



VOICE OVER INTERNET PROTOCOL (VoIP) TERMS & CONDITIONS AGREEMENT *“Powered by Logicom”*

THESE TERMS & CONDITIONS (the “**Agreement**”) is made by and between **Central Access, Inc.**, an Alabama corporation (herein referred to as either “**Central Access**”, “**Provider**”, “**we**”, “**our**” or “**us**”), with a principal place of business at 103 Jesse Samuel Hunt Boulevard, Suite 201, Prattville, Alabama, and Customer (herein referred to either as “**Customer**”, “**End User**” or “**you**”) at the address provided on Customer Application. Each of Provider and Customer is a “Party” and, collectively, the “Parties”.

WHEREAS, Central Access offers Voice over Internet Protocol (VoIP) services (as such terms are defined below); and

WHEREAS, Customer wishes to purchase from Central Access certain VoIP Service as stated in service orders; and

WHEREAS, Central Access is willing to provide said VoIP to Customer on the terms and conditions herein contained.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

BY ACTIVATING THE SERVICES, END USER ACKNOWLEDGES RECEIVING, READING AND UNDERSTANDING THIS AGREEMENT AND ACCEPTS THE TERMS AND CONDITIONS HEREIN. END USER IS OF LEGAL AGE TO ENTER INTO THIS AGREEMENT.

1. Definitions. For all purposes of the Agreement, in addition to terms defined elsewhere in this Agreement, the following capitalized and bolded terms shall have the definitions set forth below:

“**911 Dialing**” means the “911 Dialing” service provided as a part of our VOIP Service.

“**Affiliate**” means an entity that (directly or indirectly) controls, is controlled by, or is under common control with a Party, where “control” means the direct or indirect ownership of more than fifty percent (50%) of the voting equity.

“**Customer Premises**” means the location or locations occupied by Customer to which Services are provided or delivered.

“**Device**” or “**device**” means the equipment provided by Central Access to utilize the VOIP Service.

“**Effective Date**” means the date first set forth above.

“**Facilities**” means all equipment or personal property provided by Central Access and delivered or installed for use at Customer Premises to deliver Services, including without limitation, optional network units, terminal and other equipment, wiring, lines, ports, routers, switches, channel service units, and data service units.

“**Service(s)**” means, individually and collectively, those broadband services and facilities described in a then-effective Service Order which has been accepted by Central Access which may include VOIP Services.

“**Service Order**” means a document in the form set forth at Exhibit “A” hereto which sets forth, at a minimum, (i) the Service(s) that are the subject of such Service Order with Customer, and (ii) references to Provider’s rates and charges applicable to such Service(s), which may be by reference to Provider’s adopted and posted rates. “Service Order” expressly includes any upgrade Service Orders.

“**VOIP Service**” means voice over internet protocol provided through the Device and Facilities.

2. Terms and Conditions.

Any Services made available to Customer shall be governed by the terms and conditions herein. Any additional, different, or conflicting terms and conditions issued by Customer at any time and not incorporated herein are hereby objected to by Provider, and any such terms and conditions shall be wholly inapplicable to any sale made or Service rendered hereunder and shall not be binding in any way on Provider. No waiver or amendment to this Agreement or these terms and conditions shall be binding on Provider, unless made in writing expressly stating that it is such a waiver or amendment and signed by a duly authorized representative of Provider.

3. VOIP Services – 911 Dialing.

a. 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**

to the center 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 consent to and 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.

b. Service Outages.

(i) 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 VOIP 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 VOIP Service, including 911 Dialing.

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

(iii) Service Outage Due to Suspension or Termination of Your Central Access Account. VOIP Service outages due to suspension or termination of your account will prevent all VOIP Services, including 911 Dialing, from functioning.

(iv) Other Service Outages. If there is a VOIP Service outage for any reason, such outage will prevent all VOIP 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.

(v) 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.

c. 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, if the call is dropped or disconnected, if you are unable to speak to tell the operator your phone number, or if the VOIP Service is not operational for any reason.

d. 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, if the call is dropped or disconnected, if you are unable to speak to tell the operator your location, or if the VOIP Service is not operational for any reason.

e. 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 CENTRAL ACCESS NOR ITS SHAREHOLDERS, 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 CENTRAL ACCESS, ITS SHAREHOLDERS, OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES AND AGENTS AND ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICES TO YOU IN CONNECTION THE VOIP SERVICE, FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, FINES, PENALTIES, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES) BY, OR ON BEHALF OF, YOU OR ANY THIRD PARTY RELATING TO THE ABSENCE, FAILURE OR OUTAGE OF THE VOIP SERVICE, INCLUDING 911 DIALING, INCORRECTLY ROUTED 911 DIALING CALLS, AND/OR THE INABILITY OF ANY USER OF THE VOIP SERVICE TO BE ABLE TO USE 911 DIALING OR ACCESS EMERGENCY SERVICE PERSONNEL.

f. 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 VOIP Service.

g. Use of VOIP Service and Device by Customers Outside the United States. Although we encourage you to use the VOIP Service to place calls to foreign countries from within the United States, 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 the 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 the device outside of the United States.

h. Consent. You authorize us to disclose your name and address to third parties involved with providing 911 Dialing to you, including, without limitation, interconnected providers, call routers, call centers and local emergency centers. You also hereby consent to and authorize us to provide your name and address to any third parties assisting Central Access in providing services hereunder.

4. Services.

a. Term. Service is offered on a monthly basis. The term begins on the date that Central Access activates any Service to you. Subsequent terms of this Agreement automatically renew on a monthly basis unless you give us prior notice. Expiration of the term or termination of Services will not excuse you from paying all accrued and unpaid charges due under this Agreement.

b. Use of Service and Device. You shall not resell or transfer the Services or any Devices to another party without our prior written consent. You are prohibited from using the VOIP Service or the Device 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 you have at any time used the VOIP Service or the device for any of the aforementioned or similar activities.

c. Prohibited Uses. (i) Unlawful. You shall use the VOIP Service and the 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 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 VOIP Service. If we believe that you have used the VOIP 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, Central Access 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, (ii) Inappropriate Conduct. You shall not use the VOIP 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 VOIP Service if, in our sole and absolute discretion, we determine that you have used the VOIP 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 VOIP Service. If we believe that you have used the VOIP 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, Central Access 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.

d. Tampering with the Device or Service. You shall not change the electronic serial number or equipment identifier of any Facilities (including the Device) or to perform a factory reset of the Device without our prior written consent. We reserve the right to terminate your VOIP 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 VOIP Service or make any use of the VOIP Service that is inconsistent with its intended purpose.

e. 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 VOIP 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 VOIP Service. Failure to do so in a timely manner may result in the termination of your VOIP 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 VOIP Service using a device stolen from you and any and all stolen, fraudulent or unauthorized use of the VOIP Service.

f. Return of Device. Customers will return the Device to us within fourteen (14) days of the termination of VOIP Service.

g. Number Transfer on Service Termination. Upon the termination of your VOIP 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 VOIP Service if:

- such new service provider is able to accept such number;
- our 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.

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

i. No 0+ or Operator Assisted Calling; May Not Support x11 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 (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.

j. No Directory Listing. The phone numbers you obtain from us 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.

k. Incompatibility with Other Services.

(i) Security Systems. The VOIP 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 VOIP Service.

(ii) Certain Broadband and Cable Modem Services. You acknowledge that the VOIP 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 VOIP Service. We do not warrant that the VOIP Services will be compatible with all broadband services and expressly disclaim any express or implied warranties regarding the compatibility of the VOIP Service with any particular broadband service.

5. Customer Premises; Facilities.

a. Where Facilities are to be provided by Central Access, Customer shall allow and grant Central Access, access to the Customer Premises to the extent reasonably necessary for the provision of Services and for the installation, inspection and scheduled or emergency maintenance of Facilities. Central Access shall notify Customer in advance of any regularly scheduled maintenance of Facilities that will require access to the Customer Premises. Customer will be responsible for providing and maintaining, at their own expense, the level of power, heating and air conditioning necessary to maintain the proper environment for the Services and Facilities at the Customer Premises and shall ensure that the Customer Premises is secure and safe from hazards to the

Services and Facilities or to Central Access's employees, agents or contractors.

b. Title to all Facilities shall remain with Central Access and all Facilities shall remain the sole and exclusive property of Central Access. Customer shall not, and shall not permit others to, without the prior written consent of Central Access, (i) rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any Facilities, (ii) use any Facilities for any purpose other than that for which Central Access provides them, or (iii) take any action that causes the imposition of any lien or encumbrance on the Facilities. Anything in the Agreement to the contrary notwithstanding, in no event will Central Access be liable to Customer or any other person for interruption of Services or for any other loss, cost or damage caused or related to improper use or maintenance of the Facilities by Customer or third parties provided access to the Facilities by Customer in violation of this Section 5. Customer agrees (which agreement shall survive the expiration, termination or cancellation of any Service Order or this Agreement) to allow Central Access upon prior notice to Customer to remove the Facilities from the Customer Premises (1) after termination, expiration or cancellation of the Services in connection with which the Facilities were used, and (2) for maintenance, repair, replacement or otherwise as Central Access may determine is necessary or desirable from time to time.

c. Customer assumes the risk of loss, theft or damage to all Facilities at all times prior to the removal of the Facilities by Provider or the return of the Facilities by Customer Provider. Customer shall defend, indemnify and hold harmless Central Access, and its successors or assigns, against any and all claims, liability, loss, damage, or harm (including without limitation reasonable legal fees) suffered by Central Access to the extent that the same arise from Customer's gross negligence, willful misconduct or failure to perform its obligations under this Section 5, including without limitation any damage to the Facilities resulting therefrom.

d. *In the event that the Device is destroyed, damaged, lost or stolen or has been tampered with, or is not returned to Provider within fourteen (14) days after termination, Customer shall be liable to Provider for the full replacement cost of the unreturned, destroyed, lost, stolen or damaged device.*

6. Customer-Provided Equipment. Central Access has no obligation to install Customer-provided communications equipment at the request of Customer. Customer shall be responsible for the operation or maintenance of any Customer-provided communications equipment including interface or compatibility with the Facilities. Central Access shall have no liability whatsoever for the configuration, management, or performance of Customer-provided communications equipment.

7. Credit Approval and Deposits – Customer may be required to provide Central Access with credit information regarding, as reasonably requested, and delivery of services is expressly made subject to credit approval. Central Access may require Customer to make a deposit (which will not exceed Customer's estimated charges for all then-current

Services for two months) as a condition to Central Access's acceptance of any Service Order. The deposit will be held by Central Access as security for payment of Customer's charges, and, in Central Access's sole discretion, may be applied against any past-due charge (and Customer may be required to replenish such deposit). Upon termination of the Agreement, the amount of the deposit then remaining will be service credited to Customer's account and any remaining credit balance will be refunded to Customer.

8. Rates and Charges.

a. Rates and charges for the Service(s) shall be as established by Central Access from time to time for the Services set forth in the Service Order(s). Charges for additional services required for installation or use of such Services shall be at Central Access's then-current charges for same. Billing to Customer for recurring charges with respect to Service(s) will commence on the date on which Customer is deemed to have accepted such Services in accordance with Section 9(b) below. All other charges for Services or additional Services may be billed at the times designated by Central Access.

b. Upon completion of installation, testing and activation of each Service, Central Access shall have Customer sign off the day of installation that all services installed are working properly. In the event that Customer notifies Central Access the Service is not installed and functioning properly, then Central Access shall correct any deficiencies not caused by Customer to ensure that such Service is installed and functioning properly. The procedure described in this paragraph shall be repeated until the Customer expressly accepts such Services or is deemed to have accepted such Services as described herein.

9. CHARGES; PAYMENTS; TAXES; TERMINATION.

a. Billing Disputes. You must notify us after receiving your bill if you dispute any Central Access charges on that statement or you will be deemed to have waived any right to contest such charges.

b. Payment and Collection. If your Service Order is terminated or your Service term expires, 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.

c. 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; provided, however, that prior to terminating your VOIP Service we will provide you thirty (30) days notice. 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.

10. Disputed Billing. In the event Customer disputes any portion of a Central Access bill, Customer shall pay the undisputed portion of the bill by the date the same is due, and shall contact Central Access concerning the disputed amount. Central Access shall credit the amount of the dispute, if validated, in full including any late fees on the Customer's next invoice. In the event that the dispute is resolved against Customer, Customer shall pay such amounts in full on the due date of the next invoice, including any applicable late fees. **CLAIMS OF FRAUDULENT USAGE SHALL NOT CONSTITUTE A VALID BASIS FOR A DISPUTE.**

11. Taxes. All charges for Services are net of Applicable Taxes (as defined below). Except for taxes based on a Party's net income and taxes assessed on a Party's tangible or intangible property, the other Party will be responsible for all applicable taxes, fees, duties, charges, or regulatory surcharges that arise in any jurisdiction on the provision, sale or use of the Services and permitted by applicable law to be passed through to such other Party, including, without limitation, value added, consumption, sales, use, gross receipts, excise, access, bypass, franchise or other taxes or federal or state universal services charges (collectively, "**Applicable Taxes**"). If a Party is entitled to an exemption from any Applicable Taxes, such Party shall be responsible for presenting the other Party with a valid exemption certificate. Both Parties will give effect to any such valid exemption certificate to the extent it applies to any Service billed by a Party to the other Party from the date a valid exemption certificate is received by the other Party.

12. Use of Marks. Neither Party shall use any trademarks, service marks, logos, or trade names of the other Party (individually and collectively the "**Marks**") in any manner whatsoever, including without limitation in any advertising, signage, marketing materials, website content, brochures or any other materials in any medium, without such other Party's express advance written consent. Neither Party shall issue any press release, announcement or public statement with respect to the Agreement or the other Party without such other Party's express advance written consent, and any such press release, announcement or public statement shall be subject to such other Party's review and written approval. Each Party agrees that it shall only use any Marks in strict compliance with the other Party's instructions. In no event whatsoever shall a Party use the Marks: (i) except in connection with such Party's exercise of rights and performance of obligations under the Agreement, (ii) in any manner which is derogatory to or critical of the other Party or otherwise in breach of the Agreement, or (iii) without the other Party's express prior written permission, in connection with trademarks, service marks, logos, or trade names of third parties or in any manner that expresses or implies any affiliation, connection, or association of such other Party with, or such other Party's sponsorship or approval of, the activities of any third party.

13. Customer's Use of Services. Customer shall defend, indemnify, and hold harmless Central Access from and against any and all costs, losses, harm or damages (including without limitation reasonable attorney's fees) arising out of or relating to Customer's use of the Services, including

claims resulting from use of the Services by Customer's End Users and/or the content of any communications transmitted via the Service(s).

14. Consent and Privacy. Provider utilizes the public Internet and third party networks to provide voice communication services. Accordingly, Provider cannot guarantee the security of voice or internet based communications of End User. Provider is committed to respecting End User's privacy. Once End User chooses to provide personally identifiable information, except as otherwise required by applicable law, it will only be used in the context of the End User's relationship with Provider. Provider will not sell, rent, or lease End Users' personally identifiable information to others. Unless required by applicable law or subpoena or if End User's prior permission is obtained, Provider will only share the personal data of End User with business partners that are acting on Provider's behalf to complete the Services. Such Provider entities and/or national or international business partners are governed by Provider's privacy policies with respect to the use of this data. **Upon the appropriate request of a government agency, law enforcement agency, or court as otherwise required by law, Provider may disclose personally identifiable information, and Customer hereby consents to such disclosure by Central Access and by those third parties who provide services to Central Access to the government agency, law enforcement agency, or court as required by law without liability or responsibility to Customer.**

15. Force Majeure. If a Party's performance (other than payment) hereunder is delayed or prevented by reason of an event or circumstance not within the reasonable control of the Party claiming the excuse and that with reasonable diligence cannot be prevented or overcome, including, without limitation, acts of God or of the public enemy; governmental requirements; changes in governmental laws or regulations; earthquakes; fires; floods or other catastrophes; epidemics or quarantines; freight embargoes; war; civil strife; insurrection; riot; materials shortages; or labor stoppages (each, a "**Force Majeure Event**"), then the Party whose performance is delayed or prevented shall promptly notify the other Party of the Force Majeure Event and shall be excused from performance to the extent delayed or prevented (and the other Party shall be excused from any corresponding performance for the same period); provided, however, that the Party whose performance is delayed or prevented shall take all reasonable steps to avoid or remove such cause of nonperformance and shall continue to perform whenever and to the extent reasonably possible, and provided further that any time for performance set forth in this Agreement shall be extended for a period equal to the period of any such delay.

16. Repair. Central Access will make reasonable efforts to maintain its broadband system to respond to service calls in a timely manner. Central Access agrees to repair damage to the Facilities, including the Device, or interruption of the Services, when due to reasonable wear and tear or technical malfunction of any of the Facilities. In the event of damage to the Facilities caused by negligent, willful or intentional misconduct by Customer, the Customer shall be solely responsible for and shall pay Central Access for the costs of repair or replacement of the Facilities so damaged.

17. Termination by Central Access. Central Access may terminate services to Customer in the event that:

a. any amounts due and owing by Customer (other than amounts which are the subject of a then-current dispute in accordance with Section 11) remain unpaid ten (10) days after the bill date;

b. Customer (i) becomes insolvent, (ii) makes a general assignment for the benefit of creditors, or (iii) files (or has filed against it) a petition in bankruptcy which petition is not dismissed within sixty (60) days thereafter;

c. Central Access is ordered, by a federal, state or local governmental entity, regulatory body or court of competent jurisdiction, to cease providing Service(s); or

d. changes in applicable law, regulation, decision, rule or order materially increase the costs to Central Access of, or materially affects other terms of Central Access's delivery of Service(s), and Central Access and Customer are unable to reach agreement respecting new rates, terms and/or conditions regarding such Service(s) within ninety (90) days after Central Access's delivery of written notice requesting renegotiation thereof.

e. in the event that Customer has breached a provision of this Agreement, and following notice provided by Central Access to such Customer, the Service Order or this Agreement may be terminated by Central Access.

f. Central Access may terminate this Agreement immediately upon notification of Customer or any of Customer's household members engaging in abusive behavior through use of any of the services provided by Central Access to Customer or by violating the Central Access Acceptable Use Policies posted on Central Access's publicly available website.

g. In addition, Central Access may terminate the Service upon thirty (30) days prior written notice.

18. Termination by Customer. Customer may terminate a Service by contacting Central Access subject to the terms of this Agreement and Central Access rules and regulations of service in effect from time to time.

19. Effect of Termination.

a. Upon termination or expiration of any Service(s) or Service Order for any reason whatsoever:

(1) all obligations of Central Access under such Service Order and under the Agreement with respect to such terminated Service(s) shall immediately terminate; except those obligations stated to survive and each Party's respective defense and indemnification obligations shall survive the termination or expiration of such Service(s) or Service Order; and

(2) all payment obligations of Customer under the Agreement with respect to such terminated Service(s) (including any obligations to pay termination charges in

connection there with less disputed amounts), shall accrue through the date of such termination and shall become immediately due and payable less disputed amounts. The obligations of Customer accrued prior to the date of termination shall survive until satisfied.

(3) within fourteen (14) days following termination of the Services, the Customer shall return any Facilities to Central Access in undamaged condition. In the event that the Customer fails to return the Facilities with such 14-day period or fails to return them in undamaged condition, the Customer shall be responsible and liable to Central Access for the full replacement cost of the Facilities which are not returned or which are damaged.

20. Limitation of Liability.

a. Limitation of Liability. We will not be liable for any delay or failure to provide the Services, including VOIP Services or 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.

b. Disclaimer of Liability for Damages. IN NO EVENT WILL CENTRAL ACCESS, ITS SHAREHOLDERS, OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS OR ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICES TO YOU IN CONNECTION THE SERVICES 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.

c. Indemnification and Survival.

(i) Indemnification. You shall defend, indemnify, and hold harmless Central Access, its shareholders, officers, directors, employees, affiliates and agents and any other service provider who furnishes services to you in connection with the Services, from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without limitation, attorneys' fees) by, or on behalf of, you or any third party or user of the Service, relating to the Services, including, without limitation, 911 Dialing, or the device.

(ii) 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.

d. No Warranties on Services. 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, DEGRADATION OF VOICE QUALITY OR LOSS OF CONTENT, DATA OR INFORMATION. NEITHER CENTRAL ACCESS NOR ITS SHAREHOLDERS, 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 CENTRAL ACCESS'S OR ITS SERVICE PROVIDER'S OR VENDORS' NEGLIGENCE. STATEMENTS AND DESCRIPTIONS CONCERNING THE SERVICE OR DEVICE, IF ANY, BY CENTRAL ACCESS OR CENTRAL ACCESS'S AGENTS OR INSTALLERS ARE INFORMATIONAL AND ARE NOT GIVEN AS A WARRANTY OF ANY KIND.

e. Device Warranties.

(i) **Limited Warranty.** Except as set forth herein, if you received a 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.

(ii) **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.

(iii) **Disclaimer.** OTHER THAN WARRANTIES AS TO THE DEVICE EXPRESSLY SET FORTH IN THE DOCUMENTATION PROVIDED WITH THE DEVICE, 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

f. **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 Services or device (each such person, a "User"). You shall assure that your and your User's use of the Services 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 with 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.

g. **Recording Conversations.** Central Access 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.

21. **Fraudulent Calls.** In the event Customer connects the Services to the public switched network, Customer is solely responsible for selection, implementation and maintenance of security features for protection against unauthorized calling, and Central Access shall have no liability therefore. Customer is solely responsible for payment of long distance, toll and other telecommunications charges incurred through use of the Services being provided hereunder. Customer shall indemnify and hold Central Access harmless from all costs, expenses, claims or actions arising from

fraudulent call of any nature carried by means of the Services. Customer shall not be excused from paying Central Access for Services provided to Customer or any portion thereof on the basis that fraudulent calls comprised a corresponding portion of the Services. In the event Central Access discovers fraudulent calls being made, nothing contained herein shall prohibit Central Access from taking immediate action, without notice to Customer that is reasonably necessary to prevent such calls from taking place. Notwithstanding, it is understood that Central Access is under no obligation to investigate the authenticity of calls charged to Customer's account and shall not be liable for any fraudulent calls processed by Central Access and billed to Customer's account.

22. **Assignment.** Customer may not assign any portion of this Agreement, voluntarily or involuntarily, including without limitation by operation of law or by merger in which Customer does not survive, except with the express written consent of Central Access (which consent shall not be unreasonably withheld, delayed or conditioned), and any attempt to do so shall be null and void. No person or entity not a Party hereto shall have any interest herein or be deemed a third party beneficiary hereof and nothing contained herein shall be construed to create any rights enforceable by any other person or third party.

23. **Notice.** Any notice required or permitted to be given hereunder shall be (a) in writing, (b) effective upon receipt, and (c) delivered by one of the following means: (i) by personal delivery; (ii) by prepaid, overnight package delivery or courier service; or (iii) by the United States Postal Service, first class, certified mail, return receipt requested, postage prepaid. In addition to actual receipt by a Party, the following shall constitute receipt: (i) a Party's rejection or other refusal to accept notice, and (ii) the inability to deliver to a Party because of a changed address of which no notice has been received by the other Party. All notices given under the Agreement shall be addressed to the addresses of the Parties hereto set forth at the outset of this Agreement or to such other addresses of which the Parties hereto have been advised in writing by any of the above-described means.

24. **Governing Law.** The Agreement and the rights and obligations of the Parties hereto hereunder shall be governed by, and construed and enforced in accordance with, the laws of the State of Alabama without regard to Alabama's conflict of law principles.

25. **Entire Agreement.** This Agreement (including, without limitation, any Service Order and all terms and conditions set forth therein or attached thereto) constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior understandings and agreements, and, except as provided herein, may not be amended, modified or altered except by a written instrument duly executed by the Parties hereto.

26. **Severability.** Any provision of the Agreement held or determined by a court (or other legal authority) of competent jurisdiction to be illegal, invalid or unenforceable in any jurisdiction shall be deemed separate, distinct and independent, and shall be ineffective only to the extent of such holding or determination without (i) invalidating the remaining provisions of the Agreement in that jurisdiction or (ii) affecting

the legality, validity or enforceability of such provision in any other jurisdiction.

27. Relationship of Parties. Nothing in the Agreement shall be construed as creating a joint venture or partnership between the Parties hereto. Neither Party has or shall have any authority to bind, assume any obligation for or incur any debt on behalf of the other Party in any respect whatsoever.

28. Supersedence. In the event of a conflict or inconsistency between any Service Order and the remaining terms and conditions of this Agreement, the terms of the applicable Service Order shall control.

29. 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.

30. Resale of Products or Services. Subject to compliance with any applicable laws or regulations, any products or services provided under this Agreement may not be resold to or shared with other persons or entities as described in the Service Order or End User Agreement Addendums. The Customer remains solely responsible for all Services ordered by it or billed to its account, for determining who is authorized to use its services and taking appropriate actions to enforce such a determination, and for immediately notifying Provider of any unauthorized use.