

## UNIFIED CLOUD COMMUNICATIONS (UCC) TERMS AND CONDITIONS

### Terms of Service

These Terms of Service constitute the agreement ("Agreement") between VoxNet, LLC ("we," "us" or "VoxNet") and the user ("you," "user", "Customer" or "Subscriber") of VoxNet's business services and any related products or services ("Service").

This Agreement governs both the Service and any devices, such as an IP phone, Multimedia Terminal Adapter, Analog Telephone Adapter, switch, router or any other IP connection device ("Device" or "Equipment"), used in conjunction with the Service. If you purchased Equipment from a dealer, retail store or other provider other than VoxNet, you are a "Retail Customer" for purposes of this Agreement.

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

### 1. EMERGENCY SERVICES - 911 DIALING

1.1 Non-Availability of Traditional 911 or E911 Dialing Service. The Service does not support traditional 911 or E911 access to emergency services in all locations. Where we do not offer traditional 911 or E911 access, we offer a feature known as "911 Dialing" which is a limited emergency calling service available only on VoxNet, LLC-certified Devices or Equipment. The 911 Dialing feature may not work at all when used in conjunction with a Soft Phone, Virtual Numbers or Subscriber provided Customer Premise Equipment. Our 911 Dialing feature is not automatic; you must separately take affirmative steps, as described in this Agreement and on our website, to register the address where you will use the Services in order to activate the 911 Dialing feature. You must do this for each VoxNet, LLC phone number that you obtain. The 911 Dialing feature of the Service is different in a number of important ways from traditional 911 or E911 service as described on our website page for 911 Dialing under "Features," and below. You shall inform any household residents, guests and other third persons who may be present at the physical location where you utilize the Service of (i) the non-availability of traditional 911 or E911, and (ii) the important differences in and limitations of the VoxNet, LLC 911 Dialing feature as compared with traditional 911 or E911 dialing. The documentation that accompanies each Device that you purchase should include a sticker concerning the potential non-availability of traditional 911 or E911 dialing (the "911 Sticker"). It is your responsibility, in accordance with the instructions that accompany each Device, to place the 911 Sticker on each Device that you use with the Service. If you did not receive a 911 Sticker with your Device, or you require additional 911 Stickers, please contact our customer care department at 877-701-6400.

1.2 Registration of Physical Location Required. For each phone number that you use for the Service, you must register with VoxNet, LLC the physical location where you will be using the Service with that phone number. When you move the Device to another location, you must register your new location. If you do not register your new location, any call you make using the 911 Dialing feature may be sent to an emergency center near your old address. You will register your initial location of use when you subscribe to the Service. Thereafter, you may register a new location by following the instructions from the "911" registration link on your VoxNet, LLC web account dashboard features page. For purposes of the 911 Dialing feature, you may only register one location at a time for each phone line you use with the Service.

1.3 Confirmation of Activation Required. Your 911 Dialing feature will not be activated for any phone line that you are using with the Service, unless and until you receive an email from us confirming that the 911 Dialing feature has been activated for that phone line.

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

1.5 Service Outages. (a) Service Outages Due to Power Failure or Disruption. 911 Dialing does not function in the event of a power failure or disruption. If there is an interruption in the power supply, the Service, including 911 Dialing, will not function until power is restored. Following a power failure or disruption, you may need to reset or reconfigure the Device prior to utilizing the Service, including 911 Dialing.

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

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

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

(e) Other Service Outages. If there is a Service outage for any reason, such outage will prevent all Service, including 911 Dialing, from functioning. Such outages may occur for a variety of reasons, including, but not limited to, those reasons described elsewhere in this Agreement. 1.6 Re-Activation Required if You Change Your Number or Add or Port New Numbers. 911 Dialing does not function if you change your phone number or if you add or port new phone numbers to your account, unless and until you successfully register your location of use for each changed, newly added or newly ported phone number.

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

1.7 Possible Lack of Automatic Number Identification. It may or may not be possible for the local emergency personnel to automatically obtain your phone number when you use 911 Dialing. Our system is configured to send the automatic number identification information; however, one or more telephone companies, not us, route the traffic to the emergency response center and that center may not be capable of receiving and passing on that information. As a result, the operator who answers your 911 Dialing call may not be able to automatically obtain your phone number and call you back if the call is not completed or is not forwarded, is dropped or disconnected, if you are unable to speak to tell the operator your phone number, or if the Service is not operational for any reason.

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

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

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

## 2. SERVICE

2.1 Service Term and Automatic Renewal. The Services' term will begin on the Start Date of the initial Order and continue for the initial term set forth in the initial Order ("Initial Term"). Upon expiration of the Initial Term, recurring Services will automatically renew for successive periods of the same length as the Initial Term (each a "Renewal Term") unless either Party gives notice of non-renewal at least thirty (30) days before the expiration of the Initial Term or the then-current Renewal Term. The term of any recurring Services added to the Account after the initial Order is submitted will start on the Start Date of the subsequent Order, will run coterminously with the then-current term of any pre-existing Services, and will be billed on the same billing cycles as the pre-existing Services.

Service is offered on a monthly or multi-month basis as is determined in your Service activation or order form, or via our online ordering process. You are purchasing the Service for full monthly terms, meaning that if you attempt to terminate Service prior to the end of a monthly term, you will be responsible for the full month's charges to the end of the then-current term, including, without limitation, unbilled charges, plus a termination fee, if applicable, all of which will immediately become due and payable. Expiration of the term or termination of Service will not excuse you from paying all accrued and unpaid charges due under this Agreement.

2.2 Use of Service and VoxNet provided Device. You shall not resell or transfer the Service or the Device to another party without our prior written consent. You are prohibited from using the Service or the Device for autodialing, continuous or extensive call forwarding, telemarketing (including, without limitation, charitable or political solicitation or polling), fax or voicemail broadcasting or fax or voicemail blasting. We reserve the right to immediately terminate or modify your Service if we determine, in our sole and absolute discretion, that you have at any time used the Service or the Device for any of the aforementioned or similar activities.

2.3 Use of Service only. For Service only customers, you are responsible for supplying, operating and supporting the Customer Premise Equipment for use with the Service. In addition, any customer supplied equipment must be pre-approved by VoxNet in writing. You shall not resell or transfer the Service to another party without our prior written consent. You are prohibited from using the Service for autodialing, continuous or extensive call forwarding, telemarketing (including, without limitation, charitable or political solicitation or polling), fax or voicemail broadcasting or fax or voicemail blasting. We reserve the right to immediately terminate or modify your Service if we determine, in our sole and absolute discretion, that you have at any time used the Service for any of the aforementioned or similar activities.

### 2.4 Prohibited Uses.

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

(b) Inappropriate Conduct. You shall not use the Service or the Device in any way that is threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, or any similar behavior. We reserve the right to immediately terminate your Service if, in our sole and absolute discretion, we determine that you have used the Service or the Device in any of the aforementioned ways. In the event of such termination, you will be responsible for the full month's charges to the end of the current term, including, without limitation, unbilled charges, plus a termination fee, if applicable, all of which will become immediately due and payable upon termination of your Service. If we believe that you have used the Service or the Device in any of the aforementioned ways, we may forward the relevant communication and other information, including your identity, to the appropriate authorities for investigation and prosecution. You hereby consent to our forwarding of any such communications and information to these authorities. In addition, VoxNet will provide information in response to law enforcement requests, subpoenas, court orders, to protect its rights and property and in the case where failure to disclose the information may lead to imminent harm to the customer or others

2.5 Use of Service and Device by Customers Outside the United States. Although we encourage you to use of the Service to place calls to foreign countries from within the United States, we do not presently offer or support the Service in any countries other than the United States and Canada. If you use the Service or the Device outside of the United States or Canada, you will be solely responsible for any violations of local laws and regulations resulting from such use. We reserve the right to terminate your Service immediately if we determine, in our sole and absolute discretion, that you have used the Service or the Device outside of the United States or Canada.

2.6 Copyright; Trademark; Unauthorized Usage of Device; Firmware or Software.

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

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

2.7 Tampering with the Device or Service. You shall not change the electronic serial number or equipment identifier of the Device or to perform a factory reset of the Device without our prior written consent. We reserve the right to terminate your Service if we believe, in our sole and absolute discretion, that you have tampered with the Device. In the event of such termination, you will remain responsible for the full month's charges to the end of the current term, including, without limitation, unbilled charges, plus a termination fee, if applicable, all of which will immediately become due and payable. You shall not attempt to hack or otherwise disrupt the Service or make any use of the Service that is inconsistent with its intended purpose.

2.8 Theft of Service. You shall notify us immediately, in writing or by calling our customer support line, if the Device is stolen or if you become aware at any time that your Service is being stolen, fraudulently used or otherwise being used in an unauthorized manner. When you call or write, you must provide your account number and a detailed description of the circumstances of the Device theft, fraudulent use or unauthorized use of Service. Failure to do so in a timely manner may result in the termination of your Service and additional charges to you. Until such time as we receive notice of the theft, fraudulent use or unauthorized use, you will be liable for all use of the Service using a Device stolen from you and any and all stolen, fraudulent or unauthorized use of the Service.

2.9 Return of Device

(a) Retail Customers. A Retail Customer is defined as a customer that has purchased any device(s) through a third party. A Retail Customer may only return the Device to the retail store, dealer or other provider from which the Retail Customer purchased the Device. All returns will be subject to the return policy of such retail store, dealer or other provider. We will not accept any Device returned to us from a Retail Customer.

(b) Non-Retail Customers. Non-Retail Customers are defined as a customer that has purchased any device(s) through VoxNet. Non-Retail Customers may return the Device to us within fourteen (14) days of the termination of Service to receive a credit for any termination fee (See Section 3.6) provided that:

- \* the Service is terminated within the first thirty (30) days following the activation of the Service;
- \* the Device is in original condition, reasonable wear and tear excluded;
- \* the original proof of purchase are returned with the Device, together with the original packaging, all parts, accessories, and documentation;
- \* prior to returning the Device to us, you obtain a valid return authorization number from our customer care

department, which can be reached at support@voxnetinc.com or 877-703-6400; and  
\* you pay all costs of shipping the Device back to us.

If you disconnect multiple lines, we will issue you a credit for all termination fees upon receipt of all Devices in accordance with the requirements set forth above.

If you receive cartons or Devices that are visibly damaged, you must note the damage on the carrier's freight bill or receipt and keep a copy. In such event, you must keep the original carton, all packing materials and parts intact in the same condition in which they were received from the carrier and contact our customer care department immediately at support@voxnetinc.com or 877-703-6400.

(c) Rental Customers. A Rental Customer is defined as a customer whose device(s) are being provided by VoxNet as a monthly rental. All devices provided under a rental program will be under warranty and managed by VoxNet. All devices provided under a rental program remain the property of VoxNet.

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

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

2.11 Service Distinctions. The Service is not a telecommunications service and we provide it on a best efforts basis. Important distinctions exist between telecommunications service and the Service offering that we provide. The Service is subject to different regulatory treatment than telecommunications service. This treatment may limit or otherwise affect your rights of redress before regulatory agencies.

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

2.13 No 0+ or Operator Assisted Calling; May Not Support x11 Calling. The Service does not support 0+ or operator assisted calling (including, without limitation, collect calls, third party billing calls or calling card calls). The Service may not support 311, 511 and/or other x11 (other than certain specified dialing such as 911 and 411, which are provided for elsewhere in this Agreement) services in one or more (or all) service areas.

2.14 Incompatibility With Other Services.

(a) Security Systems. The Service may not be compatible with security systems. You may be required to maintain a telephone connection through your local exchange carrier in order to use any alarm monitoring functions for any security system installed in your home or business. You are responsible for contacting the alarm monitoring company to test the compatibility of any alarm monitoring or security system with the Service.

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

2.15 Service Activation and Porting, Normal service activation and porting hours are Monday-Friday, 8AM-4PM. Any service activations or ports requested outside of this window can be accommodated in most cases but will be billed a onetime charge of \$500.00.

### **3. CHARGES; PAYMENTS; TAXES; TERMINATION**

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

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

The amount of such fees and charges shall be published on our website and may change from time to time. Notification of monthly invoices will be sent to you via your email address on file with us. Any usage charges will be billed in increments that are rounded up to the nearest minute except as otherwise set forth in the rate schedules found on our website.

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

Customer Care Billing Department  
VoxNet, LLC  
400 Davis Drive, Suite 100  
Plymouth Meeting, PA 19462

-or-

[billingdisputes@voxnetinc.com](mailto:billingdisputes@voxnetinc.com)

3.3 Payment and Collection.

(a) Payment. We only accept payment by credit or debit card, unless other payment terms have been explicitly agreed to in writing by VoxNet, LLC. Your subscription to the Service authorizes us to charge your credit or debit card. This authorization will remain valid until 30 days after we receive written notice from you terminating our authority to charge your credit or debit card, whereupon we will charge your credit or debit card for the termination fee, if applicable, and any other outstanding charges and terminate your Service. We may terminate your Service at any time in our sole and absolute discretion if any charge to your credit or debit card is declined or reversed, your credit or debit card expires and you have not provided us with a valid replacement credit or debit card or in case of any other non-payment of account charges. If a credit card is not provided as the primary payment method or the backup payment method then a deposit of either \$500.00 or one month's monthly recurring charges, whichever is greater, will be required prior to order processing.

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

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

3.5 Taxes. You are responsible for all applicable federal, state, provincial, municipal, local or other governmental sales, use, excise, value-added, personal property, public utility or other taxes, fees or charges now in force or enacted in the future, that arise from or as a result of your subscription or use or payment for the Service or a Device.

Such amounts are in addition to payment for the Service or Devices and will be billed to your credit card as set forth in this Agreement. If you are exempt from payment of such taxes, you must provide us with an original certificate that satisfies applicable legal requirements attesting to tax-exempt status. Tax exemption will only apply from and after the date we receive such certificate.

3.6 Termination Fee. Customer may cancel upon 30 days written notice to VoxNet. Upon cancellation Customer shall pay a termination fee (the "Termination Fee") equal to any amounts previously billed but not paid and 100% of the Monthly Recurring Charges as set forth in the Service Activation form for the months remaining on the term. Customer shall also be responsible to pay for any Services billed, but not paid in excess of the Monthly Recurring Charges. All devices provided under a rental program must be returned to VoxNet in proper working order upon termination of services. The rental fees for any devices will continue to be billed until such time as those devices are returned to VoxNet even if the customer has switched providers. VoxNet reserves the right to bill the full retail replacement price for any devices returned in non-working order.

3.7 Term and Termination. This Contract is effective upon your signature and will continue in effect for the Service Period ("Initial Term") specified on the Service Order Contract. At the end of the Initial Term, this Contract will renew automatically according to section 2.1

The initial Service Period for the VoxNet Unified Cloud Communications "UCC" Services must be at least 24 months. You may purchase the VoxNet UCC Services so long as (a) there are at least 24 months remaining on the Initial Term of this Contract; or (b) you agree to extend the Initial or renewal term of this Contract to at least 24 months. If and when this Contract or any VoxNet UCC package offering ends or terminates, all VoxNet UCC Services will also immediately terminate. If this Contract or your VoxNet UCC Services terminate before the completion of the Initial Term or any Renewal Term of this Contract, "Termination Fee" will apply (as defined in Section 3.6).

You may terminate VoxNet UCC Services (without liability for Termination Fee) if you experience a Loss of Service (as defined in Section 3.8) for that particular Service of more than 8 consecutive hours on two occasions or more in any calendar month and you notify us of each Loss of Service (of any duration) or any other problem with that Service immediately after that Loss of Service or problem first occurs. You may also terminate this Contract if we fail to comply with any other VoxNet obligation under this Contract for 30 consecutive days after receiving written notice from you. In either case, you may terminate the affected VoxNet UCC Service only if (a) your account is current before termination (i.e. no balance older than 30 days); (b) you and/or your equipment did not contribute to the Loss of Service or to our failure to comply with this Contract, either directly or indirectly; (c) the last Loss of Service you rely on for invoking this termination right occurred within the preceding 60 days or your written notice of VoxNet's failure to comply with a Contract obligation was delivered within the preceding 60 days and VoxNet failed to comply with the obligation after such notice; and (d) you provide us with 30 days written notice of your intent to terminate your Services under this section. Such written notice shall be effective for 90 days, and—if you have not ported your Services in their entirety to another carrier or otherwise disconnected your Services in their entirety within that 90 day period—the written notice of termination shall no longer have any force or effect and this Contract shall continue as if no such termination notice had ever been provided. You may not cancel this Contract for any Loss of Service affecting your VoxNet UCC services except as permitted in this Section. You must pay all charges due for each Service received until that Service is disconnected and for all charges incurred before the Service end date that may be billed to you after the Service end date.

VoxNet may terminate this Contract or suspend all or any Services within 10 days after notice from VoxNet if: (a) you fail take any action that we have requested in order for VoxNet to install or activate the Services; (b) you fail to pay any amount owing to us when due, and fail to pay all past due amounts; (c) you fail or anyone using any of the Services fails to comply with or violates our Acceptable Use Policy described in Section 18 below; (d) you fail to provide a new or increased deposit when requested; (e) you fail to replenish any deposit as requested; (f) you fail to perform or comply with any other obligation under this Contract and do not perform or comply with that obligation; (g) you are involved in or are the subject of any change-in-control, including any sale of your stock or assets, reorganization or merger; (h) you, or anyone using any of the Services, use or operate any Service in a manner that could, in our sole determination, result in harm to us, our Network, our mobile supplier's network, our reputation or other customers; (i) you, or anyone using any of the Services, use or operate any Services in a manner that, in our sole determination, is violating or could violate applicable law or the intended business use of that Service; or (j) we determine at any time, in our sole discretion, that your payment record, ability to make timely payments or creditworthiness has become unsatisfactory (even if you have provided or replenished any requested deposits). If we elect to terminate this Contract or any Services under subsections (a) through (i) above, you must pay Termination Fee as described in the Section 3.6. If we elect to suspend any Services, you must pay all resumption and other charges described in the following Section.

If we elect to suspend Services under any circumstances pursuant to this Contract, you must pay all past due and other applicable charges (including the late payment fees and costs described in Standard Terms & Conditions) and a resumption fee of \$40 before we will resume providing the Services. Before we resume providing your Services, we may also request satisfactory assurances from you on your future ability to pay for the Services, even if you have paid the required resumption fee and other amounts. These assurances may include a new or increased deposit to guarantee payment for future Services, among other things. If you fail, in our sole discretion, to provide satisfactory assurances or you fail to promptly make all required payments to resume your Services, you will be considered to have terminated this Contract. At such time, you must pay Termination Fee (as described in Section 3.6) in addition to all other amounts that you owe under this Contract.

**3.8 Network Availability Commitment.** We will use commercially reasonable efforts to make our VoxNet IP "Network" (defined below) available to you at all times, subject to certain limitations described in this Contract (the "Network Availability Commitment"). For purposes of this Network Availability Commitment, the VoxNet IP Network ("Network") means the integrated access device, local access loop, aggregation router, connectivity to the core network, and core network components up to the handoff to either the Internet peering point (for Internet packets) or the handoff to local, long distance or other voice Services provider for phone service traffic. The VoxNet IP Network does include any broadband circuits.

**3.9 Credit Limit and Reporting Procedures.** To be eligible for the Network Availability Commitment, you must notify Technical Support immediately when you experience a Network outage or Loss of Service.

A Network outage begins when you notify Technical Support and ends when VoxNet's Technical Support confirms that Services have been re-established. To receive your credit, you must request it via email to [service@VoxNetinc.com](mailto:service@VoxNetinc.com) within 7 days of the end of the calendar month in which the Network outage occurred. Credits do not include any applicable taxes or other governmental charges.

Your exclusive remedy or recovery for any Loss of Service or covered Network outages under the Network Availability Commitment or this Contract, or other indirect damages arising out of or related to the unavailability of the Services, shall not exceed the amount of the credit described, or, if applicable, your right to terminate the VoxNet UCC Service for which you experienced a covered Network outage as described in Section below. All Network Availability Commitment credit requests are subject to VoxNet's review and verification. You must be current on all payments (i.e. no balance older than 30 days) in order to receive credit under the Network Availability Commitment. Credits will appear within two (2) billing cycles after credit approval.

**3.10 Money Back Guarantee; Limitations and Conditions.**

(a) **Money Back Guarantee.** We offer Business subscribers a 30-day money back guarantee from the date of activation of Service. The money back guarantee applies only to the first-ordered service package, not to additional or secondary orders. We will refund the activation fee and monthly charge for first month of Service provided that:

- \* you have not exceeded 2500 minutes of usage; and
- \* you cancel your Service within the 30-day period.

Federal excise taxes and any other applicable taxes cannot be refunded. You will remain responsible for any charges for usage fees including but not limited to local or international usage, calls to VoxNet toll free numbers and directory assistance. We reserve the right to terminate or revoke this money back guarantee at any time, without prior notice.

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

**3.12 Charges for Directory Calls (411).** We will charge you \$1.50 for each call made to VoxNet directory assistance.

**3.13 Charges for Conference Bridge Calls.** We will charge you 3.9 cents per minute, or your then current domestic per minute rate if lower than 3.9 cents per minute, for each caller who calls into your conference bridge. The per minute usage fee will be calculated based on all participants on the conference bridge, including on-network and off-network participants.



#### **4. LIMITATION OF LIABILITY; INDEMNIFICATION; WARRANTIES**

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

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

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

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

4.3 Indemnification and Survival.

(a) Indemnification. Both parties shall defend, indemnify, and hold harmless the other party, its officers, directors, employees, affiliates and agents and any other service provider who furnishes services to you in connection with the Service, from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without limitation, attorney's fees) by, or on behalf of, you or any third party or user of the Service, relating to the Services, provided to you by VoxNet including, without limitation, 911 Dialing, or the Device.

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

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

#### 4.5 Device Warranties.

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

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

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

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

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

4.8 Recording Conversations. VoxNet provides a function that allows a user or Subscriber to record individual telephone conversations. The laws regarding the notice and notification requirements of such recorded conversations vary by state to state. Subscriber is solely responsible for applying the local laws in the relevant jurisdiction when using this feature.

## 5. MISCELLANEOUS

5.1 Governing Law and Exclusive Jurisdiction. This Agreement and any documents or claims regarding the relationship between you (customer) and VoxNet shall be governed by the laws of the Commonwealth of Pennsylvania without regard to conflict of interest principles. You expressly consent to the jurisdiction and venue of the state and federal courts located in Montgomery County Pennsylvania and the Eastern District of Pennsylvania and waive any objections to venue or inconvenient forum. THE PARTIES HEREBY WAIVE ANY RIGHTS TO A JURY TRIAL.

5.2 DISPUTES. Any dispute between the parties arising out of this agreement shall be brought in any state or local court in Montgomery County Pennsylvania or the federal court located within the Eastern District of Pennsylvania. NOTWITHSTANDING ANY STATUTE OR LAW TO THE CONTRARY, ANY CLAIMS AGAINST VOXNET ARISING OUT OF OR RELATED TO SERVICE ISSUES MUST BE BROUGHT WITHIN ONE YEAR AFTER SUCH CLAIM OR CAUSE OF ACTION AROSE OR ARE BARRED

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

5.4 Entire Agreement. This Agreement, including any future modifications as may occur within the terms of the Agreement, and the rates for Services found on our website constitute the entire agreement between you and VoxNet and govern the use of the Service by you, members of your business, employees and guests. This Agreement supersedes any prior agreements between you and VoxNet and any and all prior or contemporaneous statements,

understandings, writings, commitments, or representations concerning its subject matter.

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

## **6. FUTURE CHANGES TO THIS AGREEMENT**

VoxNet reserves the right to make changes to pricing and the terms and conditions of this Agreement from time to time with 30 days advanced notice. Notices will be considered given and effective on the date posted on [www.voxnetinc.com](http://www.voxnetinc.com). VoxNet will make best efforts to notify Customers in advance via email regarding changes to the terms and conditions of this Agreement. Such changes will become binding on you on the date they are posted to our website and no further notice by us is required upon your continued use of the Service. The Agreement as and when posted supersedes all previously agreed to electronic and written terms of service, including, without limitation, any terms included with the packaging of the Device and also supersedes any written terms provided to Retail Customers in connection with retail distribution, including, without limitation, any written terms enclosed within the packaging of the Device.

## **7. PRIVACY**

VoxNet Service utilizes, in whole or in part, the public Internet and third-party networks to transmit voice and other communications. VoxNet is not liable for any lack of privacy which may be experienced with regard to the Service. Please refer to our website at [www.voxnetinc.com](http://www.voxnetinc.com) for additional Privacy Policy information.

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