



Master Services Agreement

This Master Services Agreement (“Agreement”) is between **1 POINT COMMUNICATIONS LLC** and the end user for **1 POINT COMMUNICATIONS LLC’s** voice over Internet protocol (“VoIP”) telephony services (“Services”). All Services provided by **1 POINT COMMUNICATIONS LLC** to End User are governed by the terms and conditions herein. By activating the Services, End User agrees to be bound by these terms and conditions throughout the Term of the Agreement. This Agreement is effective upon the earlier of (a) End User’s activation of the Services or (b) the last date signed below (“Effective Date”). In consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, **1 POINT COMMUNICATIONS LLC** and End User (the “parties”) hereby agree as follows.

1. **Start of Service and Term.** The term of this Agreement (“Term”) shall commence on the Effective Date and shall continue for an initial term as set forth in the initial Service Order Form, unless earlier terminated as provided herein, provided however that the initial term may be extended by agreement of the Parties in an executed Service Order Form. At the expiration of the Term, this Agreement shall renew for a successive term equal to the original term, (each a “Renewal Term”), unless a party provides notice of non-renewal at least 90 days prior to the expiration of the Term or any Renewal Term.

2. **Services and Payment.** **1 POINT COMMUNICATIONS LLC** shall provide the Services upon terms specified herein and in accordance with the SOF. End User shall pay for all Services provided. Payment is due upon receipt of the invoice and is considered late if not paid within thirty (30) days of date of invoice. Monthly recurring charges are invoiced one month in advance and usage-based charges are invoiced one month in arrears. If End User fails to pay charges when due, End User shall pay interest which shall accrue daily at a rate of 1.5% (unless a lower rate is prescribed by law) of the unpaid balance per month until payment is received in full. End User may dispute charges on the invoice; however, End User shall timely pay all undisputed amounts. End User shall submit any invoice dispute to **1 POINT COMMUNICATIONS LLC** in writing within thirty (30) days of the invoice date. End User shall provide a detailed written explanation for any disputed amounts or requests for adjustment. Thereafter, any payment disputes or billing adjustments are deemed waived.

3. **Deposit.** End User may be required to pay a deposit prior to the initiation of service or at any time during the term of this Agreement. **1 POINT COMMUNICATIONS LLC** reserves the right during the Term of the Agreement to review End User’s monthly bills and payment history and, if deemed necessary, require an initial deposit and or increase an existing deposit.

4. **Early Termination Fees.** If prior to the end of the Term, (A) End User terminates the Agreement for reasons other than material breach by **1 POINT COMMUNICATIONS LLC**, or (B) End User is in breach or default of the Agreement, then End User shall pay **1 POINT COMMUNICATIONS LLC** a termination charge equal to (i) any and all waived installation or other charges, plus the cost of any equipment provided to end user (less any amount paid for by end user for said equipment), or costs which have been incurred

by 1 POINT COMMUNICATIONS LLC in directly providing End User with Service, plus (ii) one hundred percent of all monthly charges for the Services multiplied by the number of months remaining in the first year of the Term, if any; plus (iii) fifty percent of all monthly charges for Services multiplied by the number of months remaining in the Term. These charges are liquidated damages and are not a penalty.

5. End User's Obligations. End User shall

- a. provide adequate electrical power, a suitable cable access route, suitable environment, and adequate space at End User's location(s) for 1 POINT COMMUNICATIONS LLC's equipment, if any, required to provide the Services;
- b. pay for damages caused to 1 POINT COMMUNICATIONS LLC's equipment by End User's or End User's employees, invitees, or contractor's negligence or intentional misconduct;
- c. makes its premises available to 1 POINT COMMUNICATIONS LLC for the maintenance of equipment that is required for use of Services and that is located on End User's premises;
- d. pays 1 POINT COMMUNICATIONS LLC's charges for time and material resulting from problems which were caused by End User or End User's equipment; and
- e. timely return, at the termination or expiration of this Agreement or any applicable SOF, 1 POINT COMMUNICATIONS LLC's equipment or replacement costs for same if the equipment is not returned (Any 1 POINT COMMUNICATIONS LLC equipment shall remain the property of 1 POINT COMMUNICATIONS LLC whether or not such equipment is attached to any End User real estate.); and
- f. use equipment that complies with 1 POINT COMMUNICATIONS LLC's specifications or interface requirements, which 1 POINT COMMUNICATIONS LLC may update and modify from time to time as technology and/or 1 POINT COMMUNICATIONS LLC's vendors change.

6. EMERGENCY SERVICES - 911 DIALING

a. 911 ACKNOWLEDGEMENT AND WARNING LABELS.

END USER ACKNOWLEDGES THAT 1 POINT COMMUNICATIONS LLC's EQUIPMENT AND SERVICES DO NOT SUPPORT

911 EMERGENCY DIALING OR OTHER EMERGENCY FUNCTIONS IN THE SAME MANNER THAT TRADITIONAL WIRELINE 911 SERVICES WORK. THE DIFFERENCES ARE DETAILED IN THIS SECTION AND END USER AGREES TO NOTIFY ALL POTENTIAL USERS OF THE SERVICES WHO MAY PLACE CALLS USING END USER'S SERVICES OF THE 911 LIMITATIONS DESCRIBED HEREIN.

1 POINT COMMUNICATIONS LLC WILL PROVIDE END USER WITH WARNING LABELS REGARDING THE LIMITATIONS OR

UNAVAILABILITY OF 911 EMERGENCY DIALING. END USER AGREES TO PLACE A LABEL ON AND/OR NEAR EACH TELEPHONE OR OTHER CUSTOMER PREMISE EQUIPMENT ON WHICH THE SERVICES MAY BE UTILIZED. IF ADDITIONAL LABELS ARE REQUIRED, END USER MAY REQUEST THEM FROM 1 POINT COMMUNICATIONS LLC. 1 POINT COMMUNICATIONS LLC WILL PROVIDE END USER WITH ADVISORY NOTICES

REGARDING 911 EMERGENCY DIALING AND REQUEST ACKNOWLEDGMENTS FROM END USER.

BY AGREEING TO THESE TERMS OF SERVICE, END USER AGREES THAT 1 POINT COMMUNICATIONS LLC HAS

ADVISED END USER OF THE CIRCUMSTANCES UNDER WHICH BASIC OR E911 SERVICE MAY NOT BE AVAILABLE OR MAY BE LIMITED IN COMPARISON TO TRADITIONAL 911 EMERGENCY DIALING. 1 POINT COMMUNICATIONS LLC STRONGLY RECOMMENDS THAT YOU ALWAYS HAVE AN ALTERNATIVE

MEANS OF ACCESSING 911 SERVICES VIA A TRADITIONAL PHONE LINE OR A WIRELESS PHONE.

b. Limitations Applicable to 911 Service.

In some states, or in certain areas within some states, even if you have 1 POINT COMMUNICATIONS LLC E911

service, due to technical limitations of the 911 systems in those states or areas, the Public Safety Answering Point ("PSAP") or local emergency service dispatcher receiving 1 POINT COMMUNICATIONS LLC E911

calls may not be able to capture and/or retain automatic number or location information. This means that the dispatcher may not know the phone number or physical location of the person who is making the 911 call. Therefore, if you dial 911 using 1 POINT COMMUNICATIONS LLC service, you must

immediately tell the dispatcher your name, address (or the location of the emergency, if different) and phone number. You must also take care not to disconnect the line. If you disconnect the line before you have given the dispatcher your phone number, the dispatcher may not be able to call you back. If you are unable to speak and describe your location, the dispatcher will not be able to locate you. 1 POINT COMMUNICATIONS LLC cannot guarantee that all PSAPs will maintain lines to answer alternative

911 services. In the event that any PSAP shall provide reasonable notice to 1 POINT COMMUNICATIONS LLC of its

decision not to answer alternative 911 calls, 1 POINT COMMUNICATIONS LLC shall make reasonable efforts to notify

service users with registered service addresses within the area serviced by the PSAP. .

c. Registration of Physical Location Required.

Location. For each phone number that you use for the Service, you must register with 1 POINT COMMUNICATIONS LLC the physical location where you will be using the Service with that phone number.

911 calls will not function correctly if you move your 1 POINT COMMUNICATIONS LLC equipment to a location other

than that provided when you registered for the service. In such event, in order to have 911 calling routed correctly and for emergency responders to receive accurate location information, you must update your service address in accordance with the instructions on the 1 POINT COMMUNICATIONS LLC service

website. Unless you have updated your service address and allotted the sufficient, advised time, for the service address update provisioning to complete, 1 POINT COMMUNICATIONS LLC recommends that you use

alternative means of accessing 911. Failure to update your service address immediately after any

instance in which you have moved your equipment may result in 1 POINT COMMUNICATIONS LLC terminating your

service without notice to you or penalty to 1 POINT COMMUNICATIONS LLC.

You acknowledge and understand that 1 POINT COMMUNICATIONS LLC will not be liable for any service outage and/or

inability to dial 911 using your service or to access emergency service personnel. You agree to defend, indemnify, and hold harmless 1 POINT COMMUNICATIONS LLC, 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 (including loss of profits or revenue), damages, fines, penalties, costs and expenses (including, without limitation, reasonable attorney fees) by, or on behalf of, you or any third party or user of the service relating to the failure or outage of the service, including those related to 911 dialing.

d. Service Outages.

(1) 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.

(2) 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.

(3) Service Outage Due to Suspension or Termination of Your 1 POINT COMMUNICATIONS LLC Account. Service outages due to suspension or termination of your account will prevent all Service, including 911 dialing, from functioning.

(4) 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 1 POINT COMMUNICATIONS 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, which 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.

(5) 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.

(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.

(7) If you do not correctly identify the actual location where your equipment will be located at the time you register for the service, 911 communications may be misdirected to an incorrect local emergency service provider.

(8) If you have call forwarding, find me/follow me, do not disturb, or other features programmed and in use at the time you dial a 911 call, and your 911 call is interrupted, the emergency dispatcher may not be able to call you back at the phone from which you dialed the call.

(9) 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.

7. Resale of Service Prohibited. End User agrees that 1 POINT COMMUNICATIONS LLC is provisioning Services for End User's use only and that End User is not authorized to resell any of the Services.

8. Taxes and Additional Charges. End User shall pay all applicable federal, state or local use, excise, sales or privilege taxes, duties or similar liabilities, Universal Service Fund charges, or any interexchange carrier charges, if any, charged to or against 1 POINT COMMUNICATIONS LLC or End User relating to End User's use of the Services furnished by 1 POINT COMMUNICATIONS LLC. If during the course of any governmental audit/examination, it is determined that the Service provided by 1 POINT COMMUNICATIONS LLC is subject to additional taxes or regulatory assessments as a result of End User's use of the Services, then End User shall reimburse 1 POINT COMMUNICATIONS LLC for any taxes, penalties, and interest that may be assessed applicable to End User's use of Services.

9. Compliance with Law; Prohibited Uses.

a. Laws and Regulation. Either party may terminate its obligations under this Agreement without liability if ordered to do so by a court or other governmental agency. If any court or regulatory agency order, ruling or regulation would materially and adversely impact 1 POINT COMMUNICATIONS LLC's ability to perform its obligations under this Agreement; 1 POINT COMMUNICATIONS LLC shall have the right to terminate this

Agreement and /or any applicable SOF without liability.

b. Fraud and Network Security. 1 POINT COMMUNICATIONS LLC is not liable for any damages, including without limitation usage and toll charges, End User may incur as a result of the unauthorized use of the Services, End User's telephone and or network facilities. This unauthorized use includes, but is not limited to, the placement of calls from End User's premises and the placement of calls through End User provided equipment, softphones, and or End User's network. In no event will 1 POINT COMMUNICATIONS LLC be liable for protection of End User's network, transmission facilities or equipment

from unauthorized access, or for any unauthorized access to or alteration, theft or destruction of End User's data files, programs, procedure, information or other network elements or content through fraudulent means or devices. End User shall remain responsible for any long distance charges or other charges irrespective of any actual or alleged unauthorized or fraudulent use.

1 POINT COMMUNICATIONS LLC shall have the right, but not the obligation, to immediately deactivate End User's long distance service or other services, in the event 1 POINT COMMUNICATIONS LLC reasonably believes such service is the subject of suspected theft or fraud. Further, 1 POINT COMMUNICATIONS LLC Reserve's the right to immediately suspend, disconnect, modify, or invoice for domestic calling services if 1 POINT COMMUNICATIONS LLC determines, in its sole and absolute discretion, that End User's use of the Service is, or at any time was inconsistent with normal business usage patterns, or that End User has, at any time, allowed for the following use: auto-dialing, continuous or extensive call forwarding, telemarketing, fax or voicemail broadcasting or fax or voicemail blasting, or any other actual or suspected prohibited or illegal use of Services or use of Services in a manner that leads to or that reasonably could lead to civil or criminal liability to the End User or 1 POINT COMMUNICATIONS LLC.

c. Content. 1 POINT COMMUNICATIONS LLC provides communications transport and application services only;

1 POINT COMMUNICATIONS LLC does not operate, edit, provide or control the content transported. 1 POINT COMMUNICATIONS LLC shall have no liability or responsibility for the content of any communication transmitted via the Services. End User agrees that it will not (i) use Service(s) for any purpose other than that for which it is intended or in violation of any law or regulation or in aid of any unlawful act, and (ii) use Service(s) so as to interfere with the operations of 1 POINT COMMUNICATIONS LLC Services. 1 POINT COMMUNICATIONS LLC is not responsible for any defects or damages to End User's equipment or Services resulting from (a) End Users or 1 POINT COMMUNICATIONS LLC employees mishandling, abuse, misuse, or accident; or (b) force majeure.

d. Prohibited Use. 1 POINT COMMUNICATIONS LLC prohibits use of the Service for high-volume auto-dialing, continuous or extensive call forwarding, high-volume telemarketing (including, without limitation, charitable or political solicitation or polling), fax or voicemail broadcasting or blasting. 1 POINT COMMUNICATIONS LLC reserves the right to immediately suspend, disconnect or modify Services if, in its sole discretion, 1 POINT COMMUNICATIONS LLC determines or reasonably suspects that End User is using or has used the Services for any of the aforementioned or similar activities.

10. WARRANTY. All components, including major (routers, switches) and minor (telephones) will carry individual Lifetime warranties against defects in workmanship, assembly and or installation, as well as performance within manufactures specification as determined by 1 POINT COMMUNICATIONS LLC representatives. 1 POINT COMMUNICATIONS LLC, at its discretion, shall repair or replace any component of the installed system during this warranty period. The warranty described in this

section shall remain in force only as long as END USER remains a subscriber to 1 POINT COMMUNICATIONS LLC Hosting Services.

WARRANTY DISCLAIMER. THE PARTIES EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, TO THE FULLEST EXTENT PERMITTED BY LAW, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. 1 POINT COMMUNICATIONS LLC MAKES NO WARRANTIES THAT USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. END USER SHALL MAKE NO REPRESENTATIONS OR WARRANTIES ON 1 POINT COMMUNICATIONS LLC'S BEHALF. ALL 1 POINT COMMUNICATIONS LLC WARRANTIES ARE SOLELY TO AND FOR THE BENEFIT OF THE END USER AND NOT FOR ANY OTHER USER, ENTITY, OR THIRD PARTY. NEITHER PARTY SHALL MAKE ANY REPRESENTATIONS OR WARRANTIES ON THE OTHER PARTY'S BEHALF.

11. LIMITATION OF LIABILITY AND INDEMNITY.

a. CONSEQUENTIAL DAMAGES WAIVER. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT, OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, ADVANTAGE, SAVINGS OR REVENUES OF ANY KIND OR INCREASED COST OF OPERATIONS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

b. 1 POINT COMMUNICATIONS LLC SHALL NOT BE LIABLE FOR ANY DAMAGES ARISING OUT OF OR RELATING TO:

INTEROPERABILITY, ACCESS OR INTERCONNECTION OF THE SERVICES WITH APPLICATIONS, EQUIPMENT, SERVICES, CONTENT OR NETWORKS PROVIDED BY END USER OR THIRD PARTIES; SERVICE DEFECTS, DELAYS OR INTERRUPTIONS, OR LOST OR ALTERED MESSAGES OR TRANSMISSIONS; OR, UNAUTHORIZED ACCESS TO OR THEFT, ALTERATION, LOSS OR DESTRUCTION OF END USERS' OR THIRD PARTIES' APPLICATIONS, CONTENT, DATA, PROGRAMS, INFORMATION, NETWORK OR SYSTEMS.

c. Limit of Liability. In no event shall any damages to End User under this Agreement exceed the charges paid by End User for the period of time during which there was a failure or interruption of the Service. In case of any failure or interruption of Services furnished hereunder, 1 POINT COMMUNICATIONS LLC shall use commercially-reasonable efforts under the circumstances to restore service or, if 1 POINT COMMUNICATIONS LLC elects, an equivalent service may be substituted.

d. THE LIMITATIONS OF LIABILITY SET FORTH IN THIS AGREEMENT SHALL APPLY: (i) REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE; AND (ii) WHETHER OR NOT DAMAGES WERE FORESEEABLE.

e. Indemnification. Each party shall indemnify, defend, and hold harmless the other, its officers, directors, employees and agents, against and from any claim, demand, action, charge, dispute, liability, loss, dispute, damages, cost and expense (including reasonable attorneys' fees and costs of litigation) ("Action") which any third party may assert, claim, or threaten to assert against either party or its officers, directors, employees or agents arising out of, or resulting directly from, the violation of law applicable to Services, grossly negligent acts or omissions, or the willful misconduct

of it or its employees, directors, officers, representatives, and agents in the course of its performance of its obligations under this Agreement. The indemnification provided herein shall survive the termination of this Agreement and the termination of any Service provided pursuant to this Agreement. Notwithstanding any other provision of this Agreement, the officers, directors, employees and agents of each party shall have no liability to the other, or any affiliate of under this Agreement.

f. E911 Indemnification. 1 POINT COMMUNICATIONS LLC shall have no liability to End User for any 911 call placed by an End User that fails to be completed to the appropriate PSAP or otherwise fails to function as

contemplated. The foregoing liability disclaimer includes, but is not limited to (i) an End User's failure to provide and update a registered location that accurately corresponds with the End User's actual physical location; (ii) an End User's failure to properly operate the Services, including but not limited to configuration of any customer premise equipment; (iii) an outage, degradation or other disruption of End User's internet service, electrical power at the End User location, or the End User local access connection; (iv) End User's failure to discharge any of its responsibilities specified herein and/or any responsibilities applicable to the End User in the FCC's VoIP E911 Order or in any applicable law, rule, or regulation; (v) a failure of the functioning of the facilities or services provided by an Underlying Provider or its agents; (vi) any error committed by the PSAP, its agents, or the public safety agencies it serves; and/or (vii) any third-party data used to route calls which is incorrect or yields an erroneous result.

g. Indemnification Requirements. The Indemnifying Party's obligations hereunder are conditioned upon: (1) prompt notice to the Indemnifying Party upon receipt of written notice of an Action for which the Indemnified Party seeks indemnity; (2) tendering control of the defense of such Action and any related settlement discussions to the Indemnifying Party (the Indemnified Party may participate in such defense, at its own expense, with counsel of its own choosing that Indemnifying Party reasonably approves); (3) the reasonable cooperation of the Indemnified Party, at the Indemnifying Party's request and expense; and (4) obtaining the Indemnified Party's prior written consent (which shall not be unreasonably withheld, delayed, or cause any delay or harm in the settlement discussion), for any settlement of an Action that does not include an unconditional release of the Indemnified Party from the indemnified liability.

12. Confidential Information.

a. Each party may have access to certain non-public information of the other party. All such information, if in writing, shall be specifically and obviously marked as "confidential" by the disclosing party at the time of disclosure, or if disclosed orally, shall be orally designated as confidential and thereafter identified as confidential by written notice to the receiving party within a reasonable time ("Confidential Information"). The pricing and terms of this Agreement and each party's method of providing its respective services are hereby deemed Confidential Information. Neither party will use for its own account or the account of any third party, nor disclose to any third party (except as required by law or as reasonably necessary to the receiving party's attorneys, accountants and other advisors who are obligated to maintain the confidentiality of such information) the other party's Confidential Information. The disclosing party retains all right, title and interest in all Confidential Information it discloses under this Agreement and all improvements

and modifications made thereto. Each party will use reasonable care, at least equivalent to the care used for its own similar Confidential Information, to protect the confidentiality of the disclosing party's Confidential Information. Each party's obligation under this Section will survive for a period of two years following the expiration or termination of this Agreement.

b. Exceptions. Confidential Information shall not include information that (i) is in or enters the public domain without breach of this Agreement and through no fault of the receiving party; (ii) the receiving party was legally in possession of prior to receiving it; (iii) the receiving party can demonstrate was developed by it independently and without use of or reference to the disclosing party's Confidential Information; or (iv) the receiving party receives from a third party without restriction on disclosure. If a party is required to disclose Confidential Information by law, court order, or government agency, such disclosure shall not be deemed a breach of this Agreement; however, the disclosing party shall provide notice to the other party prior to such disclosure.

c. Remedy. Any unauthorized copying, transfer, disclosure, or use of any Confidential Information of the other party shall cause irreparable injury to the disclosing party that cannot be adequately compensated by monetary damages and the disclosing party shall be entitled to seek equitable relief, including injunctive relief, with bond waived, against the receiving party as a remedy for any material breach of this Section. The disclosing party may in addition to equitable relief, pursue any and all legal and contractual remedies available to the disclosing party.

13. Default. Upon default by End User, 1 POINT COMMUNICATIONS LLC may suspend Service to End User until End User remedies the default, or 1 POINT COMMUNICATIONS LLC may terminate this Agreement and/or any SOF and the Service being provided thereunder. End User is in default of this Agreement if it

a. is past due in paying 1 POINT COMMUNICATIONS LLC for any invoice pursuant to its terms and has failed to cure such non-payment within ten (10) days, excluding those amounts which End User has notified 1 POINT COMMUNICATIONS LLC are in dispute.

b. breaches any material term of this Agreement, excluding payment terms, and fails to cure such breach within thirty (30) days of notice of the same; or

c. becomes insolvent and/or is unable to meet its debt obligations or files or initiates proceeding or has proceedings filed or initialed against it, seeking liquidation, reorganization or other relief (such as the appointment of a trustee, receiver, liquidator, custodian or other such official) under any bankruptcy, insolvency or other similar law.

14. ADDITIONAL REQUIREMENTS ON USE OF SERVICES.

a. Non-Voice Systems. End User acknowledges that the Services will not function with outdialing systems including home security systems, medical monitoring equipment, TTY equipment, and entertainment or satellite television systems, except that certain Services provided by 1 POINT COMMUNICATIONS LLC

support TRS for the deaf and hearing impaired.. End User waives any claims against 1 POINT COMMUNICATIONS LLC for any interruption, malfunction, or disruption of such equipment or systems by the Services.

b. Service Availability. 1 POINT COMMUNICATIONS LLC will use commercially reasonable efforts to provide the Services to End User in a manner consistent with industry standards and as further set forth

in this Agreement, however, service outages may occur due to various reasons, including, without limitation, the following.

- (1) power failure or disruption at End User's location,
- (2) Internet connection outage, suspension, or disconnection, and/or
- (3) ISP or broadband provider's blocking of ports or otherwise impeding the usage of the Internet.

c. Restrictions on Services. 1 POINT COMMUNICATIONS LLC reserves the right, without notice to End User, to (a) deny, for any lawful reason, the End User's request for service; (b) limit or allocate the facilities available to or utilized by any service, if necessary to manage its network in an efficient manner, meet reasonable service expectations, furnish service to existing or future End Users, or any other lawful reason or (c) comply with any law enforcement or regulatory subpoena, warrant, or other legal request for information or action. 1 POINT COMMUNICATIONS LLC also reserves the right to, without notice (consistent with governing laws and regulations), block traffic to or from specific countries, country codes, cities, city codes, local telephone exchanges, individual telephone stations, groups or ranges of individual telephone stations, or calls using certain End User authorization codes, whenever 1 POINT COMMUNICATIONS LLC deems it necessary to take such actions to prevent (1) the unlawful use of Service; (2) nonpayment for Services; (3) fraudulent (actual or anticipated) usage; (4) the use of Service in violation of this Agreement; or (5) network blockage or the degradation of Service furnished to the End User or other End Users. Notwithstanding the above, 1 POINT COMMUNICATIONS LLC has no obligation or duty to block said traffic, nor shall 1 POINT COMMUNICATIONS LLC be responsible or have any liability to End User (or any third party) for failure to perform such blocking.

15. Notice. Except where other means of communication are expressly provided in this Agreement, all notices under this Agreement will be in writing, signed by the party giving the same, and will be deemed properly given and received (i) on the next business day after deposit for pre-paid overnight delivery by an overnight courier service or (ii) three business days after mailing, by pre-paid registered or certified mail, return receipt requested. All such notices will be addressed to the addresses listed in this Agreement to the attention of the law department. Either party may change its address for notices hereunder by written notice to the other party.

16. Force Majeure. Each party's failure to perform its obligations hereunder, except any obligation to pay money due or for Services rendered, shall be excused to the extent and for the period such performance is prevented by any act or condition beyond the reasonable control of such party including without limitation, fire, flood, earthquake, acts of nature, explosion, war, acts of terrorism, labor dispute, or any governmental law, order, regulation or ordinance ("Force Majeure Event"), provided, however, that if a party suffering a Force Majeure Event is unable to cure that event within thirty days, the other party may terminate this Agreement.

17. Choice of Law and Jurisdiction. This Agreement shall be interpreted, enforced, and governed by the laws of the Commonwealth of Virginia without regard to its conflict of laws principles. The Parties hereby consent and submit to the jurisdiction of the courts of the County of Botetourt in the

Commonwealth of Virginia and of the United States District Court for the Western District of Virginia, Roanoke Division (to the extent such court has subject matter jurisdiction) for any actions arising out of, or relating to, this Agreement, and agree not to assert in any such action lack of personal jurisdiction, that the action is brought in an inconvenient forum, or that venue of the action is improper.

18. Additional Provisions. (a) Failure to give notice of default or to enforce compliance with any condition of the Agreement shall not constitute the permanent waiver of any term or condition of this Agreement; (b) 1 POINT COMMUNICATIONS LLC shall be entitled to attorneys' fees and related expenses in the event suit is brought or an attorney is retained to enforce the terms of this Agreement or to collect any moneys due hereunder or to collect money damages for breach hereof; (c) the Services provided by 1 POINT COMMUNICATIONS LLC are subject to the condition that they will not be used for any unlawful purposes; (d) any modification to this Agreement must be in a writing signed by both parties and End User acknowledges that no representation, promise, inducement or statement of intention has been made by 1 POINT COMMUNICATIONS LLC which is not included herein; (e) this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors or assigns, provided, however, that End User shall not assign or transfer its rights or obligations under this Agreement without the prior written consent of 1 POINT COMMUNICATIONS LLC; (f) if any part of this Agreement, including all SOFs or Attachments signed in connection with this Agreement, shall be held unenforceable the remainder of this Agreement shall remain in full force and effect; (g) descriptive headings in this Agreement are for convenience only and shall not affect the construction of the Agreement; and (h) this Agreement may be executed in one or more counterparts, including facsimile transmissions, each of which shall be an original against any party whose signature appears on such counterpart and all of which together shall constitute one and the same agreement.

19. Arbitration: Any dispute or controversy arising out of or in connection with this SLA or any related SOs, or the performance or breach hereto shall be resolved by binding arbitration. Such arbitration shall be conducted by a single arbitrator in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA"), the arbitrator location will be selected by 1 POINT COMMUNICATIONS. The arbitrator must have sufficient experience in the matter(s) at issue. The arbitrator's decision shall follow the plain meaning of the Agreement and shall be final, binding and enforceable in a court of competent jurisdiction. Each party shall bear the cost of preparing and presenting its case. The fees and expenses of the AAA, including the arbitrator, shall be the responsibility of the non-prevailing party. In the event of a partial-decision, the fees and expenses of the AAA, including the arbitrator, shall be prorated in the same ratio as the amounts awarded for each party as they are a percentage of the total amounts awarded to all parties.

20. Entire Agreement: This SLA and any related SO or revenue commitment agreement executed by the parties constitute the entire agreement between the parties, and supersedes any prior agreements between the parties, with respect to the subject matter hereof, unless otherwise specifically agreed to by the parties. No additions, deletions or modifications hereto shall be binding unless evidenced in writing by both parties.