERATIONAL SERVICE PROVIDERS OR THIRD PARTY SUPPLIERS GUARANTEE THAT ANY PARTICULAR AMOUNT OF BANDWIDTH ON THE PROVIDER NETWORK OR THAT ANY SPEED OR THROUGHPUT OF YOUR CONNECTION TO THE PROVIDER NETWORK WILL BE AVAILABLE TO YOU. You understand, acknowledge and agree that the availability and speed of the Service provided at Your premises may vary depending upon a number of factors, including Your computer system(s), associated equipment and other devices accessing the Service, Internet traffic, and other factors such as system capacity limitations, governmental actions, events beyond Provider’s control and system failures, modifications, upgrades and repairs.

(d) You understand, acknowledge and agree that Provider may in the future offer other customers on the Provider Network service with specific minimum service standards (including, without limitation, minimum standards for speed, bandwidth, latency or availability) (such minimum service standards that may be offered in the future, the “Future Enhanced Service”). You further understand, acknowledge and agree that Provider shall be under no obligation to provide any Future Enhanced Service to You unless and until Provider and You have entered into a new agreement with respect to such Future Enhanced Service, which agreement may include, without limitation, such increased or modified monthly fees and additional terms and conditions as Provider and You may agree.

(e) You understand, acknowledge and agree that Provider may use various tools and techniques in order to efficiently manage the Provider Network and to ensure compliance with Provider’s Open Internet Statement and Section 8 above (such tools and techniques, “Network Management Tools”). These may include detecting malicious traffic patterns and preventing the distribution of viruses or other malicious code or managing network resources through techniques such as limiting the number of simultaneous peer-to-peer sessions that You may conduct, limiting the aggregate bandwidth available for certain usage protocols such as peer-to-peer and newsgroups, and such other Network Management Tools as Provider may from time to time determine appropriate. You also understand, acknowledge and agree that Provider may update and test any element of the Service and/or the Provider Network on a regular basis. You understand that by using the Service, You agree to be included in any such testing without notice.

(f) You understand, acknowledge and agree that, to allocate bandwidth across all of its Customers, Provider may employ traffic-management technology, including but not limited to packet-reset technology, which technology may materially slow the uploading of certain files.

(g) You understand, acknowledge and agree that Provider does not warrant that Service descriptions, information, graphic depictions, fees, product and or other components of the Service are accurate, reliable, updated, current, complete or error-free. Despite Our efforts, it is possible that a price for the Service (or a component of Our Service) offered on Our website, or the Service description may be inaccurate in some part. In the event We determine that a Service contains an inaccurate price or description, We reserve the right to take any action We deem reasonable and necessary, in Our sole discretion, to rectify the error, including without limitation, canceling Your order, unless prohibited by law. We may make improvements or changes to any of Our information, or Services described on Our websites at any time without notice. You agree to notify Us immediately if You become aware of any pricing or descriptive errors or inconsistencies with any Services You order and to comply with any corrective action that We may take.

(h) THIS SERVICE AGREEMENT GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE.

### 13. **LIMITATION OF LIABILITY**

(a) **LIMITATION OF STATUTE OF LIMITATIONS.** YOU MUST BRING ANY CLAIM OR LAWSUIT WITHIN ONE (1) YEAR AFTER THE DATE ON WHICH THE CLAIM OR SUIT ARISES.

(b) TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, IN NO EVENT SHALL PROVIDER OR ITS AFFILIATES, AGENTS, OPERATIONAL SERVICE PROVIDERS, THIRD PARTY LICENSORS OR THIRD PARTY SUPPLIERS, OR EACH OF THEIR RESPECTIVE OFFICERS, DIRECTORS, MANAGERS, EMPLOYEES, REPRESENTATIVES, OR AGENTS, AND ANY OF THEIR SUCCESSORS AND ASSIGNS BE LIABLE WITH RESPECT TO THE SERVICE OR THE SUBJECT MATTER OF THIS SERVICE AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE LIMITATIONS AND EXCLUSIONS HEREIN MAY NOT APPLY TO YOU. IF ANY PART OF THIS LIMITATION ON LIABILITY IS FOUND TO BE INVALID OR UNENFORCEABLE FOR ANY REASON, THEN THE AGGREGATE LIABILITY OF PROVIDER UNDER SUCH CIRCUMSTANCES FOR LIABILITIES THAT OTHERWISE WOULD HAVE BEEN LIMITED SHALL NOT EXCEED ONE HUNDRED DOLLARS (\$100.00 US).

(c) ADDITIONALLY, PROVIDER WILL HAVE NO LIABILITY FOR THE FOLLOWING:

(i) FOR ANY AMOUNT IN THE IN EXCESS OF ONE HUNDRED DOLLARS (\$100.00 US);

(ii) FOR ANY THIRD-PARTY FEES OR CHARGES, INCLUDING BUT NOT LIMITED TO, BANKING FEES, OVERDRAFT FEES, MOBILE PHONE OR OTHER WIRE LINE CHARGES, TECHNICIAN CHARGES, OR OTHER SIMILAR CHARGES;

(iii) FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER;

(iv) FOR DATA LOSS OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES;

(v) ANY LACK OR BREACH OF SECURITY CUSTOMER OR ANY OTHER PARTY MAY EXPERIENCE OR BE EXPOSED TO WHILE USING THE SERVICE;

(vi) FOR ANY MATTER BEYOND PROVIDER'S REASONABLE CONTROL;

(vii) FOR ANY INTERFERENCE OR INCOMPATIBILITY WITH OR DISRUPTION OF ANY NON-VOICE SYSTEMS, WHETHER CAUSED BY THE TELEPHONY SERVICE, INTERNET SERVICE, EQUIPMENT, OR OTHERWISE; OR

(viii) CUSTOMER'S USE OF THE SERVICE FOR OR IN CONNECTION WITH ANY HIGH-RISK OR UNLAWFUL USES, OR ANY USE THAT VIOLATES THIS SERVICE AGREEMENT.

(d) You understand, acknowledge and agree that Provider may block traffic to or from any source, including, without limitation, the deletion of any electronic mail, as it deems necessary to secure its network or eliminate spam. You agree that Provider shall be entitled to damages if You transmit or are otherwise connected with the transmission of spam. You agree that Provider is entitled to actual damages, however, if actual damages cannot be reasonably calculated, You agree to pay Provider liquidated damages of five dollars for each piece of spam transmitted from or otherwise connected with Your account.

(e) You understand, acknowledge and agree that when using the Service to access the Internet or any other online network or service, there are certain risks that may enable other Internet users to gain access to or use of Your computer(s) or other equipment. You are responsible for putting in place, and should put in place, all appropriate security measures when using the Service. You are responsible for any misuse of the Service that occurs through Your account, whether by a member of Your household or an authorized or unauthorized third party.

(f) This Section 13, Limitation of Liability, will survive termination or expiration of this Service Agreement, whether terminated by the Customer or the Provider, for any reason.

#### 14. **AGREEMENT TO ARBITRATE**

(a) YOU AND PROVIDER AGREE TO ARBITRATE ALL DISPUTES AND CLAIMS BETWEEN YOU AND PROVIDER. The agreement between You and Provider to arbitrate all disputes and claims between them is intended to be broadly interpreted. It includes, but is not limited to: claims arising out of or relating to any aspect of the relationship between You and Provider, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory, claims that arose before this Service Agreement or any prior agreement (including, but not limited to, claims relating to advertising), claims that are currently the subject of purported class action litigation in which You are not a member of a certified class and claims that may arise after the termination of this Service Agreement. For the purposes of this Section 14, references to "You" include Your subsidiaries, affiliates, agents, employees, predecessors in interest, successors, and assigns, as well as all Authorized Users or unauthorized users or beneficiaries of the Service. **YOU AGREE THAT, BY ENTERING INTO THIS SERVICE AGREEMENT, YOU AND PROVIDER ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION.** This Service Agreement evidences a transaction in interstate commerce, and thus the Federal Arbitration Act governs the interpretation and enforcement of this provision. This arbitration provision shall survive termination of this Service Agreement.

(b) A party who intends to seek arbitration must first send to the other, by certified mail, a written notice ("Arbitration Notice") using the notice details included in Section 18(h), as the same may be updated from time to time. The Arbitration Notice must (i) describe the nature and basis of the claim or

dispute and (ii) set forth the specific relief sought. If You and Provider do not reach an agreement to resolve the claim within 60 calendar days after the Arbitration Notice is received, You or Provider may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by Provider or You shall not be disclosed to the arbitrator until after the arbitrator determines the amount, if any, to which You or Provider is entitled.

(c) The arbitration shall be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, “AAA Rules”) of the American Arbitration Association (the “AAA”), as modified by this Service Agreement, and shall be administered by the AAA. The AAA Rules are available online at [www.adr.org](http://www.adr.org), by calling the AAA at 1-800-778-7879 or by written request to Provider. The arbitrator shall be bound by the terms of this Service Agreement. All issues are for the arbitrator to decide, except that issues relating to the scope and enforceability of the arbitration provision are reserved to the decision of a court of competent jurisdiction. Unless You and Provider agree otherwise, any arbitration hearings shall take place in the City of Richmond, Virginia. The right to a hearing shall be determined by the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator shall issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based. The party initiating arbitration proceedings shall bear all the arbitration-related costs and expenses of both parties including, without limitation, legal fees and expenses.

(d) The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party’s individual claim. YOU AND PROVIDER AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both You and Provider agree otherwise, the arbitrator may not consolidate more than one person’s claims, and may not otherwise preside over any form of a representative or class proceeding.

(e) Notwithstanding any provision in this Service Agreement to the contrary, You and Provider agree that if Provider makes any future change to this arbitration provision (other than a change to the address to which an Arbitration Notice is to be sent), You may reject any such change by sending Provider written notice within 30 days of the change. By rejecting any future change, You agree that You will arbitrate any dispute between You and Provider in accordance with the language of this provision.

## 15. INDEMNIFICATION

You agree to indemnify, defend and hold harmless Provider, its Affiliates, Operational Service Providers, agents, third party licensors and suppliers and their respective members, officers, directors, managers, employees, agents, representatives and contractors, and each of their successors and assigns (collectively, the “Provider Indemnitees”) from and against all losses, expenses, damages and costs, (including reasonable attorneys’ fees) and other claims brought against any Provider Indemnitee(s) related to Your use of the Service or any violation of this Service Agreement and all other documents incorporated herein by reference) including, but not limited to, claims that Your use of the Service infringed on the patent, copyright, trademark or other intellectual property right of any third party, Your violation of any law or the rights of another and claims resulting from Your negligence. You agree to pay any attorneys’ fees incurred by Provider and/or any other Provider Indemnitee in connection with the defense of any such third-party claims. We reserve the right to assume the defense and control of any matter subject to indemnification by You, in which event You will cooperate with Us in asserting any available defenses.



## 16. TERMINATION OF THE SERVICE

(a) IF YOU CANCEL THE SERVICE OR ANY ASPECT THEREOF FOR ANY REASON, PROVIDER SHALL NOT BE REQUIRED TO REFUND YOU ANY PORTION OF THE MONTHLY FEES PAID BY YOU FOR THE MONTH IN WHICH CANCELLATION OCCURS, UNLESS REQUIRED OTHERWISE BY STATE LAW.

(b) You may terminate the Service at any time by following Provider's then-in-effect cancellation procedures, or by calling Provider at Provider's Customer Support telephone number as set forth on Provider's website; provided, however, that Provider may take reasonable steps to verify Your identity and authority before effecting such termination, which steps may include, without limitation, requiring Your written confirmation of such termination before the same shall be effective; and provided further, that any termination request received later than the tenth calendar day before the first day of the Your Monthly Billing Cycle shall not be effective until the end of Your next full Monthly Billing Cycle. Upon termination, You agree to pay any account balance and any applicable Early Termination Fee, and to return any Provider Service Equipment or pay the Equipment Non-Return Fee as set forth in Section 4(b) herein.

(c) The Service and all Service features are subject to availability on an ongoing basis. You understand that Provider may cease to offer the Service or any Service feature at any time, for any reason or no reason, and without notice to You. Without limiting the generality of the foregoing, Provider may suspend, disconnect or terminate the Service at any time without prior notice if Provider believes in its sole discretion that You have (i) failed to pay Your bill when due or (ii) threatened or harassed any Provider employee, agent or contractor.

(d) If the Service to You is disconnected for any reason or Service is suspended in accordance with this Service Agreement, Provider may charge You (i) for Service during the period of disconnection or suspension in accordance with applicable federal and state law and (ii) reasonable disconnection and reconnection fees.

(e) In the event that Your account is suspended, disconnected or terminated, no refund, including of fees paid by You to Provider, shall be granted. Moreover, Provider shall not be responsible for the return of data stored on Provider's servers. You agree that Provider has no obligation to visit Your home upon termination to reconfigure Your computer(s) or other equipment or for any other reason.

(f) Sections 3 through 8, and 11 through 19 herein shall survive any termination or expiration of this Service Agreement.

## 17. ACKNOWLEDGMENTS AND CONSENTS REGARDING RECORDING OF COMMUNICATIONS, USE OF AUTOMATED DIALING SYSTEMS AND METHOD OF CONTACTING YOU

(a) Recording of Communications. You acknowledge and agree that all communications between You and Provider and its Affiliates may be recorded or monitored by Provider and its Affiliates for quality assurance or other purposes, subject to applicable law.

(b) Consent to Phone Calls and Texts.

(i) General. You consent to receiving calls and texts from Provider, its Affiliates and/or their agents or vendors at the phone number You provide to Provider or its Affiliates verbally or via Our website, email or text (or the phone number that Provider issues to You in connection with voice service,

if applicable), as part of our established business relationship, and regardless of whether the phone number is on the federal Do-Not-Call Registry (or state equivalent(s)), for any purpose, including sales, promotions, customer care and/or collections, placed by any means, including autodialed or prerecorded voice calls, and text messages. Consent is not a condition to purchase any goods or services. You may withdraw this authorization by contacting Us as set forth in Section 18(h) herein. Please note that We are permitted to send service-related text messages to customers such as service notifications, bill reminders, or outage and repair information without Your express authorization. You acknowledge that You are responsible for charges for incoming text messages on Your wireless phone(s). By providing a mobile phone number, You confirm that You are the current owner/subscriber of the mobile phone number provided or that the current owner/subscriber of this mobile phone number authorized You to provide this number (collectively, “Current Owner”) to Provider or its Affiliates. You understand that by providing this mobile phone number, the Current Owner consents to being contacted by Provider, its Affiliates and/or their agents and vendors at the mobile number provided. You agree to notify Us immediately if there is any change in the information that You have provided to Us, including without limitation any change in Your telephone number or mobile telephone number. Failure to do so is a breach of this Service Agreement.

(ii) SMS Marketing Texts. In addition to the communications set forth above, Provider and its Affiliates may from time to time send You text message communications containing marketing and promotional materials about Our products and services. We will provide You the option of opting out of receiving future marketing text communications.

(c) Consent to Contact by Email. You consent to Provider and its Affiliates emailing You, at any email address that You provide to Provider, for any purpose, including the marketing of Our current and future services. If Your wireless or mobile provider charges You for receipt of such messages, You acknowledge and agree that You are responsible for paying such charges. You may revoke this authorization insofar as it relates to marketing messages at any time by calling or writing Customer Support, as set forth in Section 18(h). By signing up for electronic billing statements, You agree that Provider may communicate with You at the email address utilized for receipt of such electronic billing statements.

(d) Consent to Electronic Notice. You agree that unless otherwise specified, all notices required or contemplated hereunder will be provided by Provider by such means as Provider shall determine in its discretion. Without limiting the foregoing, You agree that Provider may provide any notices required or contemplated hereunder or by applicable law, including notice of changes to any of the following: 1) this Service Agreement; 2) Our Privacy Policy; or 3) Our rates and services, by electronic means (including email or online posting). An online version of this Service Agreement and Our Privacy Policy, as so changed from time to time, will be accessible at [www.allpointsbroadband.com](http://www.allpointsbroadband.com) or another online location designated by Provider, or can be obtained by calling Customer Support, as set forth in Section 18(h).

(e) Consent to Use of Automated Dialing System. Provider (or persons acting on Provider’s behalf) may use automated dialing systems or artificial or recorded voices to contact You or leave You messages if the call goes to voicemail. Provider (or persons acting on Provider’s behalf) may use automated dialing systems to call and/or text You regarding service outages impacting Your area, confirm service appointments, conduct customer satisfaction surveys or to remind You to pay overdue invoices, as well as other service-related matters.

**YOUR RIGHT TO WITHDRAW CONSENT TO USE OF AUTOMATED DIALING SYSTEM: IF YOU DO NOT WISH TO RECEIVE CALLS, MESSAGES OR TEXTS FROM PROVIDER VIA AUTOMATED DIALING SYSTEMS OR PRERECORDED MESSAGES ON YOUR CELLULAR PHONE, YOU MAY CONTACT US BY PHONE, MAIL OR OUR WEBSITE THROUGH THE CONTACT INFORMATION SET FORTH IN SECTION 18(H) BELOW TO OPT OUT OF SUCH AUTOMATIC CALLS. YOU AGREE TO ALLOW PROVIDER THIRTY (30) DAYS TO HONOR**

YOUR REQUEST, AND FURTHER AGREE THAT PROVIDER WILL NOT BE LIABLE FOR ANY CALLS OR TEXTS TO YOU IN THE INTERIM.

(f) Other Consents. Provider or its Affiliates may ask You to provide consents or authorizations through electronic means, such as email, Our website or through Your equipment, and any consent or authorization Provider or its Affiliates receives through electronic means from Your premises shall be deemed to have been authorized by You.

(g) Survival of Contact Rights. The right of Provider and its Affiliates to contact You as described in this Section 17 shall survive the termination of this Service Agreement.

## 18. GENERAL PROVISIONS

(a) This Service Agreement (including all documents incorporated herein by reference) constitutes the entire agreement with respect to the Service. This Service Agreement supersedes and nullifies all prior understandings, promises and undertakings made orally or in writing by or on behalf of the parties with respect to the subject matter of this Service Agreement.

(b) The parties hereto agree that any Affiliates, Operational Service Providers, agents, third party suppliers and licensors of Provider are intended beneficiaries of this Service Agreement. Except as set forth in the previous sentence, this Service Agreement is not intended to give and does not give any rights or remedies to any person other than Customer and Provider.

(c) No agency, partnership, joint venture, or employment relationship is created as a result of the Service Agreement and neither party has any authority of any kind to bind the other in any respect.

(d) Provider shall not be liable for any failure to perform its obligations hereunder where such failure results from any cause beyond Provider's reasonable control, including, without limitation, mechanical, electronic or communications failure or degradation (including "line-noise" interference).

(e) This Service Agreement and all matters arising out of or related to this Service Agreement shall be governed by the laws of the Commonwealth of Virginia without regard to conflicts of law provisions. Subject to the agreement between Customer and Provider with respect to arbitration of any disputes, Customer agrees that the federal and state courts situated in Richmond, Virginia alone shall have jurisdiction over all disputes arising under this Service Agreement and Customer consents to the personal jurisdiction of those courts.

(f) Provider's failure to exercise or enforce any right or provision of this Service Agreement shall not constitute a waiver of such right or provision. If any term, covenant, condition or provision of this Service Agreement shall, to any extent, be held invalid, illegal or unenforceable, the remainder of this Service Agreement shall not be affected and each remaining term, covenant, condition and provision shall be valid and enforceable to the fullest extent permitted by law or construed as nearly as possible to reflect the original intentions of the parties.

(g) Provider may change, amend, alter, or modify this Service Agreement at any time. Provider may notify Customer of any change either by posting that change on Provider's website ([www.allpointsbroadband.com](http://www.allpointsbroadband.com)), by sending Customer an email or notification by U.S. mail, and/or by including a notice in Customer's monthly invoice. If Customer continues to use the Service after such notice has been made, Customer agrees that such continued use shall be deemed to be Customer's acceptance of those changes. The current version of this Service Agreement, as the same may be modified

by Provider from time to time, shall supersede any prior version of this Service Agreement that may have been provided to Customer at any time.

(h) Except as specifically set forth in this Service Agreement, any notices under this Service Agreement shall be effective as follows:

(i) *If to You:* notice may be made (i) by email to Your Account Email Address; (ii) by first-class mail to You at Your billing address then on file with Provider; (iii) by posting such information to Provider's website; or (iv) by including such notice on Your monthly invoice. If by email, such notice shall be deemed effective when transmitted by Provider. If by first-class mail, such notice shall be deemed effective upon the earlier of (A) three business days after dispatch or (B) at such time as actually received by You.

(ii) *If to Provider:* notice shall be made exclusively by registered mail or recognized national overnight carrier to Provider at 1021 E. Cary St., Suite 1150, Attn: Legal Notices, Richmond, Virginia 23219, or such other address as Provider may from time to time publish to You, and such notice shall be deemed effective upon receipt.

Questions or concerns to Our Customer Support department can be sent by email to support@allpointsbroadband.com or by phone to Our Customer Support line as published on Our website (www.allpointsbroadband.com) from time to time, but shall not constitute notice under this Service Agreement.

(i) You may not assign this Service Agreement, or Your rights or obligations under this Service Agreement, without Provider's prior written consent, and any purported assignment by You without such consent shall be void. Provider may transfer or assign any portion or all of this Service Agreement at any time without notice to You, and You waive any notice that may be required by law.

## 19. **VOIP SERVICE**

If Your Service includes Voice Over Internet Protocol ("VOIP") service, the provisions of this Section 19 will apply to You. THIS SECTION INCLUDES MANY IMPORTANT TERMS, INCLUDING WARNINGS THAT YOU MAY BE UNABLE TO USE OUR VOIP SERVICE FOR 911 OR OTHER EMERGENCY CALLS UNDER CERTAIN CIRCUMSTANCES, AND LIMITS AND DISCLAIMS OUR LIABILITY. OUR VOIP SERVICE IS NOT INTENDED TO FUNCTION AS A REPLACEMENT FOR LINE-POWERED (TRADITIONAL COPPER-WIRE) PHONE SERVICE AND WILL NOT PROVIDE THE FUNCTIONAL EQUIVALENT OF TRADITIONAL PHONE SERVICE FOR CALLING 911. IF YOU DO NOT UNDERSTAND THESE LIMITATIONS OR DO NOT AGREE TO THESE TERMS AND CONDITIONS, DO NOT ACCEPT THIS SERVICE AGREEMENT OR USE OUR VOIP SERVICE.

(a) **General Overview.** As a residential customer, the VOIP service and the Provider Equipment are provided to You solely for such residential use. You shall not resell or transfer the VOIP service or the Provider Equipment to another party. You are prohibited from using the VOIP service or the Provider Equipment 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 VOIP service if We determine, in Our sole and absolute discretion, that Your use of the VOIP service or the Provider Equipment is, or at any time was, inconsistent with normal residential usage patterns. In addition, You will be required to pay Our higher rates for commercial VOIP service for all periods in which Your use of the VOIP service

or the Provider Equipment was inconsistent with normal residential use. Because We do not have control over Your power or sole control over Your Internet connectivity, You may experience occasional outages.

(b) Limitations of VOIP Service. Customer acknowledges and agrees to the following limitations of the VOIP service:

(i) Not a telecommunications service. The VOIP service is not a telecommunications service and We provide it on a best efforts basis. Important distinctions exist between telecommunications service and the VOIP service offering that We provide. The VOIP service is subject to different regulatory treatment than telecommunications service. This treatment may limit or otherwise affect Your rights of redress before regulatory agencies.

(ii) Operator assisted calling. The VOIP service does not support 0+ or operator assisted calling (including, without limitation, collect calls, third party billing calls or calling card calls). The VOIP service may not support 311, 511 and/or other x11 services in one or more (or all) VOIP service areas.

(iii) Phone numbers. The phone numbers You obtain from Us for VOIP service will not be listed in any telephone directories. Phone numbers transferred from Your local phone company may, however, be listed. As a result, someone with Your phone number may not be able to utilize a reverse directory to lookup Your address.

(iv) Compatibility with other devices and systems. The VOIP service may not be compatible with fax machines and DVR-type services. All non-voice communications equipment, including but not limited to, home security systems or alarm systems that are set up to make automatic phone calls, modems, data modems, any device that relies upon a modem, or other hearing impaired devices, and medical monitoring devices ("Non-Voice Systems"), are not compatible with the VOIP service and may be interrupted or permanently disabled by installation or operation of the VOIP service. You should maintain a telephone connection through Your local exchange carrier in order to use any alarm monitoring functions for any security system installed in Your home. You are solely responsible for the operation and use of such Non-Voice Systems with the VOIP service, including taking any necessary steps, as permitted under this Service Agreement, to ensure compatibility between such Non-Voice Systems and the VOIP service.

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

(vi) The VOIP service relies upon portions of the public Internet, and third party networks, to transmit voice and other communications signals. Provider cannot, and does not, guarantee that the VOIP service is secure, or can be used in a secure manner.

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

(viii) No international calling. The VOIP service only supports calling to the contiguous 48 states and You will not be able to use the VOIP service to place international calls.

(ix) Our VOIP service configurations are designed to support the use of the VOIP service directly at the wireless internet router (or other network gateway device) that is connected directly to Your ONT. While other configurations may allow You to access the VOIP service through any existing phone jack on Your premises, We do not support such configurations and cannot guarantee that such configurations will allow You to use the VOIP service.

(c) Termination of Service. Subject to the termination provisions of this Service Agreement, upon receipt of Your request to cancel VOIP service, if You do not simultaneously notify Us that You are porting (moving) Your phone number to a new phone provider, We will turn off Your VOIP service and terminate billing at the end of Your next full Monthly Billing Cycle. If You do simultaneously notify Us that You are porting (moving) Your phone number to a new phone provider, We will be required to leave Your VOIP service active until You or Your new phone company notify Us that the port-away has completed. The VOIP service must remain active until the port-away has occurred or Your phone number may be lost. Once We are notified that the port-away has completed, We will turn off Your VOIP service and terminate billing at the end of the then-current Monthly Billing Cycle.

If You are canceling VOIP service it is Your responsibility to notify Us if You have requested Provider to port Your number to another company and such other company has not yet completed the porting process.

We reserve the right to suspend or discontinue the VOIP service generally, or to terminate Your VOIP service, at any time in Our sole and absolute discretion; unless such suspension, discontinuation or termination is prohibited by law. If We discontinue the VOIP service generally, or terminate Your VOIP 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 charges for the final Monthly Billing Cycle. If Your VOIP service is terminated on account of Your breach of any provision of this Service Agreement, You will be responsible for the full charges to the end of Your next full Monthly Billing Cycle, including, without limitation, unbilled charges, plus the Early Termination Fee, if applicable, all of which will immediately become due and payable.

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

(e) Fees, Taxes and Other Charges. You are responsible for timely payment of the portion of Your Monthly Fees that is attributable to Your VOIP service (the "Voice Service Fee"). The Voice Service Fee covers only Your monthly use of the VOIP service and does not include additional one-time charges that will be passed through to You, such as the fee to change Your caller ID or to make certain other changes or modifications to Your VOIP service. You may obtain a list of Our current one-time charges, if any, at any time by contacting Our Customer Support department. You are also responsible for any taxes and fees associated with Your VOIP service, which taxes and fees may change from time to time.

If Your usage pattern for calls to the forty-eight (48) contiguous state local calling areas is in the seventy-fifth (75th) percentile for two months out of any three-month period, We reserve the right to convert your account from an unlimited domestic long distance account to a metered use account. A metered use account will have a domestic long distance use allowance of 1,000 minutes per user or per line per month, and additional domestic use for calls to the 48 contiguous state local calling areas will be billed at the then in effect domestic long distance rate, currently \$.05 per minute.

The Voice Service Fee and the other rates and charges applicable to You under this Service Agreement are subject to the imposition of additional charges, surcharges, fees or taxes that result from actions taken by federal, state, or local regulatory authorities, legislative bodies or courts of competent jurisdiction (collectively, "Regulatory Activity"). We may (i) pass through to You, in whole or in part, any such charges, surcharges, fees or taxes directly or indirectly relating to Regulatory Activity, or (ii) modify the rates, charges or other terms and conditions of this Service Agreement to accommodate the impact of Regulatory Activity, including, without limitation, actions taken by third parties in response to Regulatory Activity.

You also acknowledge that You may incur Customer-initiated charges while using the VOIP service. For example, charges may be incurred as a result of Your accessing certain information, or purchasing or subscribing to certain offerings, via the Internet. You agree that all such charges, including all applicable fees and taxes, shall be paid by You and are not the responsibility of Provider.

If another carrier or regulatory agency seeks to audit traffic involving Your VOIP service, You will cooperate in any such audit investigation. In addition, to the extent any third party attempts to recover access fees, reciprocal compensation or other charges, surcharges or taxes from Us as a result of such audit investigation, You will indemnify and hold harmless Provider for any and all costs and charges resulting from such third party action.

(f) 911 Emergency Services. Carefully read the information below. By acceptance, and use, of the VOIP service, You acknowledge and accept any limitations of 911/E911 service, and You agree to convey these limitations to all persons who may have occasion to place calls over the VOIP service. If You have any questions about 911/E911, please call Our then-current Customer Support line, available on Our website.

(i) LIMITATIONS ON 911 EMERGENCY SERVICE. The VOIP service includes 911/Enhanced 911 functionality ("911/E911") that may differ from the 911 or Enhanced 911 function furnished by other providers. As such, it may have certain limitations. E911 service includes transmission of Your telephone number, and information You provide to Provider about the physical location of the equipment and facilities that are used to provide Your VOIP service ("Registered Location"). When You dial 911, Your emergency services call will be routed to the applicable Public Safety Answering Point, or other applicable emergency services call center, or local emergency authority ("PSAP"). If the PSAP is capable of receiving Your telephone number and Registered Location ("E911 Information"), such information will also be conveyed to the PSAP when You dial 911.

If You modify Your caller ID to a number that Our E911 service does not recognize or if You are using multiple line trunking, an E911 call will be routed to an Emergency Routing Service ("ERS") call center, which will then route the call to the appropriate PSAP after Your location is determined. You understand that such E911 calls will be delayed and that the caller must speak to ERS personnel before communications with the PSAP is established. For each call routed to ERS, You will be charged a fee of \$150. Multiple calls will result in multiple charges. If You do not feel comfortable with these limitations, We suggest You make alternative methods available to call 911 or otherwise obtain emergency services, such as through a traditional telephone line or a mobile phone.

(ii) REGISTERED LOCATION. YOUR SERVICE LOCATION WILL BE YOUR REGISTERED LOCATION. USE OF THE VOIP SERVICE FROM A LOCATION OTHER THAN YOUR REGISTERED LOCATION MAY CAUSE YOUR 911 CALL OR E911 INFORMATION TO BE ROUTED TO THE WRONG PSAP, MAY CAUSE EMERGENCY RESPONSE PERSONNEL TO BE DISPATCHED TO THE WRONG ADDRESS, AND MAY RESULT IN OTHER PROBLEMS WITH ACCESSING AND OBTAINING EMERGENCY SERVICES, INCLUDING BUT NOT LIMITED TO YOUR INABILITY TO RECEIVE EMERGENCY SERVICES. AS A RESULT, YOU MUST UPDATE YOUR REGISTERED LOCATION WITH PROVIDER BEFORE USING THE VOIP SERVICE AT A NEW LOCATION.

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

A. POWER FAILURE. IF THERE IS A POWER OR INTERNET OUTAGE OR INTERRUPTION, YOU WILL NOT BE ABLE TO USE THE VOIP SERVICE FOR ANY 911 OR OTHER EMERGENCY CALLS (AFTER SUCH AN EVENT, YOU ALSO MAY NEED TO RESET OR RECONFIGURE THE EQUIPMENT BEFORE YOU CAN CALL 911). We offer You the option to purchase Backup Power for Your VOIP service that will enable You to make a 911 call during a power outage for a limited amount of time. If You would like to purchase Backup Power for the first time, or to replace an existing Backup Power solution, please email support@allpointsbroadband.com or call Our Customer Support number to request a Backup Power solution. Upon receipt of Your request, We will provide an estimate of the cost to provide You with a Backup Power solution that will provide 24 hours of backup power for Your VOIP device and the Provider Equipment at Your location. Once purchased, the Backup Power solution will be Your property and You will be responsible for the operation and servicing of the Backup Power solution; We will not service, or otherwise be responsible for, the Backup Power solution. The proper usage and storage conditions, as well as self-testing and self-monitoring instructions, will depend on the specifics of the Backup Power solution We develop for You and will be provided to You upon delivery of the Backup Power solution. WE DO NOT MAKE ANY WARRANTY OF ANY KIND WITH RESPECT TO ANY BACKUP POWER SOLUTION.

B. TERMINATION OR SUSPENDED SERVICE. IF YOUR VOIP SERVICE OR INTERNET SERVICE IS INTERRUPTED, SUSPENDED OR CANCELLED FOR ANY REASON (INCLUDING DUE TO TECHNICAL PROBLEMS, YOUR FAILURE TO PAY PROVIDER, OR TERMINATION OF THIS SERVICE AGREEMENT), YOU WILL NOT BE ABLE TO USE THE VOIP SERVICE TO CALL 911.

C. TRANSFERRED NUMBER. AS DESCRIBED FURTHER BELOW, IF YOU TRANSFER A TELEPHONE NUMBER FROM YOUR TRADITIONAL TELEPHONE SERVICE, THERE MAY BE A DELAY OR INTERRUPTION IN YOUR ABILITY TO USE THE VOIP SERVICE TO CALL 911.

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

E. TECHNICAL LIMITATIONS. NETWORK CONGESTION, WEAK WIRELESS SIGNALS, OR OTHER CAUSES OF REDUCED INTERNET SERVICE PERFORMANCE MAY PREVENT YOU FROM USING THE VOIP SERVICE TO CALL 911 OR MAY DELAY THE ROUTING OF YOUR 911 CALL OR E911 INFORMATION. YOU SHOULD NOT RELY ON THE



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

(iii) LIABILITY. YOU ACKNOWLEDGE AND AGREE PROVIDER WILL NOT BE LIABLE FOR ANY SERVICE OUTAGE, INABILITY TO DIAL 911, AND/OR INABILITY TO ACCESS EMERGENCY SERVICE PERSONNEL. YOU AGREE TO DEFEND, INDEMNIFY, AND HOLD HARMLESS PROVIDER, ITS AFFILIATES, AND AGENTS FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, FINES, PENALTIES, COSTS, AND EXPENSES (INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEY FEES) BY, OR ON BEHALF OF, YOU OR ANY THIRD PARTY OR USER OF THE VOIP SERVICE RELATING TO THE FAILURE OR OUTAGE OF THE VOIP SERVICE, INCLUDING THOSE RELATED TO 911/E91. YOU ACKNOWLEDGE THAT YOU ARE AWARE OF AND UNDERSTAND THE FOREGOING LIMITATIONS AND AGREE TO ADVISE ALL PERSONS WHO MAY CONDUCT CALLS USING YOUR VOIP SERVICE OF THE SAME.

(iv) “REVERSE 911” SERVICE. “Reverse 911” service is a telephonic community notification system that may be used to deliver outbound messages in the event of an emergency. The system employs a combination of database and mapping technologies to allow emergency responders to pinpoint a specific geographic area and deliver the appropriate message to residents in the affected area. Certain systems have the ability to call both listed and unlisted phone numbers. You should contact Your local public safety agencies to determine if the number used in the provision of VOIP service can be registered with the local public safety agency. The technical limitations associated with the provision of Reverse 911 service are due entirely to the local public safety agency’s network and systems capabilities. Provider shall not be liable for any failures, loss of service, interference, or incompatibility of the VOIP service and any Reverse 911 service offered by local public safety agencies. Further, Provider offers no warranties, either express or implied, as to the availability of such Reverse 911 services, or their compatibility with the VOIP service.

(g) Prohibited Uses. You agree to use the VOIP service and Your VOIP device only for lawful purposes. We reserve the right to immediately terminate Your VOIP service if, in Our sole and absolute discretion, We determine that You have used the VOIP service or Your VOIP 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 next full Monthly Billing Cycle, including, without limitation, unbilled charges, plus the Early Termination Fee, if applicable, all of which will become immediately due and payable upon termination of Your VOIP service. If We believe that You have used the VOIP service or Your VOIP 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, Provider will provide information in response to law enforcement requests, subpoenas, court orders, or to protect Our rights and property and in the case where failure to disclose the information may lead to imminent harm to You or others.

You shall not use the VOIP service or Your VOIP 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 VOIP service if, in Our sole and absolute discretion, We determine that You have used the VOIP service or Your VOIP device in any of the aforementioned ways. In the event of such termination, You will be responsible for the full charges to the end of next full Monthly Billing Cycle, including, without limitation, unbilled charges, plus the Early Termination Fee, if applicable, all of which will become immediately due and payable upon termination of

Your VOIP service. In addition, Provider will provide information in response to law enforcement requests, subpoenas, court orders, to protect Our rights and property and in the case where failure to disclose the information may lead to imminent harm to You or others.

We do not presently offer or support the VOIP service in any countries other than the United States. If You use the VOIP service or Your VOIP device outside of the United States, You will be solely responsible for any violations of local laws and regulations resulting from such use. We reserve the right to terminate Your VOIP service immediately if We determine, in Our sole and absolute discretion, that You have used the VOIP service or Your VOIP device outside of the United States.

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

You agree not to share the VOIP service with, or re-sell or redistribute the VOIP service to, anyone not residing at Your address (or Your or their respective guests).

You may not use the VOIP service to originate or terminate voice calls in a manner that bypasses switched access or other applicable charges. If You do so, it will constitute a material breach of this Service Agreement and will entitle Us to discontinue VOIP service and terminate this Service Agreement for cause immediately upon the delivery of written notice to You. In addition, You agree to indemnify, defend and hold harmless Provider and Our Affiliates, their employees, directors, managers, officers, and agents from and against all claims, demands, actions, causes of actions, damages, liabilities, losses, and expenses (including reasonable attorney's fees) incurred as a result of Your breach of this obligation. Notwithstanding any other provision of this Service Agreement, the damages for any breach of Your obligations pursuant to this Section 19 shall not be capped or limited. We at any time may audit Your traffic to assure compliance with Your obligation not to bypass switched access or other applicable charges.

All traffic delivered by You or Your Authorized Users to Us for local termination, and all traffic We deliver to You or Your Authorized Users that originates in the same local calling area in which Your NPA-NXX (i.e., the first six digits of Your ten digit phone number) is assigned or in which such traffic terminates with You or Your Authorized Users must either be local traffic or traffic entitled to be treated as local traffic under applicable federal, state and local laws, administrative and regulatory requirements, and any other authorities having jurisdiction over such traffic. With respect to such traffic, Provider will assign local telephone numbers to You or route Your traffic for termination as local calling. Neither You nor any of Your Authorized Users may remove or in any way alter Automatic Number Identification ("ANI") or Calling Party Number ("CPN") information associated with any traffic delivered pursuant to this Service Agreement. You will cooperate or, as necessary, assure the cooperation of others within Your control to obtain or verify any regulatory certifications or other information needed regarding the jurisdictional nature of the Your traffic.

(h) Relocation Requirement. The VOIP service may be used only at the registered location You provide to Provider. If You wish to relocate the Provider Equipment, You must contact Provider for information on VOIP service availability at the new location. If VOIP service is available at Your new location, You must update and register the new location with Provider in order to update Our records for the VOIP service and help make 911 services and E911 features available to You. If VOIP service, 911 calling or an E911 feature is not available at the new location, Your VOIP service will be terminated or suspended until You return the Provider Equipment to a location with VOIP service, 911 and E911 availability and provide Us updated information for the new location. Using or moving, or attempting to

use or move, the Provider Equipment or VOIP service to a location without complying with this Section 19 is a violation of this Service Agreement and You do so at Your own risk.

(i) Local Number Portability. If You are transferring Your existing phone number from another service provider for use with the VOIP service, the following terms and conditions also shall apply:

(i) You will cooperate fully with Provider and provide promptly all information, including a letter of authorization or other documentation, as requested by Provider in connection with the processing of Your order for VOIP service;

(ii) You authorize Provider to notify Your current telephone service provider of Your decision to switch Your local, local toll and long distance services to the VOIP service, and You represent You are authorized to take such actions;

(iii) You acknowledge that if You set up the VOIP service prior to the date that the number switch becomes effective (the "Port Effective Date"), You may be able to place outgoing calls but not receive incoming calls over the VOIP service, and may not be able to make 911 or other emergency calls over the VOIP service, until the Port Effective Date (in such a case, You should keep another phone connected to an existing phone extension at Your service location to receive incoming calls until the Port Effective Date); and

(iv) You acknowledge that if the VOIP service is not yet activated as of the Port Effective Date, Your existing phone service for the number You are transferring will be disconnected and You will have no service for that line. To help avoid an interruption in Your phone service, You should install the VOIP service prior to, or on, the Port Effective Date. An estimate of the Port Effective Date may be sent to You by Provider following Your completion of the ordering process, but this is only an estimate and not a guarantee of the Port Effective Date.

(j) IN ADDITION TO THE LIMITATIONS ON PROVIDER'S LIABILITY SET FORTH ELSEWHERE IN THIS SERVICE AGREEMENT, IN NO EVENT SHALL PROVIDER BE LIABLE FOR ANY CLAIMS, DAMAGES, LOSSES OR LIABILITIES, AND YOU HEREBY WAIVE, TO THE MAXIMUM EXTENT PERMITTED BY LAW, ANY AND ALL SUCH CLAIMS OR CAUSES OF ACTION, ARISING FROM OR RELATED TO:

(i) DEVELOPING, INSTALLING, OPERATING, PROVIDING, IMPLEMENTING, MAINTAINING OR PARTICIPATING IN A 911 EMERGENCY TELEPHONE SYSTEM OR SIMILAR EMERGENCY SYSTEM OR ENHANCED 911 TELEPHONE SERVICE, INCLUDING WITHOUT LIMITATION (A) RECEIVING, DEVELOPING, COLLECTING, OR PROCESSING INFORMATION FOR E911 DATABASES, (B) RELAYING, TRANSFERRING, OPERATING, MAINTAINING, OR PROVIDING 911 OR E911 SERVICES OR SYSTEM CAPABILITIES, OR (C) PROVIDING EMERGENCY TELEPHONE AND RADIO COMMUNICATIONS FOR AMBULANCE, POLICE AND FIRE DEPARTMENTS;

(ii) INTERFERENCE OR INCOMPATIBILITY WITH, OR DISRUPTION OF, ANY NON-VOICE SYSTEMS, WHETHER CAUSED BY THE VOIP SERVICE, INTERNET ACCESS SERVICE, ANY EQUIPMENT, OR OTHERWISE;

(iii) ANY LACK OR BREACH OF SECURITY YOU OR ANY OTHER PARTY MAY EXPERIENCE OR BE EXPOSED TO WHILE USING THE VOIP SERVICE; OR

(iv) USE OF THE VOIP SERVICE FOR OR IN CONNECTION WITH ANY HIGH-RISK USES.

Provider's liability under this Service Agreement will not exceed the VOIP service charges for the affected time period. Provider will not be responsible for third-party fees or charges, including but not limited to, banking fees, overdraft fees, cellular phone or other wire line charges, technician charges, or other similar charges.

This Section 19(j), Limitation of Liability, will survive termination or expiration of this Service Agreement, whether terminated by You or Provider, for any reason.

(k) Unlimited Use of Service. The VOIP service offers unlimited local and domestic long distance calling for residential use subject to the following limitations. Use of the VOIP service, including for any telemarketing purposes, that results in excessive use is strictly prohibited. Provider determines excessive use according to criteria identified at its sole discretion and control, regardless of prior history. Customers that engage in excessive use will, at Provider's discretion, be subject to immediate termination.

(l) Privacy. You acknowledge that We may use call detail and Customer Proprietary Network Information ("CPNI") as defined by Federal Communications Commission rules for all lawful purposes, including but not limited to actions related to the initiation, rendering, billing and collection of the VOIP service. Further, such actions also include the use of CPNI for the purposes of testing, verifying, and otherwise assuring that the VOIP service is delivered to You. You have the right to restrict Our use of, disclosure of, and access to Your CPNI.

Provider utilizes, in part, the public Internet and third-party networks to transmit voice and other communications. Provider is not liable for any lack of privacy which may be experienced with regard to the VOIP service. Furthermore, VOIP service may be offered over a platform on which voice and other signals are not encrypted.

Finally, Provider cannot guarantee, or protect against the possibility that third parties may improperly attempt to capture signals, or communications, sent over the Provider Network or the public Internet.

BY ACCEPTING THIS SERVICE AGREEMENT AND SUBSCRIBING FOR VOIP SERVICE, YOU AGREE TO BE BOUND BY ALL OF THE TERMS OF THIS SERVICE AGREEMENT, INCLUDING THIS SECTION 19. IF YOU DO NOT AGREE TO ALL OF THESE TERMS, YOU SHOULD NOT ACCEPT THIS SERVICE AGREEMENT OR USE THE VOIP SERVICE.

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Schedule A

List of Virginia Everywhere, LLC Affiliates and their respective territories

<u>Virginia Everywhere, LLC Subsidiary</u>	<u>Counties Served</u>
All Points Northern Neck, LLC	Virginia Counties of King George, King William, Lancaster, Northumberland, Richmond and Westmoreland
APB Partners Culpeper, LLC	Culpeper County, Virginia
APB Partners Hanover, LLC	Hanover County, Virginia
APB Partners Loudoun, LLC	Loudoun County, Virginia
APB Partners Middlesex, LLC	Middlesex County, Virginia
APB Partners Pulaski, LLC	Pulaski County, Virginia
APB Partners Valley, LLC	Virginia Counties of Augusta, Clarke, Fauquier, Frederick, Page, Rappahannock, Rockingham and Warren