



VTX1 Companies

## **TERMS AND CONDITIONS OF VTX SERVICES**

Valley Telephone Cooperative, Inc. ("VTCI"), directly and through its affiliate VTX Communications, LLC (such entities are referred to collectively as "VTX" or "VTX1"), offers our customers a range of services (each a "Service" and collectively the "Services").

All Services are provided in accordance with the [GENERAL TERMS OF SERVICE](#).

Supplemental terms of service as set forth herein apply to the following Services:

[TRADITIONAL TELEPHONE AND LONG DISTANCE SERVICES](#)

[INTERNET SERVICES](#)

[IP VOICE SERVICES](#)

[ETHERNET, DEDICATED INTERNET ACCESS SERVICES AND OTHER DEDICATED CAPACITY](#)

[PHONE SYSTEMS](#)

[HOSTED PHONE SYSTEM \(PBX\) SERVICES](#)

[SECURITY SYSTEM INSTALLATION AND MONITORING](#)

[VIDEO PRODUCTION SERVICES](#)

The following additional policies apply to the VTX Services:

[BROADBAND INTERNET ACCESS DISCLOSURE](#)

[ACCEPTABLE USE POLICIES](#)

[PRIVACY POLICY](#)

[STATEMENTS OF COMPLIANCE](#)

[NOTICES](#)

### **GENERAL TERMS OF SERVICE**

For purposes of this Agreement, "you" and "your" or "Customer" refer to the person purchasing the Services. "We," "our," "us" or "VTX" refer to VTX.

These terms and conditions (the "Agreement") apply to and govern the provision of Services by VTX. Services provided directly by VTCL are additionally subject to the terms of its Bylaws and applicable tariffs then in effect. You must accept the terms of this Agreement as a condition of receiving the Services.

*Modification of Agreement.* This Agreement may be updated or changed by us from time to time. You can review the most current version of the Agreement at any time at: [www.vtx1.net](http://www.vtx1.net). If VTX makes a change to the Agreement and that change has a material impact on the Services, you will be provided notice of that change by contact to your current mail or email address in the records of VTX. You agree to periodically visit the aforementioned website to review any such changes. Your continued use of the Services following the sending of such notice by VTX, or the expiration of thirty (30) days following posting of the change on the VTX website, whichever occurs first, constitutes your acceptance of such changes.

*Activation, Cancellation or Modification.* Services can be ordered, cancelled or modified by calling our offices at 1-800-446-2031. In some cases we may be able to assist you remotely over the phone or via the Internet by computer in accordance with our price list. If a visit to your location is required, we can arrange an appointment during our normal business hours. Fees apply in accordance with our price list for any work performed. Certain of our price lists may be listed on our website at [www.vtx1.net](http://www.vtx1.net) or at the Public Utility Commission. Any fees will be added to your bill if you are a current customer of VTX, and payment will be due in the same manner as payment for Services.

By enrolling in, activating, using, or paying for the Services, you agree to the terms and conditions in the applicable tariffs, if applicable, including but not limited to the prices, charges, and terms and conditions



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provided to you in marketing and informational materials associated with the Services and on the VTX website, [www.vtx1.net](http://www.vtx1.net), as amended, all of which are incorporated herein by reference. If you do not agree to all of the aforementioned terms and conditions, do not use the Services and cancel the Services immediately by calling VTX at 1-800-446-2031 for further directions.

All use of the Services, whether or not authorized by you, shall be deemed your use. You are responsible for ensuring that all use of the Services complies with this Agreement.

*Advances or Deposits.* We may require you to make deposits or advance payments for Services, which we may use to satisfy your initial bill for Services, to offset against any unpaid balance on your account, or as otherwise set forth in this Agreement or permitted by law. Interest will not be paid on advance payments or deposits unless required by law. We may require additional advance payments or deposits if we determine that the initial payment was inadequate. Based on your creditworthiness or for other reasons, we may establish limits and restrict service or features as we deem appropriate. If your account balance goes beyond the limit we set for you, we may immediately interrupt or suspend service until your balance is brought below the limit. Any charges you incur in excess of your limit become immediately due. Upon determination solely by VTX of satisfactory payment history or as required by law, VTX may begin refunding of the deposit or advance payment through bill credits, cash payments, or as otherwise determined solely by VTX or as required by law.

*Pricing.* Pricing for Services are governed by VTX's then standard offered price lists, under tariffs, or as specifically agreed in writing between VTX and the customer for the particular Service. VTX reserves the right where allowed by regulation to change pricing for its Services at any time without notice to you; provided that VTX will not change the basic rate for ordered Services during the Minimum Service Term commitment period applicable to you. Following expiration of a Minimum Service Term commitment, or upon any payment default by you, VTX may adjust the rates for Services to reflect any pricing increases made by VTX for the applicable Services. Rates do not include taxes and related charges (however designated) and all taxes, fees and governmental charges imposed on the provided services shall be paid by you in addition to any other amounts owing. Such amounts will be listed separately on your invoice.

*Payment.* Payment of each invoice for the Services is due in full, without deduction or offset, within fifteen (15) days of the invoice date at the invoice address for payment. You agree to pay an early termination charge in the event you cancel or terminate any Service prior to expiration of the Minimum Service Term in an amount equal to the greater of (i) four (4) months of the monthly recurring charge for the applicable Service commitment or (ii) \$150.00. This early termination charge is in addition to all other fees and charges due from you under this Agreement or otherwise.

Any loss of Services caused by the action or inaction of the Customer, or by a defect or failure of Customer equipment, will not suspend Customer's obligations to pay for the Services, and Customer shall remain liable for all applicable charges.

If the entire amount of payment due is not received by the payment due date, a late payment charge will be charged to you. You agree to pay interest on any amounts past due at the rate of 1 1/2% per month (or the maximum amount required by law, whichever is less). You also agree that VTX may suspend and/or terminate the Services if any amounts due VTX are not paid by their due date. VTX may assign unpaid late balances to a collection agency for appropriate action. In the event legal action is necessary to collect on balances due, you agree to reimburse VTX for all expenses incurred to recover sums due, including attorneys' fees and other legal expenses. You will be charged a fee for any check or other instrument (including credit card charge backs) tendered by you and returned unpaid by a financial institution for any reason.

*Subscription for Services.* Each Customer elects to subscribe to the Services for the Minimum Service Term set forth on the Customer's enrollment form or other subscription document commencing from the date of acceptance by VTX and installation, as applicable. If no Minimum Service Term is selected for the



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applicable Service, then the Minimum Service Term shall be one month from the date of commencement of Service with automatic monthly renewals.

You agree that, should you terminate any Service prior to payment of all applicable amounts and/or fulfillment of the Minimum Service Term commitment, you will be liable for, and agree to immediately pay, any applicable amount for the following items which are not paid in full at the time of termination: (i) activation fee, (ii) installation fee, and/or (iii) equipment charge. Additionally, by accepting the Service and terminating Service prior to expiration of the Minimum Service Term, you agree to pay a reimbursement of the total reductions, discounts and promotional offerings accepted by you in connection with your agreement to accept Services. You acknowledge that these charges and fees are in addition to any other normally billed amounts that may be owed at the time of termination.

You agree that the following terms and restrictions apply to the Services:

- (i) Installation may require an on-site survey for signal strength or other Service availability and installation of equipment from a certified installer for VTX,
- (ii) VTX does not provide and is not responsible for Customer equipment and software used by you in connection with use of the Services (unless otherwise noted). You are responsible for all such equipment, software and any data thereon without responsibility or liability of VTX,
- (iii) You are responsible for the following charges (to the extent applicable): all city, state, and federal taxes and other required charges on the Services provided, and any third-party fees that may apply to said Services; the cost for installation of any additional equipment or Service that VTX may install at your premises; the cost of any other work for which there is a fee; and the replacement cost of all VTX parts or equipment that may be damaged, lost, or stolen while in your possession,
- (iv) You acknowledge that certain Services will not function in the event of an Internet Protocol ("IP") network interruption,
- (v) You further acknowledge that the listed speeds for any Internet Service offering may not be available due to geographical and/or a number of other factors. Speed is not guaranteed unless stated so as part of the terms for service. Actual data transfer or "throughput" may be lower than sync-rate due to Internet congestion or configuration, server or router speeds, protocol overheads, signal strength or other factors which cannot be controlled by VTX, and
- (vi) VTX reserves the right to furnish the Services through affiliated companies, underlying providers and other third parties, in VTX's discretion.

*Credit Card and Credit Reporting Authorization.* You may be asked to provide us with a valid email address and a credit card number from a card issuer that we accept in order to activate your Services. You hereby authorize VTX to charge and/or place a hold on your credit card with respect to any unpaid charges related to the Services. You authorize the issuer of the credit card to pay any amounts described herein without requiring a signed receipt, and you agree that this Agreement is to be accepted as authorization to the issuer of the credit card to pay all such amounts. You authorize VTX and/or any other company who bills for products or services or acts as billing agent for VTX to continue to attempt to charge and/or place holds on your credit card with respect to all sums described herein, or any portion thereof, until such amounts are paid in full.

You agree to provide VTX with updated credit card information upon VTX's request and any time the information you previously provided is no longer valid. You are solely responsible for maintaining and updating the credit card information. Without limiting the applicability of any other provisions of this Agreement, you acknowledge and agree that neither VTX nor any VTX affiliated company will have any liability whatsoever for any non-sufficient funds or other charges incurred by you as a result of such attempts to charge, and/or place holds on, your credit card. If you mistakenly provide a debit card number, instead of a credit card number, you authorize all charges described herein to be applied to such debit card unless and until you provide a credit card number. In the event you are enrolled, or later enroll, in an automatic payment or electronic funds transfer plan, you agree that all sums described herein may



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be charged, at VTX's option, to the account number provided for such automatic payment or electronic funds transfer plan.

To the fullest extent permitted by applicable law, you authorize VTX to disclose your account information, including your payment history and confidential information, to credit reporting agencies or private credit reporting associations, and periodically obtain and use your credit report and other credit information from credit reporting agencies, private credit reporting associations and other sources in connection with VTX's offering of the Services. You understand that if you fail to fulfill the terms of your obligations to VTX, VTX may report your failure to credit reporting agencies as well as pursue VTX's other rights and remedies.

*Equipment and Installation.* You understand that, in order for you to use some of the Services, you must obtain proper equipment and installation supplied by VTX.

*VTX Equipment.* Unless expressly identified as being sold to Customer, title to all hardware and/or software provided by VTX in connection with this Agreement (the "Equipment") shall remain with VTX. VTX's repair and maintenance obligations as to its Equipment are limited solely to ordinary wear and tear and shall not include maintenance and repair necessary as a result of any other cause, including without limitation, vandalism or intentional or negligent acts or omissions by the Customer or third parties. Maintenance and repairs related to such causes are the Customer's sole responsibility and liability. The Customer shall provide appropriate space, power and environment for, and take reasonable care of, the Equipment. Customer agrees not to damage or misuse the Equipment. Unless expressly agreed to in writing, the Customer will be solely responsible and liable for connection of the Customer's computers and other equipment to the Equipment. The Customer will at all times be solely responsible and liable for the maintenance and repair of Customer's computers and Customer's other equipment. Customer shall return to VTX all Equipment within thirty (30) days following the expiration, cancellation or termination of this Agreement, or VTX will charge the Customer the un-depreciated list price of the unreturned Equipment in addition to all applicable late return fees.

*Sold Equipment.* Equipment which is expressly identified as being sold to the customer is "Sold Equipment." YOU AGREE THAT VTX1 SELLS SOLD EQUIPMENT ON AN AS-IS BASIS ONLY AND DISCLAIMS ALL WARRANTIES ON SOLD EQUIPMENT, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PURPOSE.

Manufacturer warranties and not any warranty from VTX1 apply to the Sold Equipment. VTX1 will pass through to Customer all manufacturer-supplied end-user warranties on all Sold Equipment products provided to Customer pursuant to this Agreement. Software provided with any Sold Equipment is subject to agreement and compliance with any software license terms and timely payment by Customer of all applicable license fees.

With respect to any failure of VTX1 to install the Sold Equipment properly, or if maintenance services are provided, to perform the maintenance services properly, your sole and exclusive remedy for such failure shall be limited to, at VTX1's option, either the correction of performance for that portion of the services found by VTX1 to be defective, or a refund of the fees paid for that portion of the services found by VTX1 to be defective.

*Access to Premises.* You will provide VTX with reasonable access to your premises in order to install, maintain, and repair the Services, and you authorize any other adult resident or guest at your residence to grant access to your premises for these purposes. You understand and agree that VTX may drill, cut, and otherwise alter improvements on the premises. If you do not own your premises, you warrant that you have obtained permission from any necessary party, including but not limited to the owner, landlord, or building manager, to make alterations VTX deems appropriate for the work to be performed. You acknowledge that VTX may use existing wiring, including altering the wiring and removing accessories, located within your premises. Without limiting any other provisions of this Agreement, you agree to



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indemnify VTX from and against all claims by an owner, landlord, building manager, or other party in connection with installation, maintenance, repair, or provision of the Services or Equipment.

You agree that the installation, inspection, maintenance, repair, and/or removal of any equipment could result in service outages or potential damage to your equipment, computers, computer network and/or the contents thereof and/or the loss of any recorded programming. Accordingly, you agree that you are solely responsible for providing any needed back-up for your information and data or programming and that in no event will VTX or any of its employees, agents, contractors, or business associates be liable for any loss of data or programming or damage to your equipment, computers, computer network and/or the contents thereof.

You are responsible for back-up, surge protection and protection from liability or damage of your premises or equipment. VTX has no liability or responsibility due in whole or in part to any Force Majeure Event. A Force Majeure Event is any event, occurrence or condition arising or continuing due to factors beyond VTX's reasonable control including, but not limited to catastrophic storms or floods, lightning, earthquakes and other acts of God, wars, civil disturbances, revolts, insurrections, terrorist activity, sabotage, interruption of electrical service, disasters, fires, explosions, or actions of a third party or government authority that were not requested, promoted or caused by VTX.

You will be responsible for payment of service charges for visits by VTX or its subcontractors to your premises when a service request results from causes not attributable to VTX or its subcontractors.

*Password Security.* Upon VTX's acceptance of Customer's registration for certain Services, VTX will provide Customer with a username, password and user identification number. Customer and members of Customer's household are the only authorized users of the account and must comply with this Agreement. Customer must keep all passwords and identifications confidential so that no one else may access the Services through Customer's account. Customer must notify VTX immediately upon discovering any unauthorized use of the account. Using a personal account for high volume or commercial use (e.g., revenue generation, advertising, etc.) is prohibited. Usernames and passwords are VTX's property, and VTX may alter or replace them at any time.

*Service Calls.* If you or one of your users calls to make a service request, such as reporting a service outage or service trouble, the VTX Help Desk may ask you or the requesting user to provide the password for the applicable service account. If you or the requesting user cannot provide this password or otherwise grant the VTX Help Desk access to the service account, VTX may not be able to address your service request remotely. In these situations, VTX may, at its discretion, dispatch a technician to fulfill the service request in person. However, if VTX dispatches a technician in this situation, VTX reserves the right to charge a service call fee to the Customer's account if VTX determines that the underlying problem is one that could have been addressed remotely. Other service call fees may apply as described in this Agreement and in VTX's standard fee schedule as published on its website from time-to-time.

*Limited Warranty.* VTX will use reasonable efforts to provide Services and the Equipment in accordance with prevailing industry standards. **VTX MAKES NO OTHER WARRANTIES CONCERNING THE SERVICES OR ANY EQUIPMENT PROVIDED HEREUNDER, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE AND ANY WARRANTIES REGARDING THE DESIGN, CONDITIONS OF, OR QUALITY OF THE MATERIAL OR WORKMANSHIP OF ANY SERVICES OR EQUIPMENT. IN NO EVENT WILL VTX BE LIABLE TO THE CUSTOMER OR TO ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUE, LOSS OF GOODWILL, LOSS OF BUSINESS, OR LOSS OF PROFITS, ARISING IN ANY MANNER FROM THIS AGREEMENT AND THE PERFORMANCE OR NONPERFORMANCE OF VTX'S OBLIGATIONS HEREUNDER, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, EVEN IF VTX HAS BEEN ADVISED OF THE**



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**POSSIBILITY OF SUCH DAMAGES. CUSTOMER'S SOLE REMEDY RELATED TO ANY DEFECT OR FAILURE OF THE SERVICES IS LIMITED TO A REFUND OF THE PRO RATED PORTION OF THE MONTHLY CHARGES FOR THE AFFECTED SERVICES UP TO AN AGGREGATE MAXIMUM OF ONE MONTH'S CHARGES.**

*Limitations on Use.* You acknowledge that the Services are provided for your personal use and not for resale or assignment. No Services or Equipment may be transferred to another location or shared with another person who is not bound by this Agreement. You will not use the Services for telemarketing or any excessive usage inconsistent with normal residential usage patterns (or, if a commercial customer under a commercial service plan, consistent with normal usage for that plan). If VTX determines, in its sole discretion, that you are reselling or transferring Services or that you are using Services in an improper manner or other manner unduly burdensome on VTX's network and facilities, VTX reserves the right, without advance notice, immediately to terminate or modify the Services, or to change your Service plan to a different offer on a prospective basis, and, in addition, to assess additional charges for each month in which excessive usage occurred.

*Indemnification.* You agree to indemnify and hold VTX and its subsidiaries, affiliates, directors, officers, agents and employees harmless from any claim, demand, action, citation, loss (including loss of profits or revenue), liability, damage, fine, penalty, legal proceeding or expense (including reasonable attorneys' fees), including, but not limited to, those arising out of or resulting from the death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, made by any party against VTX, its subsidiaries, affiliates, directors, officers, agents, and employees arising out of or related to your use of or inability to use the Services or Equipment, your connection to the Services or Equipment, the provisioning or alleged failure to provision the Services or Equipment, a violation of any provision of this Agreement, or your violation of any rights of another.

**PLEASE NOTE THAT IN ACCORDANCE WITH THE FOLLOWING TWO SECTIONS, YOU AGREE THAT, BY ENTERING INTO THIS AGREEMENT, YOU AND VTX ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION.**

*Disputes.* Any claim, dispute or controversy arising out of or relating to this Agreement or the relationship among the parties hereto (a "Claim"), which cannot be resolved by negotiation, shall be resolved by one arbitrator through binding arbitration administered by the American Arbitration Association ("AAA"), under the AAA Consumer Rules in effect at the time the Claim is filed ("AAA Rules"). The arbitrator's decision shall be final, binding and non-appealable. Judgment upon the award may be entered and enforced in any court having jurisdiction or application may be made for judicial acceptance of the award and an order of enforcement. The arbitrator, and not any federal, state, or local court, shall have exclusive authority to resolve the Claim, including any claim that all or any part of the Agreement (including this Arbitration provision, but excluding the Section titled "Class Actions" below) is void or voidable. The arbitration proceedings shall be held in Hidalgo County, Texas and shall be subject to the terms of this Agreement, the intentions of the parties as stated herein and the governing law of this Agreement. No arbitration will be combined with another without the prior written consent of VTX. If VTX prevails before the arbitrator and shows that you acted in bad faith in bringing a Claim, then VTX may seek to recover the AAA fees and expenses from you, and you agree that the arbitrator shall be required to award such AAA fees and expenses. You and VTX agree that any Claim arising out of or related to this Agreement or the Services must commence within one (1) year of the Claim arising; otherwise, the underlying cause of action shall be permanently barred.

*Class Actions.* You hereby expressly agree that any Claim brought by you must be brought in your individual capacity, and not as a plaintiff or class member in any purported class, collective, representative, multiple party or similar proceeding (each a "Class Action"). You expressly waive any ability to maintain a Class Action in any forum. An arbitrator shall not have authority to combine or aggregate similar Claims or conduct any Class Action or make an award to any person or entity not a party to the arbitration. Any claim that all or part of this Class Action waiver is unenforceable,



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unconscionable, void or voidable may be determined only by a court of competent jurisdiction and not by an arbitrator.

*Miscellaneous.* You acknowledge and agree that this Agreement, including the applicable tariffs and/or price lists from time to time on file with the Texas Public Utility Commission and/or Federal Communications Commission, together with all other terms and conditions incorporated herein, constitutes the entire agreement of the parties for the provision and use of the Services and the complete and exclusive statement of the terms agreed upon, all prior agreements and understandings being merged herein. Neither this Agreement nor any interest herein of Customer may be assigned, sublet, or in any manner transferred by Customer without the prior, written consent of VTX, which consent may be withheld in VTX's sole discretion. Any attempted assignment or transfer in contravention of the preceding sentence shall be void. A waiver by VTX of any terms herein shall not be construed as a waiver of any subsequent breach of this Agreement. This Agreement shall be governed by the laws of the State of Texas without regard to its conflicts of law principles. This agreement is accepted and performed at Hidalgo County, Texas, and venue shall be proper only in that county. No amendments or modifications to this Agreement shall be effective or binding against VTX unless expressly agreed to in writing by an authorized representative of VTX.

*Savings Clause.* In the event any one or more of the provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect under any applicable statute or rule of law, then such provisions shall be deemed inoperative to the extent that they are invalid, illegal or unenforceable, and the remainder of this Agreement shall continue in full force and effect. Any invalid, illegal or unenforceable provisions shall be reformed and modified so that they express the original intent of the parties hereto as closely as reasonably practicable without being invalid, illegal or unenforceable.

## **SPECIAL PROVISIONS APPLICABLE TO THE FOLLOWING SERVICES -**

### **TRADITIONAL TELEPHONE AND LONG DISTANCE SERVICES**

The pricing terms and terms of service are governed by tariffs and/or price lists on file with the Texas Public Utility Commission and/or Federal Communications Commission. REFERENCE IS MADE FOR ALL PURPOSES TO THE TARIFFS AND PRICE LISTS ON FILE WITH APPLICABLE REGULATORY AUTHORITIES. Traditional telephone and long distance service is additionally subject to VTCL's Bylaws.

### **INTERNET SERVICES**

*Status of Internet Usage.* Customer acknowledges that the Internet is an ever-changing network not controlled by any single government or entity, but reliant upon the interconnectivity and operability of various networks. ACCORDINGLY, NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, ANY INTERNET ACCESS AS WELL AS ALL SERVICES RELATED TO SUCH ACCESS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. No advice or information given by VTX, its affiliates or its contractors or their respective employees shall create a warranty. Neither VTX nor its affiliates warrants that service will be uninterrupted or error free or that any information, software or other material accessible through the Internet is free of viruses, cancelbot, spyware, worms, trojan horses, or other harmful components. The Customer also understands that the Internet contains unedited materials, some of which are explicit and/or offensive. VTX has no control over and accepts no responsibility whatsoever for any such materials. The Customer agrees Customer accesses such materials at Customer's own risk.

*Anti-Virus.* Any anti-virus and SPAM protection offered in connection with VTX's Services is offered for Customer's incoming email services and is provided through third party vendors and subject to their warranties and limitations. NO GUARANTEES ARE MADE OR PROVIDED THAT THE SERVICES WILL BE VIRUS OR SPAM FREE OR THAT CUSTOMER EQUIPMENT WILL BE PROTECTED FROM HACKERS, VIRUSES, SPAM, SPYWARE, CANCELBOT, WORMS, TROJAN HORSES OR OTHER



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**HARMFUL COMPONENTS.** CUSTOMER IS SOLELY RESPONSIBLE FOR MAINTAINING ADEQUATE FIREWALL PROTECTION, ANTI-VIRUS, SPYWARE AND OTHER SPAM PROTECTION FOR CUSTOMER EQUIPMENT IN ORDER TO UTILIZE THE SERVICES AND PROTECT CUSTOMER EQUIPMENT AND INFORMATION.

*Acceptable Use Policies.* The Customer (which for purposes hereof includes any authorized user of Customer) agrees not to use or permit its users to use the Services provided by VTX in ways that violate laws, infringe the rights of others, interfere with the users of VTX's network or other networks, or otherwise violate VTX's Acceptable Use Policies as set forth at <http://www.vtx1.net> (the "AUP") and incorporated herein by reference and as set forth below. VTX reserves the right to modify the terms and conditions of the AUP from time to time, without direct notice to Customer, and those changes will become effective within thirty (30) days from posting. Customer agrees to periodically visit the aforementioned website to review any such changes. The use of the Services by Customer after any changes to the AUP will constitute Customer's acceptance of any changes. If Customer violates the AUP, VTX may immediately suspend the Services without prior notice. VTX also reserves the right to terminate the Services in the event of chronic or uncured violations of the AUP as determined by VTX. Notwithstanding anything herein, VTX shall be under no obligation to monitor the compliance of Customer with the AUP.

*Digital Millennium Copyright Act ("DMCA") Notice.* In operating the Services, VTX may act as a "services provider" under the DMCA and offer services as an online provider of materials and links to third party websites. As a result, third party materials that are not owned or controlled by VTX may be transmitted, stored, accessed or otherwise made available using the Service. You agree to notify VTX if and to the extent any situation arises wherein you believe any material available through the Service infringes a copyright. Any claimant must notify VTX using the notice procedure for claimed infringement under the DMCA and provide the following:

If you believe that your work has been copied and has been posted, stored or transmitted to VTX's websites in a way that constitutes copyright infringement, please submit a notification pursuant to the DMCA by providing VTX's designated agent the following written information: (i) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest, (ii) a description of the copyrighted work that you claim has been infringed upon, (iii) a specific description of where the material that you claim is infringing is located on the website, (iv) your address, telephone number, and email address, (v) a statement by you that you have a good-faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law, and (vi) a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf.

VTX's designated agent (the proper party for notice) to whom any copyright owner should address infringement notices under the DMCA is Sebastian Ivanisky, Designated Agent, 881 E. Hidalgo, Raymondville, Texas 78580, 1-800-446-2031, [copyrightmanager@vtx1.net](mailto:copyrightmanager@vtx1.net). VTX will respond expeditiously to remove or disable access to material VTX determines may be infringing and will follow the procedures specified in the DMCA to resolve the claim between the notifying party and the alleged infringing party who provided the applicable content.

VTX also has no obligation to monitor its Services, but may do so and disclose information regarding use of the Services for any reason if VTX, in its sole discretion, believes that it is reasonable to do so, including, without limitation, to: (i) satisfy laws, regulations, or governmental or legal requests, (ii) operate the Services properly, or (iii) protect itself and its customers and users. VTX may immediately remove material or information from VTX's servers, in whole or in part, which VTX, in its sole and absolute discretion, determines to infringe another's property rights or to violate the AUP.

To the extent any of your Services from VTX include wireless access, wireless systems use radio channels to transmit voice and data communications over a network, and privacy cannot be guaranteed.





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We are not liable to Customer or any other party for any lack of privacy resulting from using any wireless services of VTX. Customer acknowledges that wireless service is inherently not secure and that wireless communications can be intercepted by equipment and software designed for that purpose. Notwithstanding efforts to enhance security with respect to the Service, VTX cannot guarantee the effectiveness of these efforts and will not be liable to Customer or any other party for any lack of security that may result from use of the Service. Customer acknowledges that Customer is responsible for taking such precautions and providing such security measures best suited for Customer's situation and intended use of the Service. VTX strongly encourages Customer to obtain security solutions, such as virtual private networks, encryption and personal firewalls, as more fully described at <http://www.vtx1.net>.

*Managed Network Services.* VTX's Internet Services may include certain network installation and management services ("Managed Network Services"). The Managed Network Services will include installation of certain VTX-designated network equipment, including Internet routers, managed WiFi devices, and/or other carrier-grade network protection equipment (collectively the "VTX Network Equipment") along with appropriate software installed on the VTX Network Equipment and the managed services delivered over the VTX Network Equipment to protect and manage your Internet connection. Starting August 1, 2020, all new and renewing VTX customers must subscribe to the Managed Network Services in order to receive VTX Internet Services. After August 1, reconnecting customers (customers who are reconnecting to VTX's Internet Service after suspension for non-payment or are reconnecting after a permanent disconnect) must also subscribe to the Managed Network Services as a condition to reconnection. Monthly pricing for the Managed Network Services will be quoted on request and will separately stated on each monthly bill.

The VTX Network Equipment will be installed and configured by VTX in accordance with its then-standard installation and network management practices. Unless otherwise expressly agreed in writing by VTX, title to all VTX Network Equipment shall remain with VTX. VTX may elect to sell certain custom network equipment to qualifying business customers, and in such event, title to all such equipment shall remain with VTX until the customer has paid all equipment charges over the length of the applicable Minimum Service Term. If any equipment-purchasing customer terminates the customer's Internet Service prior to the Minimum Service Term, the remaining equipment charges will be accelerated and added to the customer's termination fee as permitted by the VTX1 General Terms of Services. Normal service fees, including applicable "truck roll" fees, will be charged for all service requests for Customer equipment, whether purchased from VTX or otherwise and regardless of whether Customer is still making installment payments as to the equipment.

As to all VTX-owned Network Equipment, Customer may not relocate such VTX Network Equipment without VTX's prior written consent. All such VTX Network Equipment will be installed at each service location on a permanent basis, and customers are not authorized to access or relocate such VTX Network Equipment for any reason, even if the customer is moving. If Customer damages or relocates any such VTX Network Equipment, VTX will have the right to charge Customer for its then-current list price for the affected Network Equipment.

VTX has the sole right to determine the manner in which it will provide the Managed Network Services. VTX1 also has the sole right to determine the nature and scope of any issues reported as affecting its managed network and the appropriate response to those issues, including whether a premises visit is required to address the issue. In some cases, VTX may permit Customer to connect its own equipment and network facilities to the VTX Network Equipment. However, unless otherwise expressly agreed in writing by VTX, Customer is solely responsible for the installation and operation of this equipment and any associated network, and VTX will have no responsibility to respond to any issues caused by Customer's equipment and facilities or any of the following:

- (i) Any modification or damage to the VTX Network Equipment caused by Customer or a third party;
- (ii) Any operation or use of the VTX Network Equipment other than those permitted in writing by VTX or in the documentation provided by VTX;



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- (iii) Any third party equipment or facilities;
- (iv) Any negligence, abuse, misapplication, or misuse of the VTX Network Equipment other than by VTX's personnel, including any Customer use of the VTX Network Equipment or managed network other than as specified in the applicable documentation provided by VTX;
- (v) Any relocation of any network equipment (whether VTX's or Customer's) other than by VTX;
- (vi) Any breach or noncompliance with any provision of the VTX1 General Terms of Service or these terms or any other term of the Agreement between VTX and Customer; or
- (vii) Any Force Majeure Event as described in the General Terms of Service.

If VTX responds to a service issue and determines that the issue was caused by Customer's equipment or facilities or any of the above, VTX will have the right to charge Customer an applicable service or "truck roll" fee. If VTX determines that its provisioned router is damaged as a result of any of the above causes, VTX will also have the right to charge its then current router replacement fee (\$120 as of August 1, 2020). If VTX determines that the service issue did not result from Customer's equipment or facilities or any of the above causes, no service fee or router replacement fee will apply.

Customer must notify VTX of any issues affecting the VTX managed network. In no event will VTX be obligated to respond to any connectivity or other issue until after the Customer has notified VTX of the issues and given VTX adequate time to respond. Customer is also responsible for setting-up, maintaining, and operating in good repair all environmental conditions and components specified by VTX as necessary for the VTX Network Equipment to operate as specified or required. Customer agrees that it will at all times cooperate with VTX with respect to VTX's installation of the VTX Network Equipment and provision of the Managed Network Services including by providing:

- (i) reasonable, uninterrupted access, both physical and virtual, to the VTX managed network and Customer's premises, systems, networks, and facilities;
- (ii) a safe working environment;
- (iii) reasonable access as requested to Customer and its users and reasonable cooperation by those persons; and
- (iv) all necessary authorizations and consents, whether from third parties or otherwise, needed to provide the Managed Network Services.

Any obligation for VTX to provide the Managed Network Services will abate during any period of time when Customer is not meeting its obligations. Additionally, VTX will have the right, without limiting its other rights under the Agreement, to terminate the managed services relationship or other Services for Customer's failure to perform any of the above obligations after request by VTX.

The Managed Network Services may include software, firmware, and hardware components supplied by VTX or third parties. VTX DOES NOT WARRANT THAT THE MANAGED NETWORK SERVICES, INCLUDING BUT NOT LIMITED TO THE VTX MANAGED NETWORK OR ANY SECURITY SERVICES, WILL MEET CUSTOMER'S REQUIREMENTS, ENABLE CUSTOMER TO COMPLY WITH ANY APPLICABLE LAWS, REGULATIONS, OR THIRD PARTY REQUIREMENTS, PREVENT UNAUTHORIZED ACCESS BY THIRD PARTIES, OR WILL BE UNINTERRUPTED, SECURE, OR ERROR FREE. CUSTOMER ACKNOWLEDGES AND AGREES THAT TRANSMISSIONS OVER ITS NETWORK MAY NOT BE SECURE. CUSTOMER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO OR USE OF, WHETHER AUTHORIZED OR NOT, CUSTOMER'S OR ANY END USER'S EQUIPMENT OR ACCESS TO OR LOSS OF DATA, MATERIAL, OR TRAFFIC DURING, OR RESULTING FROM, CUSTOMER'S OR ANY END USER'S USE OF THE MANAGED NETWORK SERVICES, INCLUDING, WITHOUT LIMITATION, VIA SENDING OR RECEIVING, UPLOADING OR DOWNLOADING, OR OTHER TRANSMISSION OF SUCH DATA, MATERIAL, OR TRAFFIC. VTX1 DISCLAIMS, AND CUSTOMER ACKNOWLEDGES DISCLAIMER OF, ALL WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR ARISING FROM A COURSE OF DEALING OR PERFORMANCE OR CUSTOM, WITH RESPECT TO THE MANAGED NETWORK SERVICES, VTX MANAGED NETWORK, EQUIPMENT, AND ANY OTHER PROVIDER PRODUCTS, SERVICES OR EQUIPMENT PROVIDED



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HEREUNDER, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE IN A WORKMAN-LIKE MANNER, COMPLIANCE WITH LAWS, QUALITY, ACCURACY, COMPLETENESS OR CURRENCY OF INFORMATION, SYSTEM INTEGRABILITY, TITLE, QUIET ENJOYMENT AND NON-INFRINGEMENT. All Managed Network Services are further subject to the applicable limitations of liability and disclaimers set forth in the VTX1 General Terms of Services and the other applicable limitations, disclaimers, and other terms of the Agreement between VTX and Customer.

### **IP VOICE SERVICES**

In certain instances, IP Voice provides voice communications through IP packets that are carried over an IP network ("VoIP"). The Service includes direct-dialed calling and certain advanced features. VTX reserves the right to offer, modify or discontinue features or advanced features, and may require additional costs for features, in VTX's discretion. The Service is not mobile or nomadic and will function only in your home or other installed service location.

When you accept the IP Voice Service, you become the main account holder for each telephone number assigned to the Service and all plans, features, and functionalities associated with each telephone number, whether those telephone numbers, plans, features, and functionalities are purchased initially or are added subsequently.

For IP Voice Service, non-recurring and usage-based charges generally billed in the billing cycle following the transaction include, but are not limited to, international calling (including surcharges for international termination to a wireless phone number), Operator Services, Directory Assistance, call trace, and overage minutes associated with defined minutes-of-use plans. Partial minutes are rounded up for per-minute usage charges.

IP Voice Service requires telephones which you supply. You agree that neither you nor any third party will move Equipment used for IP Voice Service within your premises or to any other physical location outside of the premises where it was installed by VTX.

You also acknowledge that VTX may establish general practices and limits concerning use of the IP Voice Service and may restrict calls to certain area codes (e.g., 900/976 calls) as determined by VTX. You acknowledge that VTX also reserves the right to log off accounts or disconnect sessions that are inactive for an extended period of time. You further acknowledge that VTX reserves the right to change its general practices and limits at any time without advance notice.

*Local Number Portability.* In the event you are transferring an existing non-VTX phone number to VTX for your IP Voice Service (i.e., porting a number to Telephone and Long Distance Service), you authorize VTX to process your order for Telephone and Long Distance and to notify your existing provider of your decision to switch your local, local toll, and long distance services to IP Voice Service, and you represent that you are authorized to take this action. Not all telephone numbers are eligible for porting to IP Voice Service.

BECAUSE VOIP IS DEPENDENT ON THE IP NETWORK, THE AVAILABILITY OF AN ADEQUATE POWER SUPPLY, AND CORRECT EQUIPMENT CONFIGURATION, VTX DOES NOT GUARANTEE THAT IP VOICE SERVICE WILL BE CONTINUOUS OR ERROR-FREE. YOU ACKNOWLEDGE AND UNDERSTAND THAT VTX CANNOT GUARANTEE THAT VOIP SERVICES ARE COMPLETELY SECURE.

YOU ACKNOWLEDGE AND UNDERSTAND THAT IP VOICE SERVICE REQUIRES ELECTRICAL POWER TO FUNCTION AND THAT YOU THEREFORE MUST AT ALL TIMES MAINTAIN A WORKING BACKUP BATTERY FOR THE EQUIPMENT.



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*IP VOICE 911 LIMITATIONS.* YOU HEREBY ACKNOWLEDGE AND AGREE TO ALL OF THE INFORMATION BELOW REGARDING THE LIMITATIONS OF 911 SERVICE OVER IP VOICE SERVICE AND THE DISTINCTIONS BETWEEN 911 SERVICE OVER IP VOICE SERVICE VERSUS 911 SERVICE OVER TRADITIONAL TELEPHONE SERVICE. YOU AGREE TO ADVISE ALL INDIVIDUALS WHO MAY PLACE CALLS OVER IP VOICE SERVICE OF THE 911 LIMITATIONS DESCRIBED BELOW.

VTX MAKES NO WARRANTY THAT IP VOICE SERVICE FOR ACCESS TO 911 WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE OR THAT BATTERY BACKUP POWER WILL BE SUFFICIENT TO MAINTAIN THE SERVICE THROUGHOUT ANY AND/OR ALL POWER OUTAGES.

911 SERVICE OVER IP VOICE SERVICE IS ONLY AVAILABLE AT YOUR SERVICE ADDRESS, WHILE CONNECTED TO PROPERLY POWERED EQUIPMENT AND AFTER TELEPHONE AND LONG DISTANCE HAS BEEN ACTIVATED.

911 SERVICE OVER IP VOICE SERVICE WILL NOT FUNCTION IF YOUR EQUIPMENT FAILS OR IS NOT CONFIGURED CORRECTLY OR IF YOUR IP VOICE IS INTERRUPTED OR NOT FUNCTIONING FOR ANY REASON, INCLUDING, BUT NOT LIMITED TO, IN THE EVENT OF A POWER OUTAGE (UNLESS YOU HAVE WORKING BACK-UP BATTERY POWER), NETWORK OUTAGE, OR DISCONNECTION OF YOUR SERVICE BECAUSE OF BILLING ISSUES. IF THERE IS A POWER OUTAGE, YOU MAY BE REQUIRED TO RESET OR RECONFIGURE THE EQUIPMENT PRIOR TO BEING ABLE TO USE YOUR SERVICES, INCLUDING USE FOR 911 CALLING. YOU ACKNOWLEDGE THAT VTX STRONGLY RECOMMENDS YOU MAINTAIN AT ALL TIMES AN ALTERNATIVE MEANS OF ACCESSING 911 SERVICES, SUCH AS VIA TRADITIONAL TELEPHONE SERVICE.

PRIOR TO THE INITIATION OF SERVICE, VTX1 OR THIRD-PARTY PROVIDER WILL PROVIDE YOU WITH WARNING LABELS REGARDING THE LIMITATIONS OR UNAVAILABILITY OF 911 EMERGENCY DIALING. YOU AGREE TO PLACE SUCH LABEL ON OR NEAR EACH TELEPHONE OR OTHER CUSTOMER-PREMISES OR USER-PREMISES EQUIPMENT ON WHICH THE IP VOICE SERVICES MAY BE USED. IF ADDITIONAL LABELS ARE REQUIRED, CUSTOMER MAY REQUEST THEM FROM VTX1.

YOU ACKNOWLEDGE AND UNDERSTAND THAT VTX WILL NOT BE LIABLE FOR ANY LOSSES INCURRED DIRECTLY OR INDIRECTLY AS A RESULT OF SERVICE OUTAGE AND/OR INABILITY TO DIAL 911 USING YOUR IP VOICE SERVICE, INABILITY TO ACCESS EMERGENCY SERVICE PERSONNEL FOR ANY REASON OR INABILITY FOR EMERGENCY CALL CENTERS TO IDENTIFY THE CUSTOMER ADDRESS OR CALL-BACK TELEPHONE NUMBER, INCLUDING BUT NOT LIMITED TO THE 911 CHARACTERISTICS AND LIMITATIONS SET FORTH IN THIS AGREEMENT AND/OR THE CHARACTERISTICS, LIMITATIONS, AND/OR FAILURE OF THE 911 NETWORK ITSELF.

WITHOUT LIMITING ANY PROVISIONS OF THIS AGREEMENT, YOU AGREE TO DEFEND, INDEMNIFY, AND HOLD HARMLESS VTX, ITS SUBSIDIARIES, AFFILIATES, OFFICERS, AGENTS, DIRECTORS, EMPLOYEES, AND ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICES TO YOU IN CONNECTION WITH THE IP VOICE SERVICE, FROM ANY AND ALL CLAIMS, LOSSES (INCLUDING LOSS OF PROFITS OR REVENUE), LIABILITIES, DAMAGES, FINES, PENALTIES, DEMANDS, ACTIONS, COSTS, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES) BY, OR ON BEHALF OF, YOU OR ANY THIRD PARTY OR USER OF THE VTX TELEPHONE AND LONG DISTANCE SERVICE, REGARDLESS OF THE NATURE OF THE CLAIM, INCLUDING WITHOUT LIMITATION CLAIMS RELATED TO 911 DIALING, ARISING FROM OR IN CONNECTION WITH ANY FAILURE OR OUTAGE OF TELEPHONE AND LONG DISTANCE SERVICE OR ANY FAILURE OR OUTAGE OF THE 911 NETWORK ITSELF.



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*Acknowledgement of Toly Disclaimer; Waiver of Claims.* Where IP Voice Service is provided by one of VTX's third-party hosted service providers, including, without limitation, Toly Digital Networks, Inc. (any such provider, a "Third Party Provider") you agree that the Third Party Provider has no control over whether, or the manner in which, calls using the 911 Dialing service are answered or addressed by any local emergency response center. The Third Party Provider disclaims all responsibility for the conduct of local emergency response centers and the national emergency calling center. The Third Party Provider relies on third parties to assist us in routing 911 Dialing calls to local emergency response centers and to a national emergency calling center. The Third Party Provider disclaims any and all liability or responsibility in the event such third party data used to route calls is incorrect or yields an erroneous result. Neither the Third Party Provider, nor its officers or employees, may be held liable for any claim, damage, or loss, and by entering into this Agreement, you hereby waives 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 the Third Party Provider's gross negligence, recklessness or willful misconduct.

*Home Alarm and Other Device Compatibility.* Monitored fire alarm and burglar alarm systems and medical monitoring devices may not be compatible with IP Voice Service.

If you have or purchase a monitored fire alarm or burglar alarm system or a medical monitoring device that you intend to use with IP Voice as the communications pathway, you agree to contact your provider for those systems/devices to determine compatibility with IP Voice Service and to arrange for your provider to test such systems/devices after installation of IP Voice Service. You also acknowledge and understand that even if such systems and devices are compatible with IP Voice Service, they will not be able to communicate with monitoring stations during a power outage unless you maintain battery backup power for IP Voice as described in this Agreement. If you purchase a monitored burglar alarm or monitored fire alarm system after the Service has been installed, you also agree to call VTX prior to installation of any such system. Subsequent installation of these systems may require re-wiring of IP Voice Service, which may also result in time and material charges. (VTX does not provide support for, or re-wiring of IP Voice in support of, medical monitoring systems or devices).

VTX MAKES NO WARRANTY THAT (i) IP VOICE SERVICE USED AS A COMMUNICATIONS PATHWAY FOR MONITORED BURGLAR ALARMS, MONITORED FIRE ALARMS, AND/OR MEDICAL MONITORING SYSTEMS OR DEVICES, WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (ii) THE SERVICE WILL BE COMPATIBLE WITH ANY PARTICULAR OR ALL MONITORED BURGLAR ALARM(S), MONITORED FIRE ALARM(S), OR MEDICAL MONITORING SYSTEM(S) OR DEVICE(S), OR (iii) BATTERY BACKUP POWER WILL BE SUFFICIENT TO MAINTAIN THE SERVICE THROUGHOUT ANY AND/OR ALL POWER OUTAGES.

BY ACCEPTING THE SERVICES, YOU USE IP VOICE SERVICE AT YOUR OWN RISK AND WAIVE ANY CLAIM AGAINST VTX FOR INTERFERENCE WITH OR DISRUPTION OF A MONITORED FIRE ALARM OR BURGLAR ALARM SYSTEM, A MEDICAL MONITORING DEVICE, OR OTHER SUCH SYSTEMS OR DEVICES DUE TO THE IP VOICE SERVICE.

*Early Termination Fee.* If you terminate your IP Voice Service prior to the fulfillment of your Minimum Service Term for the Service, you will be required to pay an early termination fee of \$100.00 in addition to any other amounts due in connection with such early termination under this Agreement.

### **ETHERNET, DEDICATED INTERNET ACCESS SERVICES AND OTHER DEDICATED CAPACITY**

Regulated Services. In some instances, T-1, Ethernet or other dedicated capacity may be available to Customers under specific Service Orders. Tariff provisions may apply in some instances when the services are provided by or through Valley Telephone Cooperative, Inc. The pricing terms and terms of such service are governed by tariffs and/or price lists on file with the Texas Public Utility Commission and/or Federal Communications Commission. REFERENCE IS MADE FOR ALL PURPOSES TO THE TARIFFS AND PRICE LISTS ON FILE WITH APPLICABLE REGULATORY AUTHORITIES.



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## Commercial Services.

*Service Orders.* Upon request, VTX1 shall provide Customer with quotations for Services on VTX1's network and/or selected third party networks. Services entirely provided through networks owned by VTX1 and its affiliated companies are hereafter referred to as "On-Net Services." Services provided in whole or in part utilizing third party networks provisioned by VTX1 through a third party carrier for the benefit of Customer are hereafter referred to as "Off-Net Services." VTX1 reserves the right to revoke or amend any quotation in writing prior to acceptance by Customer and execution of a written Service Order by Customer and VTX1. If Customer chooses to accept the quotation for a particular service configuration, Customer shall so notify VTX1 and VTX1 shall submit a Service Order to Customer for review and acceptance. A Service Order is "accepted" by Customer when executed by an authorized representative of Customer. Customer's acceptance of a Service Order will indicate Customer's agreement as to the accuracy of the details contained on the Service Order and will constitute a contractual obligation of Customer for the Services specified in such Service Order.

*Acceptance by VTX1.* Upon acceptance of a Service Order by VTX1, VTX1 shall, within five (5) business days for On-Net Services or within ten (10) business days (or as soon thereafter as VTX1 receives all necessary service information from Customer and all necessary information from any third parties applicable to installation and provision of the Services) for Off-Net Services after VTX1's acceptance of the Service Order and after VTX1's receipt of all necessary service information from Customer, provide Customer with the date upon which VTX1 commits it will install and deliver the Service (the "Firm Order Confirmation Date" or "FOC Date"). If VTX1 has not provided an FOC Date within the timeframes indicated above, Customer may cancel the Service Order without penalty upon notice to VTX1. In addition, if the FOC Date provided by VTX1 is not within five (5) business days of the requested due date, Customer may cancel the Service Order without penalty by providing written notice to VTX1 within one (1) full business day of Customer's receipt of the FOC from VTX1, provided, however, that Customer is liable for any third party cancellation penalties.

*Commercial Customer Nondisclosure Agreements and Certain Marketing and Publicity.* Except as may be expressly limited by any written nondisclosure agreement between you as a customer and VTX or otherwise under applicable law, you grant and authorize VTX the right to use your corporate name and logo, subject to standard brand usage guidelines to be provided by you. In doing so, VTX may refer to you and reference your logo in print or electronic form for marketing or reference purposes.

*Order Completion Notice.* VTX1 shall provide the Order Completion Notice containing relevant circuit design information to customer on or before the FOC Date for Services. Upon request by customer, VTX1 will use commercially reasonable efforts to deliver the relevant design information to Customer at least five (5) business days prior to the FOC Date for Services.

*Installation.* VTX will exercise commercially reasonable efforts to install the Service on or before the FOC Date. VTX may provide an expedited FOC, if requested by Customer. In such cases, VTX may charge Customer a mutually agreed upon expedite fee. If VTX1's installation of a Service is delayed for more than thirty (30) days beyond the FOC Date for reasons other than those attributable to Customer or Force Majeure Event, Customer may cancel the affected Service upon written notice to VTX1 and without payment of any applicable cancellation charges; provided such written notice is delivered prior to the Service Activation Date for the affected Service. If Customer wishes to terminate any Services hereunder, Customer agrees to reimburse VTX1 for any actual documented third party cancellation charges incurred by VTX1 for any applicable Off-Net Services. Installation of a Service shall be deemed completed when VTX1 activates and turns over the particular circuit or other Service as ordered to Customer, the Service meets the service requirements set forth herein, and the Service is otherwise operative, or, if earlier, the date Customer commences use of the applicable Services other than strictly for testing purposes (the "Service Activation Date").



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VTX may substitute, change or rearrange any equipment, facility or system used in providing Services at any time and from time to time, but shall not thereby alter the technical parameters of the Services.

In the event that Customer requests additional circuit engineering or changes equipment specifications, configurations or service parameters, premises locations, or any material provision of the Service Order, Customer will be responsible for all costs, fees and expenses reasonably incurred in connection therewith.

The following Service Schedules apply for certain Services provided under this agreement:

### SERVICE SCHEDULE – ETHERNET SERVICES

1. Applicability. This Service Schedule is applicable only where Customer orders Ethernet Services (the “Service” “Ethernet Service”). This Service Schedule is governed by the General Terms and Conditions.

2. Description of Ethernet Service. Ethernet Service is a protocol employing Carrier Sense Multiple Access with Collision Detection, as specified by the Institute of Electrical and Electronic Engineers (IEEE) standards 802.3 and its subparts. Ethernet Service shall be provided at speeds set forth in the applicable Service Order. Unless otherwise indicated in a Service Order, Ethernet Service is not multipoint.

3. Definitions applicable to Ethernet Services. For purposes of provisioning of Ethernet Services, the following definitions apply:

“Interruption” or “Interrupted” shall mean a total interruption in Service, except for any interruption that is an Excused Outage.

“Excused Delay” means any failure by VTX to install any Ethernet Service attributable to a Force Majeure Event or Scheduled Maintenance.

“Excused Outage” means any interruption in Service attributable to a Force Majeure Event or Scheduled Maintenance.

“Service Level(s)” or means the specification(s) for the Service contained in this Service Schedule.

“Service Level Credit(s)” shall mean the credit(s) to which Customer becomes entitled when a Service fails to meet a Service Level.

“Unavailable” or “Unavailability” means the Service is not able to pass traffic.

4. Service Levels and Credits.

a. *Installation Service Level*

In the event VTX does not meet the FOC Date for a particular Service (for reasons other than an Excused Delay), Customer will be entitled to a Service Level Credit off of the first month’s MRC for the affected Service as set forth in the following table:

Installation Delay Beyond FOC Date	Service Level Credit (% of first month’s MRC)
1-7 days	5%
8-14 days	15%
15-30 days	25%



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30 days or greater	50%
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In lieu of Service Level Credits, if VTX's installation of Ethernet Service is delayed by more than thirty (30) days beyond the FOC Date, Customer may terminate the affected Service without liability upon written notice to VTX, provided such written notice is delivered prior to the Service Activation Date.

**b. Service Availability Levels**

The "Service Availability Level" for Ethernet Services shall be an average of at least 99.9% per month for "unprotected" (i.e., linear) Services and 99.99% per month for "protected" (i.e. ringed) Services. Services will be deemed unprotected unless expressly identified as protected in the applicable Service Order. In the event that any Ethernet Service is Interrupted so that it becomes Unavailable and falls below the Service Availability Level specified above during any calendar month (for reasons other than an Excused Outage), Customer will be entitled to a Service Level Credit as set forth in the following table(s):

**Service Level Credits-Unprotected Services**

Cumulative Outage Time (in hrs:mins:secs)	Service Level Credit (% of MRC)
0:00:01 – 04:00:00	No Credit
04:00:01 – 6:00:00	10%
6:00:01 – 8:00:00	25%
8:00:01 – 12:00:00	35%
12:00:01 or greater	50%

**Service Level Credits-Protected Services**

Cumulative Outage Time (in hrs:mins:secs)	Service Level Credit (% of MRC)
00:00:01 – 00:05:00	No Credit
00:05:01 – 02:00:00	10%
02:00:01 – 04:00:00	25%
04:00:01 – 8:00:00	50%
08:00:01 – 12:00:00	75%
12:00:01 – 16:00	85%
16:00 or greater	100%

**c. Additional Service Levels**

When specified in a Service Order, VTX will commit to the following "Additional Service Levels" for Ethernet Service:

- **Packet Loss.** Packet loss for the Ethernet Service will not exceed .1% of the total packets transferred, end-to-end.
- **Latency.** Latency (two-way) for the Ethernet Service shall be a maximum of thirty-six (36) milliseconds, end-to-end.
- **Jitter.** Jitter (one-way) will be an average of less than twelve (12) milliseconds for the Ethernet Service, end-to-end

If an Ethernet Service to which the Additional Service Levels apply does not meet one or more of these Service Levels (for reasons other than an Excused Outage or Service Unavailability), Customer will be entitled to a Service Level Credit as set forth in the following table(s):

**Service Level Credits**





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Monthly Parameter	Service	Service Level Credit (% of MRC)
Packet Loss		10%
Latency		10%
Jitter		10%

*d. Third Party Provider Service Level Credits*

Ethernet Service may be offered as an On-Net Service or, in some cases, as an Off-Net Service if specified in the applicable Service Order. Notwithstanding any such classification, under no circumstance will VTX be responsible for any failure of the Service to meet the Service Level(s) contained in this Service Schedule if such failure is attributable to a Third Party Provider. However, if, as a result of such a failure, VTX becomes entitled to receive a credit, discount or other payment from the Third Party Provider (a “Third Party Provider Credit”), VTX shall use commercially reasonable efforts to collect such Third Party Provider Credit and, once received, will pass such Third Party Provider Credit through to Customer in its entirety in the same manner as a Service Level Credit under this Services Schedule.

*e. General Provisions Applicable to Service Credits.*

(i) Credits applicable to Service Levels apply on an individual Ethernet Service circuit basis and cannot be aggregated. Credits are calculated against the net MRC to Customer, after deduction of all discounts and other special pricing arrangements. Credits are not given against NRCs including equipment charges. Credits are not applied to governmental fees, taxes, surcharges and similar additional charges, which will continue to be calculated against prices as required by law or regulation.

(ii) Credits (and, where applicable, termination) are Customer’s exclusive remedy with respect to Outages in the Service.

(iii) Credits shall be applied to the next billing period after receiving written request from Customer and shall be based on the MRC in effect at that time. Calculation of all credits shall be based on the call log and other records maintained by VTX. In no event shall any credit be awarded in excess of the total MRC for the affected Service in effect at the time the credit is applied.

**SERVICE SCHEDULE – DEDICATED INTERNET ACCESS SERVICES**

1. Applicability. This Service Schedule is applicable only where Customer orders Dedicated Internet Access Services (the “Service” “Dedicated Internet Access Service”). This Service Schedule is governed by the General Terms and Conditions.

2. Description of Dedicated Internet Service. VTX will provide Customer with a high-speed connection to the Internet (“Dedicated Internet Access”) over a single access port connection at each location (the “Port”) subject to the following.

3. Bandwidth. Dedicated Internet Access will be provided on a “Committed Bandwidth” basis. “Committed Bandwidth” is the provision of a fixed capacity Port. A fixed capacity Port is provisioned as a Port up to the bandwidth purchased by Customer, giving Customer the ability to use a specified portion of the Port bandwidth. The installation of the Port is subject to the NRC set forth in the Service Order, and the MRC for Dedicated Internet Access is subject to increase if Customer requests additional bandwidth over the Committed Bandwidth identified in the Service Order.

4. Interconnection. Customer’s connection to the Dedicated Internet Access shall be at VTX’s stated “Point of Demarcation” at the specific location. VTX and Customer will work jointly to establish and interconnect the applicable Point of Demarcation for each location. Customer is responsible for obtaining any access rights to landlord or other third party with authority to connect to the Customer premises.



5. VTX Equipment. If provided by VTX pursuant to the Service Order, Equipment will belong to VTX, and, if the Equipment is to be located within Customer's premises, VTX will be permitted to co-locate the Equipment within such premises at no charge to VTX.

6. Service Levels and Credits.

a. *Outage*. For purposes of this Agreement, the term "Outage" shall mean a total interruption in service, except for any interruption that is attributable to an Excused Outage. An "Excused Outage" shall mean any interruption, unavailability, delay, or other degradation of service related to, associated with, or caused by (i) scheduled maintenance events, (ii) Customer actions or inactions, (iii) failure of Customer provided power or equipment or other Customer Facilities, (iv) any third party but excluding any such third party that is engaged by Provider by or on behalf of Customer, (v) any outage of a circuit provided by a carrier other than Provider, or (vi) a "force majeure event" as described in Agreement. The duration of any Outage will commence upon the earlier of the time when Customer reports an Outage to Provider or the time when Provider becomes aware of such Outage and will end when the Outage is repaired and the Service meets the service requirements set forth herein.

b. *Service Levels*. The parties acknowledge that the Dedicated Internet Access is provided by VTX on an "Unprotected" or "Linear" basis. As such, the following Service Level Credits for Unprotected or Linear Services shall apply to the Dedicated Internet Services:

**Service Level Credits-Unprotected or Linear Services**

Cumulative Outage Time (in hrs:mins:secs)	Service Level Credit (% of Monthly Recurring Charges)
0:00:01 – 04:00:00	No Credit
04:00:01 – 6:00:00	10%
6:00:01 – 8:00:00	25%
8:00:01 – 12:00:00	35%
12:00:01 or greater	50%

c. *General Provisions Applicable to Service Credits*.

(i) Credits applicable to Service Levels apply on an individual Port basis and cannot be aggregated. Credits are calculated against the net MRC to Customer, after deduction of all discounts and other special pricing arrangements. Credits are not given against NRCs including equipment charges. Credits are not applied to governmental fees, taxes, surcharges and similar additional charges, which will continue to be calculated against prices as required by law or regulation.

(ii) Credits (and, where applicable, termination) are Customer's exclusive remedy with respect to Outages in the Service.

(iii) Credits shall be applied to the next billing period after receiving written request from Customer and shall be based on the MRC in effect at that time. Calculation of all credits shall be based on the call log and other records maintained by Provider. In no event shall any credit be awarded in excess of the total MRC for the affected Service in effect at the time the credit is applied.

7. Compliance with Terms. Customer shall, at all times, comply with the terms applicable to the Dedicated Internet Access, including the terms and conditions of VTX's Internet services and acceptable use policy ("AUP") for Internet access and usage by Customer and its users as described herein.



## **PHONE SYSTEMS**

VTX sells, installs and maintains phone systems for commercial customers on a case-by-case basis as documented in a Business Phone Equipment and Services Agreement executed between the customer and VTX. Phone system services will ordinarily be furnished by VTX in connection with providing other VTX Services to the customer such as Internet, IP Voice or dedicated circuits. All associated services provided in connection with the phone system are further provided under the terms for the services described in these Terms and Conditions.

The general terms above applicable to Equipment and installation apply to the phone systems installed by VTX for a Customer. VTX will perform installation of ordered phone systems in a workmanlike manner and substantially in accordance with VTX's installation specifications applicable to the Equipment. You are responsible for providing adequate space, power sources and access for the installation and operation of the phone system.

Manufacturer warranties and not any warranty from VTX apply to the phone system. VTX will pass through to Customer all manufacturer-supplied end-user warranties on all phone system products provided to Customer pursuant to this Agreement. Software provided with any phone system is subject to agreement and compliance with any software license terms and timely payment by Customer of all applicable license fees.

With respect to any failure of VTX to install the phone system properly, or if maintenance services or provided, to perform the maintenance services properly, your sole and exclusive remedy for breach of VTX's obligations shall be limited to, at VTX's option, either the correction of performance for that portion of the services found by VTX to be defective, or a refund of the fees paid for that portion of the services found by VTX to be defective.

You agree that you must operate, maintain and use the phone system in accordance with manufacturer requirements and recommendations. VTX has no responsibility for any losses or damages due to misuse, accident, abuse, neglect, normal wear and tear, negligence, unauthorized modification or alteration, misuse, unsuitable power sources or environmental conditions, improper repair, handling, maintenance or application or any other cause not the fault of VTX.

## **HOSTED PHONE SYSTEM (PBX) SERVICES**

YOU ACKNOWLEDGE THAT VTX PROVIDES HOSTED PHONE SYSTEM (PBX) SERVICES ("HOSTED SERVICES") THROUGH A THIRD PARTY PROVIDER ("PROVIDER"). THE PROVIDER IMPOSES CERTAIN REQUIREMENTS FOR DELIVERY OF HOSTED SERVICES YOU MUST ACCEPT IN CONNECTION WITH THOSE HOSTED SERVICES. BY ACCEPTING THE HOSTED SERVICES, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTAND AND AGREE TO THE TERMS AND CONDITIONS BELOW.

*Definitions.* The following definitions pertain to this Section:

"Customer Data" means any data, information or other materials of any nature whatsoever provided to Provider by Customer or your users in the course of implementing or using the Hosted Services.

"Hosted Service Descriptions" means user manuals and other documentation relating to the Hosted Services that are made available to Customer by Provider in digital or hardcopy form, as updated from time to time.

"Hosted Service Fee" or "Hosted Service Fees" means the monthly or annual fees to be paid by Customer for Hosted Services, but does not include usage fees, taxes or regulatory fees or surcharges, which Customer must pay in addition to the Hosted Service Fees.



“Hosted Service Order” means an order for Hosted Services or products.

“Hosted Service Plan” means the monthly or annual subscription plan a Customer agrees to in the Hosted Service Order.

“Hosted Service Order Addendum” means a Hosted Service Order agreed to by Customer subsequent to the initial Hosted Service Order.

“Hosted Services” means the products or Hosted Services that are being provided to Customer as described in the Hosted Service Order, including any Additional Hosted Services set forth in a Hosted Service Order Addendum accepted by Provider.

“Hosted Service Software” means any proprietary Hosted Service Software owned by, licensed by or which Provider has a right to sublicense that is used in or used to provide the Hosted Services. “Hosted Service Software” includes, without limitation, any application that Provider makes available to the Customer for use on a mobile device.

“User” means any user of the Hosted Service Software, client, mobile application or other web-based application, equipment, feature or functionality provided by Provider in conjunction with the Hosted Services.

*Hosted Services.* Provider will provide the Hosted Services set forth in an accepted Hosted Service Order subject to these terms and conditions. Provider grants a limited, revocable, non-exclusive, non-transferable access to the Hosted Services for use by the number of Users set forth in the Hosted Service Order, for internal business purposes. Provider grants a limited, revocable, non-exclusive, non-transferable right to use the Hosted Services Descriptions in connection with its use of the Hosted Services. Each Hosted Service Order will be subject to Provider’s acceptance, which will be deemed given if Provider thereafter provides the Hosted Services.

Customer may request an increase in Users or additional Hosted Services at any time during the Term (any such increase, “Additional Hosted Services”) by submitting a Hosted Service Order Addendum setting forth the specific Additional Hosted Services desired. Each Hosted Service Order Addendum will be subject to Provider’s acceptance, which will be deemed given if Provider thereafter provides the Additional Hosted Services. Upon acceptance by Provider, such Hosted Service Order Addendum will be deemed an amendment to the Agreement, subject to all of the terms and conditions herein, and the Hosted Service Fees will be increased to reflect the Additional Hosted Services, subject to the same pricing and payment terms as are set forth in the Hosted Service Order or the Hosted Service Order Addendum as applicable.

*Fees, Billing and Taxes.* Provider or VTX will provide Customer with a monthly billing statement for the Hosted Services provided each calendar month and bill all charges invoiced to Customer’s account. Such charges will include monthly Hosted Service fees, storage charges, activation charges, equipment charges, toll charges, shipping charges, taxes, regulatory recovery fees and any other applicable charges. Monthly Hosted Service Fees will be paid in advance of each month’s service; any variable charges associated with usage and any other applicable charges associated with such usage shall be billed in arrears. Billing for monthly Hosted Service Fees commences upon ordering of the Hosted Services, and monthly Hosted Services Fees will be billed pro rata in the months in which such Hosted Services commence.

Provider may change the Hosted Service Fees, the types of Hosted Service Plans and any additional usage charges without advance notice. Provider will post such changes to its website. Notwithstanding the foregoing, the Hosted Service Fees agreed upon in a Hosted Service Order will not be increased



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during the Initial Term. With respect to any Renewal Term, the Customer will be charged Provider's then-current Hosted Service Fees in effect at the commencement of the Renewal Term.

Customer acknowledges and agrees that the Hosted Services may not be available 100% of the time. Additionally, Hosted Services will not be available in the event of interruption in Customer's or its User's internet or broadband service. Provider will not credit Customer for any interruptions in Service.

Every call using the Hosted Services that originates or terminates in the Public Switched Telephone Network ("PSTN"), including without limitation other VoIP networks, accrues applicable toll charges. Customers will not be charged for monthly usage within the limits of its then-current Hosted Service Plan. Usage which exceeds the limits, if any, of a Customers' then-current Hosted Service Plan will be charged in accordance with the Hosted Service Descriptions at the rates published at Provider's website. Calls to phone numbers outside the United States and Canada will also be charged in accordance with the Hosted Service Descriptions at the rates provided by Provider or otherwise published at Provider's website.

*Telephone Number.* Any Hosted Service telephone number provided by Provider ("Number") will be leased and not sold. Provider reserves the right to change, cancel or move the Number should Provider reasonably determine, in its sole discretion, that it is required to do so as a result of its agreements with its underlying Hosted Services providers or for other business purposes related to the provision of the Hosted Services.

*Privacy.* The Hosted Services use the public Internet and third-party networks to transmit voice communications and data. Provider is not liable for the interception, use or disclosure of Customer's or its User's voice communications or data. Provider does not represent, warrant or covenant that the Hosted Services will maintain the privacy or security of Customer's or its Users' voice communications or data. Customer acknowledges and agrees that none of its Customer Data is considered "Customer *Proprietary Network Information under the rules of the Federal Communications Commission*". Customer agrees that Provider is entitled to monitor Customer's and Users' use of the Hosted Services to protect, maintain, or improve the Hosted Services; to prevent fraud or misrepresentation by affirmative acts and/or omissions; to protect Provider, its customers or other third parties affiliated with Provider; or for any other good cause. If required by law, Customer will inform its Users that Provider may monitor the Users' communications and store and use the Users' personally identifiable information as necessary to provide the Hosted Services. For the Privacy Policy, please visit <http://www.vtx1.net>.

*License; Prohibited Uses; Customer Responsibilities; Limitations.* Customer grants to Provider a license to copy, store, record, transmit, display, view, print and use Customer Data, solely to the extent necessary to provide the Hosted Services to Customer. Except as expressly provided in this Section, Customer grants to Provider no right, title, interest, or license in the Customer Data. Customer represents and warrants that it has all necessary consents and rights to provide personally identifiable information about its Users to Provider, and Customer will provide such information upon reasonable request by Provider.

Customer represents and warrants that neither it nor its customers or Users will use the Hosted Services for any illegal, fraudulent, improper, or abusive purpose or in any way that interferes with Provider's ability to provide high-quality Hosted Services to other customers, prevents or restricts other customers from using the Hosted Services, or damages any of Provider's or other customers' property. If Provider discovers use of the Hosted Services for anything other than the permitted uses in this Agreement or for any of the prohibited uses in this Agreement, Provider may at its sole discretion terminate or suspend all or part of Customer's Hosted Services and charge any applicable fees for the Hosted Services used plus damages caused by such improper use. Prohibited uses include, but are not limited to: (a) behavior that is illegal, obscene, threatening, harassing, defamatory, libelous, deceptive, fraudulent, malicious, infringing, tortious or invasive of another's privacy; (b) sending unsolicited messages or advertisements, including e-mail, voice-mail, text messages or faxes (commercial or otherwise) ("spamming"), or otherwise sending bulk or junk e-mail, voice-mail, text messages or faxes; (c) harvesting or otherwise



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collecting information about others, including e-mail addresses, without their consent; (d) negligently, recklessly, knowingly or intentionally transmitting any material that contains viruses, time bombs, Trojan horses, worms, malware, spyware or any other programs that may be harmful or dangerous; (e) creating a false caller identity ("ID spoofing") or forged e-mail/text message address or header, or otherwise attempting to mislead others as to the identity of the sender or the origin of any communication made using the Hosted Services; (f) transmitting any material that may infringe, misappropriate, or otherwise violate the foreign or domestic intellectual property rights or other rights of third parties; (g) violating any U.S. or foreign law regarding the transmission of technical data or Hosted Service Software exported through the Hosted Services; (h) using the Hosted Services in excess of what, in Provider's sole discretion, would be expected of normal business use, including without limitation allowing more than one user to use a single VoIP line or using a single VoIP line in excess of what would be expected of a single user; (i) using the Hosted Services in any way that interferes with other customers' and third parties' use and enjoyment of the Hosted Services; (j) using or employing methods and/or devices that are designed or likely to take advantage of, bypass, exploit or otherwise avoid this use policy.

Customer understands and agrees that: (a) it will be solely liable for any transmissions sent through the Hosted Services under its account or its User's account, including the content of any transmission sent through the Hosted Services under its account or its User's account; (b) it will abide by all applicable Provider policies, procedures and agreements related to the Hosted Services; and (c) it will not attempt to gain unauthorized access to the Hosted Services, other accounts, computer systems or networks connected to the Hosted Services through password mining or any other means.

Some of Provider's plans and other Hosted Services are offered on an "unlimited" basis. All unlimited plans: (a) may only be used for normal commercially reasonable business use; (b) are provided only for dialog between two individuals at one time per line; (c) are issued on a "one (1) user per line basis", meaning that only one registered User may be assigned to use the Hosted Services for any one line; and (d) are subject to additional usage charges, including but not limited to such charges associated with international calling, in accordance with the then-current rates in effect for VTX or Provider. Unlimited plans may not be used for any of the following prohibited uses (which are in addition to the other prohibited uses applicable to all Hosted Services): (i) trunking or forwarding a Provider Number to another phone number capable of handling multiple simultaneous calls, or to a private branch exchange (PBX) or a key system; (ii) spamming or blasting (e.g., sending bulk or junk voice-mails, e-mails, text messages or faxes simultaneously); (iii) bulk call-in lines (e.g., customer support or sales call centers, "hotlines", 900 numbers, sports-line numbers, etc.); or (iv) auto-dialing or "predictive" dialing (i.e., non-manual dialing or using a Hosted Service Software program or other means to continuously dial or place out-bound calls). In addition, unusually high usage of the Hosted Services may impair Provider's ability to provide high-quality Hosted Services to others and/or indicate unauthorized use of the Hosted Services, in which case Provider may suspend or terminate Customer's account or, upon prior notice, convert Customer's account to a metered calling plan that charges significantly higher usage rates.

Customer must report any unauthorized use of the Hosted Services to Provider immediately after Customer discovers such use. Customer is responsible for all use of the Hosted Services, whether authorized or unauthorized. Customer will be responsible if any of its Users use the Hosted Services in a manner prohibited by this Agreement. Customer will be responsible for any act or omission of a User that would be a breach of this Agreement if done by Customer.

Customer acknowledges and agrees that the right to use any Hosted Services is nonexclusive and nontransferable, and Customer will not permit use of the Hosted Services other than for its internal business purposes. Nothing in this Agreement will pass to Customer or any User title to any of the Hosted Services, any trade names, trade dress, trademarks, Hosted Service marks, commercial symbols, copyrightable material, designs, logos and/or any other intellectual property of Provider or its vendors. Customer will not challenge or attempt to register or otherwise protect any of Provider's intellectual property or other rights in the Hosted Services.



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Customer will not: (a) copy or adapt the Hosted Services for any purpose, except as specifically permitted under this Agreement; (b) use the Hosted Services except in accordance with all applicable laws and regulations, and except as set forth in this Agreement; (c) reverse engineer, translate, decompile, or disassemble the Hosted Services; (d) use the Hosted Services in any outsourcing, application Hosted Service provider, time-sharing or Hosted Service bureau arrangement, including, without limitation, any use to provide Hosted Services or process data for the benefit of, or on behalf of, any third party other than a User; (e) cause or permit the disabling or circumvention of any security mechanism contained in or associated with the Hosted Services; or (f) delete, alter, cover, or distort any copyright or other proprietary notices or trademarks with respect to the Hosted Services.

Customer understands and accepts that, in order to protect Customer against fraudulent use of the Hosted Services, Provider may require Customer to contact Provider in order to enable calling to certain calling destinations.

Customer will execute such other documents, provide such other information, and affirmatively cooperate with Provider, all as may be reasonably required by Provider relevant to providing the Hosted Services.

*Use and Storage.* Provider reserves the right to establish or modify general practices and limits concerning use of the Hosted Services and Hosted Service Software, including, without limitation, the maximum number of days that content will be retained by the Hosted Service and the maximum disk space or bandwidth capacity that will be allotted on servers owned or operated by Provider on Customer's behalf. Where practical, Provider will provide Customer with prior notice of such new or modified practices; provided, however, that Provider will have the absolute right to implement such new or modified practices without prior notice in its sole discretion and without liability of any kind.

*Electronic Recording.* Customer agrees that there are federal and state statutes governing the electronic recording of telephone conversations and that Provider will not be liable for any illegal use of any recording Hosted Services provided to Customer or its Users. It is Customer's responsibility to determine if the electronic recordings are legal under applicable federal and state laws and to comply with those laws. Customer will defend, indemnify and hold harmless Provider for any claims, damages, fines, penalties or costs (including, without limitation, attorneys' fees) arising out of Customer's or its User's failure to adhere to applicable electronic recording laws.

*Responsibility for Registration Information and Content of Customer Communications.* Customer is solely responsible for maintaining the confidentiality of Customer's account login information (including, without limitation, its Users' account login information), and will not allow a third party to use the Hosted Services. Customer is solely responsible for any and all activities that occur under Customer's account or its User's account, including, without limitation, fraudulent use of the account. Customer and its Users must comply with laws regarding online behavior, acceptable content and the transmission of equipment and information under applicable export laws. Customer also agrees to comply with applicable local rules or codes of conduct (including, if applicable, codes of conduct or policies imposed by employers) regarding online behavior and acceptable content. Use of the Hosted Services is void where prohibited. Customer will immediately notify Provider of any unauthorized use of Customer's account or its User's account or any other breach of security related to Customer's account, its User's account or the Provider Hosted Services. Customer and each User must "log off" at the end of each session. Provider is not liable for any loss or damage arising from Customer's or its User's failure to comply with any of the foregoing obligations. In consideration for using the Provider Hosted Services, Customer will: (a) provide certain current, complete and accurate information about Customer and Users when prompted to do so by the Provider Hosted Services, and (b) maintain and update this information as required to keep it current, complete and accurate. Customer agrees that Customer is solely responsible for the content of all visual, written or audible communications ("Content") sent, displayed or uploaded by Customer or a User in using the Hosted Services. Although Provider is not responsible for any such communications, Provider may reject or remove any Content that violates a law or this Agreement. Customer or the User retains copyright and any other rights already held in Content that Customer or the User submits, posts or



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displays on or through, the Hosted Services, or any music or ring-tones Customer or a User uses in connection with the Service. Customer understands and agrees that by displaying, exchanging or uploading Content to a Provider website, transmitting Content using the Hosted Services or otherwise providing Content to Provider, Customer automatically grants (and warrants and represents that it has a right to grant) to Provider a world-wide, royalty-free, sub-licensable (so Provider affiliates, contractors, resellers and partners can deliver the Hosted Services) perpetual, irrevocable license to use, modify, publicly perform, publicly display, reproduce and distribute the Content in the course of offering the Hosted Services, including, without limitation, on associated websites ("Sites"). Furthermore, Customer represents and warrants that it has all necessary consents and rights to transmit Content and other communications from its users to Provider.

*Responsibility for Content of Others.* Customer acknowledges that Users may violate one or more of the above prohibitions, but Provider assumes no responsibility or liability for such violation. If Customer becomes aware of misuse of the Hosted Services by any person, entity or organization, Customer agrees to contact Provider in accordance with the contact information on Provider's website at [www.vtx1.net](http://www.vtx1.net). Provider may investigate any complaints and violations that come to its attention and may take any action that it believes is appropriate, including, but not limited to, issuing warnings, removing the content or terminating accounts and/or User profiles. Under no circumstances will Provider be liable in any way for any data or other content available on a Site or actions taken while using the Hosted Services, including, but not limited to, any errors or omissions in any such data, content or activity or any loss or damage of any kind incurred as a result of the use of, access to or denial of access to any data, content or activities on a Site. Provider does not endorse and has no control over what Users post, submit to or do on a Site. Customer acknowledges that Provider cannot guarantee the accuracy of any information submitted by any User of a Site, nor any personally identifiable information about any User. Provider reserves the right, in its sole discretion, to reject or remove content.

*Hosted Service Limitations.* The FCC requires that Provider provide E911 Hosted Service to all Customers who use Provider Hosted Services within the United States. Sections 13.2-13.8 apply to all Customers who use Provider Hosted Services within the United States. Section 13.9 applies to all Customers.

**ACKNOWLEDGEMENT AND WARNING LABELS.** CUSTOMER ACKNOWLEDGES THAT PROVIDER'S EQUIPMENT AND HOSTED SERVICES DO NOT SUPPORT 911 EMERGENCY DIALING OR OTHER EMERGENCY FUNCTIONS IN THE SAME WAY THAT TRADITIONAL WIRELINE 911 HOSTED SERVICES WORK. THE DIFFERENCES ARE DETAILED IN THIS SECTION 13, AND CUSTOMER AGREES TO NOTIFY ALL POTENTIAL USERS WHO MAY PLACE CALLS USING CUSTOMER'S HOSTED SERVICES OF THE 911 LIMITATIONS DESCRIBED HEREIN. PRIOR TO THE INITIATION OF SERVICE, PROVIDER WILL PROVIDE CUSTOMER WITH WARNING LABELS REGARDING THE LIMITATIONS OR UNAVAILABILITY OF 911 EMERGENCY DIALING. CUSTOMER AGREES TO PLACE SUCH LABEL ON OR NEAR EACH TELEPHONE OR OTHER CUSTOMER-PREMISES OR USER-PREMISES EQUIPMENT ON WHICH THE HOSTED SERVICES MAY BE USED. IF ADDITIONAL LABELS ARE REQUIRED, CUSTOMER MAY REQUEST THEM FROM PROVIDER, AND PROVIDER WILL PROVIDE ADDITIONAL LABELS. PROVIDER WILL PROVIDE CUSTOMER WITH ADVISORY NOTICES REGARDING 911 EMERGENCY DIALING AND REQUEST ACKNOWLEDGMENTS FROM CUSTOMER. CUSTOMER WILL PROVIDE SUCH ADVISORY NOTICES TO ITS USERS. CUSTOMER AGREES TO RESPOND AND AFFIRMATIVELY ACKNOWLEDGE THAT PROVIDER HAS ADVISED CUSTOMER OF THE CIRCUMSTANCES UNDER WHICH E911 HOSTED SERVICE MAY NOT BE AVAILABLE OR MAY BE LIMITED IN COMPARISON TO TRADITIONAL 911 EMERGENCY DIALING. CUSTOMER WILL PROVIDE SIMILAR ACKNOWLEDGEMENTS FROM ITS USERS UPON REQUEST BY PROVIDER. PROVIDER ADVISES CUSTOMER AND USERS TO MAINTAIN AN ALTERNATIVE MEANS OF ACCESSING TRADITIONAL 911 HOSTED SERVICES.





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**ELECTRICAL POWER.** CUSTOMER ACKNOWLEDGES THAT THE HOSTED SERVICES, INCLUDING WITHOUT LIMITATION E911 SERVICE, WILL NOT FUNCTION IN THE ABSENCE OF ELECTRICAL POWER.

**INTERNET ACCESS.** CUSTOMER ACKNOWLEDGES THAT THE HOSTED SERVICES, INCLUDING WITHOUT LIMITATION E911 SERVICE, WILL NOT FUNCTION IF THERE IS AN INTERRUPTION OF CUSTOMER'S BROADBAND OR HIGH-SPEED INTERNET ACCESS SERVICE.

**NON-VOICE SYSTEMS.** CUSTOMER ACKNOWLEDGES THAT THE HOSTED SERVICES ARE NOT SET UP TO FUNCTION WITH OUTDIALING SYSTEMS SUCH AS HOME SECURITY SYSTEMS, MEDICAL MONITORING EQUIPMENT, TTY EQUIPMENT, OR ENTERTAINMENT OR SATELLITE TELEVISION SYSTEMS. PROVIDER WILL NOT BE LIABLE FOR INTERRUPTION OR DISRUPTION OF SUCH SYSTEMS BY THE HOSTED SERVICES.

**E911 SERVICE.** E911 HOSTED SERVICE IS A MANDATORY COMPONENT OF ALL INBOUND/OUTBOUND TRADITIONAL FAX AND VOICE HOSTED SERVICE PLANS. E911 HOSTED SERVICE IS NOT OFFERED ON VIRTUAL NUMBERS, OUTSIDE THE UNITED STATES, ON TOLL-FREE NUMBERS OR ON SIMILAR HOSTED SERVICE ACCESSORIES OR ADD-ON HOSTED SERVICE PLANS. E911 HOSTED SERVICE IS ONLY AVAILABLE IN SELECTED AREAS. E911 HOSTED SERVICE IS TIED TO THE CUSTOMER'S REGISTERED HOSTED SERVICE ADDRESS ASSOCIATED WITH THE ASSIGNED PHONE NUMBER; CUSTOMER IS RESPONSIBLE FOR PROVIDING PROVIDER WITH ADDRESS INFORMATION FOR CUSTOMER'S USERS. THE PROVIDER MOBILE APPLICATION USES THE DEVICE'S DIALER AND CELLULAR TELEPHONE HOSTED SERVICE TO MAKE 911 CALLS. IF A DEVICE DOES NOT HAVE CELLULAR TELEPHONE SERVICE, THEN THE USER WILL NOT BE ABLE TO CALL 911 FROM THE PROVIDER MOBILE APPLICATION. CUSTOMER ACKNOWLEDGES THAT PROVIDER'S ONLY MECHANISM FOR ROUTING 911 CALLS TO THE CORRECT EMERGENCY CALL TAKER IS THE CUSTOMER'S OR USER'S REGISTERED HOSTED SERVICE ADDRESS ASSOCIATED WITH THE ASSIGNED PHONE NUMBER. CUSTOMER ACKNOWLEDGES AND UNDERSTANDS THAT ANY ENHANCED LOCATION INFORMATION PASSED TO AN EMERGENCY OPERATOR BY PROVIDER WILL BE BASED UPON THE CUSTOMER'S OR USER'S REGISTERED HOSTED SERVICE ADDRESS PROVIDED TO PROVIDER BY CUSTOMER. IN THE EVENT THAT THE REGISTERED HOSTED SERVICE ADDRESS ASSOCIATED WITH THE ASSIGNED PHONE NUMBER IS INCORRECT, IS OUTDATED, OR IS NOT COMPLETE, A 911 CALL MAY BE ROUTED INCORRECTLY.

**E911 HOSTED SERVICE CHARGE.** CUSTOMERS THAT ARE REQUIRED TO SUBSCRIBE TO PROVIDER E911 HOSTED SERVICE WILL BE SUBJECT TO A MONTHLY E911 HOSTED SERVICE CHARGE. THE MONTHLY E911 HOSTED SERVICE FEE WILL BE IN ADDITION TO THE APPLICABLE HOSTED SERVICE FEES FOR THE ASSOCIATED LINE. THE MONTHLY CHARGE FOR PROVIDER E911 HOSTED SERVICE IS ASSESSED ON A "PER-LINE" (THAT IS, PER PHONE NUMBER BASIS), AND WILL BE SET AT A LEVEL THAT REIMBURSES PROVIDER FOR THE DIRECT COSTS IT INCURS IN PROVIDING PROVIDER E911 SERVICE, INCLUDING EXPENSES PROVIDER INCURS, EITHER DIRECTLY OR INDIRECTLY, IN THE FORM OF STATE, COUNTY OR MUNICIPAL E911 SURCHARGES, E911 AUTOMATIC LOCATION INFORMATION (ALI) DATABASE STORAGE, LINE INFORMATION DATABASE AND CALLER ID (LIDB/CNAM) EXPENSES, AND ANY OTHER TAXES OR SURCHARGES DIRECTLY OR INDIRECTLY ASSOCIATED WITH THE PROVISION OF HOSTED SERVICES TO CUSTOMERS SUBSCRIBING TO THIS SERVICE. PROVIDER RESERVES THE RIGHT TO ADJUST THE LEVEL OF CHARGES ASSOCIATED WITH THE PROVISION OF E911 HOSTED SERVICES TO REFLECT INCREASES OR DECREASES IN THE COSTS IT INCURS.

**E911 CHARACTERISTICS.** CUSTOMER ACKNOWLEDGES THAT PROVIDER E911 HOSTED SERVICE HAS CERTAIN CHARACTERISTICS THAT DISTINGUISH IT FROM TRADITIONAL, CIRCUIT-SWITCHED 911 SERVICE. THESE CHARACTERISTICS MAY MAKE PROVIDER E911



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HOSTED SERVICES UNSUITABLE FOR SOME CUSTOMERS OR USERS. BECAUSE CUSTOMER AND USER CIRCUMSTANCES VARY WIDELY, CUSTOMER SHOULD CAREFULLY EVALUATE ITS OWN CIRCUMSTANCES WHEN DECIDING WHETHER TO RELY SOLELY UPON PROVIDER E911 SERVICE. CUSTOMER ACKNOWLEDGES THAT IT IS CUSTOMER'S RESPONSIBILITY TO DETERMINE THE TECHNOLOGY OR COMBINATION OF TECHNOLOGIES BEST SUITED TO MEET CUSTOMER'S AND ITS USERS' EMERGENCY CALLING NEEDS, AND TO MAKE THE NECESSARY PROVISIONS FOR ACCESS TO EMERGENCY CALLING HOSTED SERVICES (SUCH AS MAINTAINING A CONVENTIONAL LANDLINE PHONE OR WIRELESS PHONE AS A BACKUP MEANS OF COMPLETING EMERGENCY CALLS). THE FOLLOWING CHARACTERISTICS DISTINGUISH PROVIDER E911 HOSTED SERVICE FROM TRADITIONAL, CIRCUIT-SWITCHED 911 SERVICE:

- E911 HOSTED SERVICE WILL NOT FUNCTION IF CUSTOMER'S OR ITS USER'S DTA, PHONE OR VIDEOPHONE FAILS OR IS NOT CONFIGURED CORRECTLY OR IF CUSTOMER'S OR ITS USER'S PROVIDER HOSTED SERVICE IS NOT FUNCTIONING FOR ANY REASON, INCLUDING, BUT NOT LIMITED TO, ELECTRICAL POWER OUTAGE, BROADBAND OR OTHER INTERNET HOSTED SERVICE OUTAGE, OR SUSPENSION OR DISCONNECTION OF HOSTED SERVICE BECAUSE OF BILLING OR OTHER ISSUES. IF THERE IS A POWER OUTAGE, CUSTOMER OR THE USER MAY BE REQUIRED TO RESET OR RECONFIGURE THE EQUIPMENT BEFORE BEING ABLE TO USE THE PROVIDER SERVICE, INCLUDING FOR E911 PURPOSES. E911 HOSTED SERVICE MAY NOT FUNCTION IF CUSTOMER OR A USER RELOCATES EQUIPMENT OR USES A NON-NATIVE TELEPHONE NUMBER, OR FOR ANY OTHER REASON BEYOND PROVIDER'S CONTROL.
- AFTER INITIAL ACTIVATION OF THE E911 SERVICE, AND FOLLOWING ANY CHANGE OF AND UPDATE TO CUSTOMER'S OR A USER'S PHYSICAL LOCATION, THERE MAY BE SOME DELAY BEFORE THE AUTOMATIC NUMBER AND LOCATION INFORMATION IS PASSED TO THE LOCAL EMERGENCY HOSTED SERVICE OPERATOR. THIS INFORMATION IS TYPICALLY POPULATED INTO PROVIDER'S NOMADIC E911 DATABASES PRIOR TO HOSTED SERVICE ACTIVATION, BUT NO GUARANTEE CAN BE MADE THAT THE AUTOMATIC NUMBER AND LOCATION INFORMATION WILL BE ACTIVATED WITHIN THIS SCHEDULE.
- THE LOCAL EMERGENCY HOSTED SERVICE OPERATOR RECEIVING PROVIDER E911 EMERGENCY HOSTED SERVICE CALLS MAY NOT HAVE A SYSTEM CONFIGURED FOR E911 HOSTED SERVICES OR BE ABLE TO CAPTURE AND/OR RETAIN AUTOMATIC NUMBER OR LOCATION INFORMATION. THIS MEANS THAT THE OPERATOR MAY NOT KNOW THE PHONE NUMBER OR PHYSICAL LOCATION OF THE PERSON WHO IS MAKING THE PROVIDER E911 CALL. DUE TO TECHNICAL FACTORS IN NETWORK DESIGN, AND IN THE EVENT OF NETWORK CONGESTION ON THE PROVIDER NETWORK, THERE IS A POSSIBILITY THAT A PROVIDER 911 CALL WILL PRODUCE A BUSY SIGNAL, THE CALLER WILL EXPERIENCE UNEXPECTED ANSWERING WAIT TIMES OR THE LOCAL EMERGENCY HOSTED SERVICE OPERATOR WILL TAKE LONGER TO ANSWER THE CALL THAN 911 CALLS PLACED VIA TRADITIONAL, CIRCUIT-SWITCHED TELEPHONE NETWORKS.
- IF CUSTOMER OR ITS USER DOES NOT CORRECTLY IDENTIFY THE ACTUAL LOCATION WHERE THE PROVIDER EQUIPMENT WILL BE LOCATED AT THE TIME OF ACTIVATION OF THE SERVICE, PROVIDER E911 COMMUNICATIONS MAY NOT BE DIRECTED TO THE CORRECT LOCAL EMERGENCY OPERATOR.

*E911 LIMITATION OF LIABILITY AND INDEMNITY.* CUSTOMER AGREES THAT PROVIDER WILL NOT BE LIABLE FOR ANY HOSTED SERVICE OUTAGE OR INABILITY TO DIAL 911 OR ANY OTHER EMERGENCY TELEPHONE NUMBER USING A PROVIDER HOSTED SERVICE OR TO ACCESS OR REACH AN EMERGENCY HOSTED SERVICE OPERATOR DUE TO THE 911 DIALING CHARACTERISTICS AND LIMITATIONS SET FORTH IN THIS AGREEMENT. CUSTOMER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS PROVIDER, ITS OWNERS, MANAGERS, OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES AND AGENTS, AND ANY OTHER HOSTED SERVICE PROVIDER WHO FURNISHES HOSTED SERVICES TO CUSTOMER OR A USER IN CONNECTION WITH THE HOSTED SERVICES, FROM ANY AND ALL CLAIMS, ACTIONS, LOSSES,



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DAMAGES, FINES, PENALTIES, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES) BY, OR ON BEHALF OF, CUSTOMER OR ANY THIRD PARTY OR USER OF THE HOSTED SERVICE RELATING TO 911 DIALING OR THE INABILITY TO ACCESS OR REACH EMERGENCY 911 HOSTED SERVICES.

*DISCLAIMER AND LIMITATION OF LIABILITY.* PROVIDER DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR ARISING FROM A COURSE OF DEALING OR PERFORMANCE OR CUSTOM, WITH RESPECT TO THE HOSTED SERVICES, EQUIPMENT, AND ANY OTHER PROVIDER PRODUCTS, HOSTED SERVICES OR EQUIPMENT PROVIDED HEREUNDER, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE IN A WORKMAN-LIKE MANNER, COMPLIANCE WITH LAWS, QUALITY, ACCURACY, COMPLETENESS OR CURRENCY OF INFORMATION, SYSTEM INTEGRABILITY, TITLE, QUIET ENJOYMENT AND NON-INFRINGEMENT. PROVIDER DOES NOT REPRESENT, WARRANT OR COVENANT THAT THE PRODUCTS, HOSTED SERVICES OR EQUIPMENT PROVIDED WILL OPERATE UNINTERRUPTED, ERROR FREE OR WITHOUT DEGRADATION OR LOSS OF DATA, OR BE SECURE. NEITHER PROVIDER NOR ITS HOSTED SERVICE PROVIDERS WILL BE LIABLE FOR UNAUTHORIZED ACCESS TO OR ALTERATION, THEFT OR DESTRUCTION OF CUSTOMER'S OR A USER'S DATA FILES, PROGRAMS, PROCEDURES OR INFORMATION, INCLUDING, WITHOUT LIMITATION, ANY SUCH DATA IN PROVIDER'S POSSESSION, CUSTODY OR CONTROL, THROUGH ACCIDENT, FRAUDULENT MEANS OR DEVICES, OR ANY OTHER METHOD, REGARDLESS OF WHETHER SUCH DAMAGE OCCURS AS A RESULT OF PROVIDER'S OR ITS HOSTED SERVICE PROVIDER'S NEGLIGENCE. IN NO EVENT WILL PROVIDER OR ITS AFFILIATE, HOSTED SERVICE PROVIDER, FACILITY OPERATOR OR CARRIER, OR THEIR RESPECTIVE OWNERS, DIRECTORS, MANAGERS, OFFICERS, EMPLOYEES OR AGENTS (COLLECTIVELY, "PROVIDER PARTIES") BE LIABLE FOR ANY DIRECT, ACTUAL, INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE OR OTHER DAMAGES, OR FOR ANY COST OF COVER OR LOST PROFITS OF ANY KIND OR NATURE WHATSOEVER, ARISING FROM OR RELATED TO THIS AGREEMENT OR A PROVIDER PARTY'S PERFORMANCE OR NONPERFORMANCE OF OBLIGATIONS HEREUNDER, A FAILURE OF OR A DEFECT IN THE HOSTED SERVICES, EQUIPMENT OR ANY PRODUCT, A PROVIDER PARTY'S VIOLATION OF A THIRD PARTY'S RIGHT, OR A PROVIDER PARTY'S ACTS OR OMISSIONS. PROVIDER WILL NOT BE LIABLE FOR THE ACTS OR OMISSIONS OF, A FAILURE OF OR A DEFECT IN ANY PRODUCT OR HOSTED SERVICE PROVIDED BY, OR VIOLATION OF ANY THIRD PARTY'S RIGHTS BY ANY THIRD-PARTY HOSTED SERVICE PROVIDER, FACILITY OPERATOR OR CARRIER. THE PROVIDER PARTIES' MAXIMUM TOTAL LIABILITY TO CUSTOMER WILL NOT EXCEED THE AMOUNTS PAID BY CUSTOMER TO PROVIDER IN THE THREE (3) MONTHS PRECEDING THE DATE THE CLAIM ACCRUED. THE PROVIDER PARTIES WILL NOT BE LIABLE IN ANY WAY TO ANY USER.

*Mobile Application.* Provider may make a mobile application for the Hosted Services available to Customer. Subject to this Agreement, Provider grants to Customer a limited, personal, revocable, non-exclusive, non-transferable and non-sublicensable license to install and use the mobile application during the Term. Customer has no other rights in or to the mobile application. The mobile application is licensed, not sold. The terms of this Agreement apply to any updated, upgraded or new versions of the mobile application. Use of the mobile application constitutes use of the Hosted Services. Provider may require Users to agree to additional terms and conditions governing use of the mobile application, and Customer agrees that its Users will not be permitted to use the mobile application unless they agree to such terms and conditions. Customer agrees that from time to time and without notice Provider may amend, modify, update or upgrade the mobile application or create new versions of the mobile application. Customer agrees that Provider may automatically update the version of the mobile application that a User is using on a mobile device. Customer consents, on behalf of itself and its Users, to such updating on mobile devices. Updates may cause Customer or a User to lose data, and Provider will not be liable for such loss. Customer agrees that Provider has no obligation to provide support, maintenance or updates for or to the mobile application. To the extent the mobile application contains any third-party Hosted Service Software, Customer's and User's rights and obligations with respect to such Hosted Service Software will



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be subject to and governed by the third party's terms and conditions. Provider does not make a representation or warranty that the mobile application will operate on any particular device or operating system. The mobile application is commercial computer Hosted Service Software, and to the extent any U.S. government agency uses the mobile application, the U.S. government is only granted the limited rights granted to all other Provider customers. Provider is not a wireless licensee of the FCC, and the mobile application will not be able to provide access to E911 Hosted Service unless Customer subscribes to wireless Hosted Service that complies with the FCC's E911 program, as further explained in Section 13.6.

*Intellectual Property.* The Hosted Services and Hosted Service Software, and all intellectual property therein, are and will remain the exclusive property of Provider. Provider reserves all rights not expressly granted under this Agreement. The Hosted Service Software may contain third-party Hosted Service Software that is subject to the terms and conditions of third-party licenses. Neither Customer, Users nor any other third party has a right to inspect, possess, use, copy, or attempt to discover the source code of (or any portion of) the Hosted Service Software, except to the extent that Customer, a User or a third party is expressly permitted to decompile the Hosted Service Software under applicable law and Customer, the User or the third party notifies Provider in writing in advance of its intention to decompile the Hosted Service Software and its reason for doing so.

*Upgrades.* Provider may update the Customer and User portals, and Customer agrees that Hosted Service may be unavailable during the implementation of such updates. Upon expiration, cancellation or termination of the Hosted Services, Customer and Users will relinquish and discontinue use of any accounts, Numbers, voice mail access numbers, and/or web portal Sites assigned to Customer by Provider or its Hosted Service providers.

## **SECURITY AND SURVEILLANCE SYSTEMS**

*Security System Installation and Monitoring.* VTX1 provides Security System Installation and Monitoring Services to its qualifying customers. VTX1 typically provides Security System Installation and Monitoring Services pursuant to a separate Security System Installation and Monitoring Agreement between the applicable VTX1 entity and the customer. A link to VTX1's standard Security System Installation and Monitoring Agreement can be found here:

<http://www.vtx1.net/wp-content/uploads/2017/11/61G171602-Security-System-Installation-and-Monitoring-Agreement-VTX1-Revised-May-2017-2.pdf>

However, if for any reason you subscribe to the Security System Installation and Monitoring Services without entering into a separate agreement for those Services, the terms of VTX1's standard Security System Installation and Monitoring Agreement linked above will apply to your Services subscription to the extent consistent with this Agreement and all applicable law.

*Sale and Installation of Surveillance Equipment.* VTX1 may also provide and/or install certain surveillance equipment consisting of security cameras and related equipment to its qualifying customers. VTX1 typically provides and/or installs surveillance equipment pursuant to a separate Service Order between the applicable VTX1 entity and the customer. Surveillance equipment is in all cases provided and/or installed pursuant to the applicable terms of the Service Order and the standard terms below.

*Sale of Surveillance Equipment.* If VTX1 provides the surveillance equipment, such equipment is "Sold Equipment" under the Terms and Conditions and that, therefore, VTX1 SELLS/PROVIDES SUCH EQUIPMENT ON AN ON AN AS-IS BASIS ONLY AND DISCLAIMS ALL WARRANTIES ON SUCH EQUIPMENT, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PURPOSE. Customer agrees that, with respect to any failure of VTX1 to install the surveillance equipment properly, or if maintenance services are provided, to perform the maintenance services properly, Customer's sole



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and exclusive remedy for such failure shall be limited to, at VTX1's option, either the correction of performance for that portion of the services found by VTX1 to be defective, or a refund of the fees paid for that portion of the services found by VTX1 to be defective.

*Installation of Surveillance Equipment.* VTX1 may assist Customer in connecting the surveillance equipment to Customer's broadband or other Internet connection so that Customer can monitor the service address over the Internet. However, Customer agrees that it is solely Customer's responsibility to maintain such broadband or other Internet connectivity and that, without such connectivity, Customer will be unable to remotely monitor the service address. Customer also acknowledges and agrees that it is solely Customer's responsibility to implement network security measures to ensure that any camera feed is accessible only by Customer or those persons authorized by Customer. VTX1 DOES NOT ASSUME ANY RESPONSIBILITY TO IMPLEMENT SUCH SECURITY MEASURES AND THAT UNDER NO CIRCUMSTANCE WILL VTX1 OR ANY SUBCONTRACTORS BE LIABLE TO ME OR ANY OTHER PERSON FOR UNAUTHORIZED ACCESS TO ANY CAMERA FEED OR ANY OTHER SECURITY BREACH AS TO THE SURVEILLANCE EQUIPMENT.

*Surveillance Services.* Customer acknowledges that if VTX1 agrees to provide any surveillance services with respect to the surveillance equipment, all such services will be considered "security system monitoring services" and will therefore be subject to the Security System Installation and Monitoring Agreement linked above. VTX1 may require that Customer execute a copy of the Security System Installation and Monitoring Agreement as a condition to providing any surveillance services.

*Disclaimer and Limitation of Liability.* **FINALLY, CUSTOMER AGREES THAT IF ANY LOSS OR DAMAGE SHOULD RESULT FROM THE FAILURE OF THE SURVEILLANCE EQUIPMENT, OR ANY COMPONENT THEREIN, OR FROM IMPROPER INSTALLATION, MAINTENANCE OR REPAIR OF THE SURVEILLANCE EQUIPMENT, OR IN THE EVENT OF THE SOLE, JOINT, OR CONCURRENT NEGLIGENCE OF VTX1, AN ASSIGNEE, OR ANY SUBCONTRACTOR, OR ANY OF THEIR RESPECTIVE AGENTS AND EMPLOYEES, OR ANYONE ACTING ON THEIR BEHALF, THE MAXIMUM LIABILITY, IF ANY, OF VTX1, AN ASSIGNEE, OR ANY SUBCONTRACTOR FOR SUCH DAMAGES, INCLUDING WITHOUT LIMITATION CLAIMS FOR PERSONAL INJURY, PROPERTY DAMAGE, OR ECONOMIC LOSS, SHALL BE \$500.00.** Under no circumstances shall VTX1 or any subcontractor be liable to Customer or any other person for indirect, special, punitive, incidental or consequential damages of any nature in excess of the maximum liability described above, including without limitation, damages to property, loss of property or revenue, or cost of replacement goods, however occasioned and whether alleged to result from VTX1's or the subcontractor's breach of warranty, **SOLE, JOINT, OR CONCURRENT NEGLIGENCE**, through strict liability, in tort, under statute or otherwise.

### **VIDEO PRODUCTION SERVICES**

VTX1 provides Video Production Services to its qualifying customers. VTX1 typically provides Video Production Services pursuant to a separate Video Services Agreement between the applicable VTX1 entity and the customer. A link to VTX1's standard Video Services Agreement can be found here:

<http://www.vtx1.net/wp-content/uploads/2017/11/Video-Services-Agreement-VTX1-Revised-12-16-04259386xA208A.pdf>

However, if for any reason you subscribe to the Video Production Services without entering into a separate agreement for those Services, the terms of VTX1's standard Video Services Agreement linked above will apply to your Services subscription to the extent consistent with this Agreement and all applicable law.

### **BROADBAND INTERNET ACCESS DISCLOSURE**



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Broadband Internet Access Disclosures as required by the Federal Communications Commission's Open Internet Rules are provided on this website under a separate Broadband Internet Access Disclosure Form. Existing and prospective customers of VTX1's Internet access services may refer to that disclosure form for additional information regarding the network practices, performance characteristics, and commercial terms applicable to VTX1's broadband Internet access services.

### **ACCEPTABLE USE POLICIES**

You agree to comply with the rules of the Service and the appropriate rules for other networks or services connected directly or indirectly to the Service, including Acceptable Use Policies established for the Internet as a whole.

The Service may only be used for lawful purposes for your individual use. You agree to use responsible Internet practices, including, without limitation, using computer security and anti-virus protections, to ensure that unauthorized third parties do not gain access to your computer or computer network or the Service.

You further agree not to:

- (i) Resell the Service or otherwise permit the use of the Service by any unauthorized users,
- (ii) Restrict or inhibit any other user from using and enjoying the Internet,
- (iii) Post or transmit any message, data, image or program that would violate the property rights of others, including unauthorized copyrighted text, images or programs, trade secrets or other confidential proprietary information, and trademarks or service marks used in an infringing fashion,
- (iv) Post or transmit emails or other information or software which contains a virus, malicious code, spyware, adware, cancelbot, trojan horse, worm or other harmful component,
- (v) Post, publish, transmit, reproduce, distribute or in any way exploit any information, software or other material obtained through the Service for commercial purpose (other than as expressly permitted by VTX with regards to such information, software or other material),
- (vi) Upload, post, publish, transmit, reproduce, or distribute in any way, information, software or other material obtained through the Service which is protected by copyright, or other proprietary right, or derivative works with respect thereto, without obtaining permission of the copyright owner or right holder,
- (vii) Post or transmit any unlawful, threatening, abusive, libelous, defamatory, obscene, pornographic, profane, or otherwise objectionable information of any kind, including without limitation any transmissions constituting or encouraging conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any local, state, national or international law, including without limitation the U.S. export control laws and regulations,
- (xiii) Transmit spam (i.e. mass unsolicited email messages) or flames (the sending of a large number of email messages to a single or multiple addresses),
- (ix) Gain or attempt to gain unauthorized access to or otherwise disrupt or deface websites, networks, systems or accounts owned by VTX or any third parties, including without limitation, through the use of worms, trojan horses, denial of service attacks or other computer hacking techniques, disrupt the Service or network connectivity of VTX or any third parties, misuse VTX or third party facilities or create fraudulent accounts, or
- (x) Edit, transmit, distribute, reproduce, or modify in any part or copy onto any media The Walt Disney Company and its affiliated company content, text, photo, graphic, audio, and/or video material (including but not limited to such material from ESPN, ABCNews, Movies.com, SOAPNet or any other Disney company)("Disney Content"), except that Customer may download one copy of the Disney Content on a single computer for the Subscriber's personal, noncommercial home use only, provided that (i) Customer keeps intact all copyright and other proprietary notices, (ii) Customer makes no modifications to the Disney Content, (iii) Customer does not use the Disney Content in a manner that suggests an association with any of Disney's products, services, or brands. Customer agrees that The Walt Disney Company and its affiliated companies will not be held liable for any delays,



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inaccuracies, errors, or omissions in the Disney Content or in the transmission or delivery of all or any part of the Disney Content, or for any damages arising from any of the foregoing.

VTX has no obligation to monitor the Service or your use of the Service. However, you agree that VTX has the right to monitor the Service electronically from time to time and to disclose any information as necessary to satisfy any law, regulation or other governmental request, to operate the Service properly, or to protect itself or its subscribers. VTX will not intentionally monitor or disclose any private email message, except as stated above.

To the fullest extent permitted by the Net Neutrality Laws and other applicable law, VTX reserves the right to refuse to post or to remove any information or materials, in whole or in part, that, in its sole discretion, are unacceptable, undesirable, or in violation of its AUP. VTX may further deny any person or entity access to all or part of its system, without notice, if such person or entity engages in any conduct or activities that VTX, in its sole discretion, believes violates any of its AUP.

VTX may deny you access to all or part of the Service without notice if you engage in any conduct or activities that VTX in its sole discretion believes violates any of the terms and conditions in this AUP. If VTX denies you access to the Service because of such a violation, you shall have no right to access the Internet or your email account through VTX.

YOU AGREE TO DEFEND, INDEMNIFY AND HOLD VTX AND ITS AFFILIATES HARMLESS FROM ANY AND ALL LIABILITIES, COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, RELATED TO ANY VIOLATION OF THIS AGREEMENT BY YOU OR AUTHORIZED USERS OF YOUR ACCOUNT, OR IN CONNECTION WITH THE USE OF THE SERVICE OR THE INTERNET OR THE PLACEMENT OR TRANSMISSION OF ANY MESSAGE, INFORMATION, SOFTWARE OR OTHER MATERIALS ON THE INTERNET BY YOU OR USERS OF YOUR ACCOUNT.

### **PRIVACY POLICY**

Valley Telephone Cooperative, Inc. and its affiliates ("VTX1" or "us") are committed to protecting the privacy and security of the information provided by customers and other parties ("Users" or "you") using VTX1's services (each a "Service" and collectively the "Services") or visiting any VTX1 websites (the "Websites"). This Privacy Policy covers the information generated when a User uses VTX1's Services or visits any of VTX1's Websites.

#### **Service Information**

*Collection and Use of Service Information.* When Users subscribe to VTX1 Services, they may be provided with certain equipment or may use their own equipment (collectively "Equipment") to connect to our network (the "Network"). In these cases, VTX1 may collect certain Equipment-related information including information about Equipment type, identifier, status, settings, configuration, software or use ("Equipment Information"). VTX1 may also collect certain Network performance and usage -related information including information about VTX1 networks, use of our Services or Equipment on the Network, and performance data ("Network Information," and together with Equipment Information, "Service Information"). VTX1 uses this Service Information to provide and manage our Services and to improve User experiences. VTX1 retains the right to use the Service Information for its internal business purposes to the fullest extent permitted by applicable law, including to provide, support, improve, protect, analyze and bill for its Services, Equipment, and Network; to communicate with its customers about the Services, Equipment and Network; to market its Services; to detect and avoid fraud; for advertising; and for research purposes. VTX1 does not share Service Information with external, non-affiliated companies except as provided in this Privacy Policy or as permitted in the applicable Service terms and then only uses and shares such Service Information to the extent permitted under applicable law, including applicable Federal laws concerning your "CPNI" and discussed below.



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*Customer Proprietary Network Information or CPNI.* Certain Service Information may consist of “Customer Proprietary Network Information” or “CPNI” as defined under applicable Federal law. “CPNI” is the information that VTX1 gathers about its customers (i) that relates to the quantity, technical configuration, type, destination, and amount of use of telecommunications services subscribed to by the customer and that is made available to VTX1 by the customer solely by virtue of the carrier-customer relationship; and (ii) information contained in the VTX1 bills pertaining to a customer’s telephone exchange service or telephone toll service. CPNI does not include subscriber list information. Notwithstanding anything to the contrary in this Privacy Policy, VTX1 is committed to protecting the confidentiality of your CPNI and has the duty to do so under Federal law. Moreover, Federal law gives you a right to protection of all such information, including how many telecommunications services you have, the type of lines you buy, technical characteristics, class of service (business or residential), as well as where, when, and to whom you place a call, and the related billing for these services. VTX1 holds all CPNI in compliance with applicable law and does not disclose CPNI to any third party except as permitted by applicable law.

### Website Information

*Collection and Use of Personal Information Through Websites.* Visitors can generally browse VTX1’s Websites anonymously without providing any personal information. However, there are cases where we may request information from people visiting our websites. When personally identifiable information is collected, you will know because you will need to provide the requested information through the completion of a form. Personally identifiable information may include a visitor’s name, address, telephone number and email address. We will not collect any personally identifiable information unless the User provides it to us voluntarily. If you choose not to give information we request, you can still visit our Website, but you may be unable to access certain options, offers, and services. VTX1 is dedicated to building a long-term relationship with all of our Website Users. We will not sell, share or rent this information to others in ways other than as set forth in this Privacy Policy.

*Log Files.* Our log tracking collects Website Users’ IP addresses to analyze trends, administer the Websites, track visitor movement, and gather broad demographic information to help determine the type of information visitors are interested in seeing on our Websites. This tracking may collect IP addresses, URLs, pixels, cookies and similar technologies, and identifiers such as advertising IDs and device IDs (“Data Collection”). Data Collection can also include information about the time a User spends on our Websites, the links or advertisements seen, search terms entered, items identified in a User’s online shopping cart and other similar information. For clarity, Data Collection does not include any personally identifiable information. Users are not personally identifiable within our log files. VTX1 only uses this information for internal purposes and does not share this information with non-affiliated companies or institutions.

*Cookies.* A “Cookie” is a piece of information that is sent from a VTX1 web server to a User’s browser and stored on the User’s hard drive. VTX1 uses Cookies when a User orders a product or registers for a specific program. The Cookie stores information that allows VTX1 Websites to remember a User the next time he or she visits a particular VTX1 website. Cookies also allow us to tailor our websites to better match Users’ interests and preferences. A User may choose to disable Cookies by changing his or her browser settings; however, such User may not be able to access some of the information or features on our Websites after doing so.

*Registration.* In some cases, a User may be required to complete a registration form to order a Service or to receive certain information. During the registration process, the User is required to give specific information such as name and email address. This information is used to contact the User regarding Services offered by VTX1 for which the User has expressed interest.

*Ordering Services.* When ordering Services online, VTX1 will request certain information from a User to complete the order. The User’s information will include name, address, telephone number, email address,





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payment information and other information as may be requested by VTX1 in the order form. This information is used for billing purposes, fulfillment of orders, ongoing account maintenance and upgrades.

*Security.* When asked to enter certain sensitive information (such as credit card number and/or social security number), that information is encrypted and is protected through third party security systems. Access to User information is restricted to VTX1 and its affiliates and underlying parties through their respective developers, network operations personnel and other qualified employees or agents (such as billing clerks or customer care representatives). In addition, the servers on which VTX1 stores personally identifiable information are kept in a secure location. While we use reasonable efforts to safeguard the confidentiality of your information, VTX1 will have no responsibility for disclosure of any information obtained due to errors in transmission or the unauthorized acts of third parties.

*Marketing Contacts.* If a User wishes to subscribe to newsletters or other marketing information, such as email updates, VTX1 will ask for contact information, including a street address or email address. In addition, we may ask for information that will help in delivering pertinent information from VTX1. Users who do not wish to receive VTX1 newsletters or promotional materials may opt-out of receiving these communications. Each contact the visitor receives from VTX1 will inform the visitor how to unsubscribe from these communications.

### Personal Information

*Sharing of Personal Information.* Collected personal information is only used for the business purposes of VTX1 and is not shared with external, non-affiliated companies except as provided in this Privacy Policy. VTX1 may partner with other parties to provide specific services, such as billing solutions, which are designed to enhance the functionality of our Services. When use of these services is required, VTX1 will only share names or other contact information that is necessary for the third party to provide these services. We may also provide your personal information to third party agents we have hired to help us provide products or services you have requested. For example, we would need to provide your address to a shipping company to deliver a package you have ordered. In addition, we outsource certain functions of our business, and those agents may have access to your personal information; however, in such cases our agents are prohibited from disclosing your personal information to others.

We may share statistical or aggregated non-personal information about our Users with advertisers, business partners, sponsors and other third parties. No personal information is supplied in these cases. This data is used to improve our Services, customize our Website content and advertising, and for other appropriate purposes to deliver a better experience to our Users.

*Correction/Updating Personal Information.* If a User needs to update or change personally identifiable information, VTX1 will help the User to correct, update or remove personal data provided to VTX1. Users can update or change personally identifiable information by contacting VTX1 directly or through its Website.

### Other Privacy Terms

*Notification of Changes.* If we make any changes to the VTX1 Privacy Policy, we will post those changes on our Website at <https://www.vtx1.net/policies-information/> so Users are informed of what information we collect and how we use that information. We will only use information in accordance with the current VTX1 Privacy Policy.

*Links.* VTX1 Websites contain links to other websites. VTX1 is not responsible for the contents or privacy practices of these websites. We encourage our Users to read the privacy policy of each website they visit. This Privacy Policy applies solely to information collected through VTX1 Services and on VTX1 Websites.



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*Policies For Children.* VTX1 DOES NOT KNOWINGLY SOLICIT, COLLECT OR USE ANY PERSONAL INFORMATION FROM VISITORS UNDER 13 YEARS OF AGE. NO INFORMATION SHOULD BE SUBMITTED TO OUR WEBSITES BY VISITORS UNDER 13 YEARS OF AGE, AND VISITORS UNDER 13 YEARS OLD ARE NOT ALLOWED TO REGISTER FOR OUR CONTESTS, NEWSLETTER, PRODUCTS OR SERVICES.

*Special Cases.* VTX1 reserves the right to disclose personal information in special cases, when we have reason to believe that disclosing this information is necessary to identify, contact or bring legal action against someone who may be causing injury to or interference with (either intentionally or unintentionally) our rights or property, other Users, or anyone else that could be harmed by such activities. We may disclose personal information without notice to you in response to a subpoena or when we believe in good faith that the law permits it or to respond to an emergency situation.

In the event any VTX1 entity or its assets are sold, merged or otherwise involved in a corporate transaction, your information will likely be transferred as part of that transaction. We reserve the right to transfer your information without your consent in such a situation; provided that we will make reasonable efforts to see that your privacy preferences are honored by the transferee.

*Conflicts.* Specific Service terms or other areas or pages of our Websites may include additional or different provisions relating to collection and disclosure of your information. In the event of a conflict between those provisions and this Privacy Policy, such specific provisions shall control.

*Questions.* If you have any questions or concerns about this Privacy Policy or the privacy practices of VTX1, please contact us at our corporate offices or on our corporate website at <https://www.vtx1.net>.

### **STATEMENTS OF COMPLIANCE**

*Communications Assistance for Law Enforcement Act.* VTX is compliant with the Communications Assistance for Law Enforcement Act ("CALEA") and the associated rules and regulations implemented by the FCC. VTX has submitted to the FCC its CALEA policies and procedures pursuant to the FCC's rules.

*Red Flag.* VTX is compliant with the Red Flag Rules established by the Federal Trade Commission pursuant to the Fair and Accurate Credit Transactions Act. VTX has adopted a Red Flag Program, which is updated periodically and is designed to detect, prevent, and mitigate instances of identity theft involved with the opening of certain accounts or certain existing accounts.

*Customer Proprietary Network Information.* VTX is compliant with FCC rules and regulations implemented pursuant to the Communications Act of 1934, as amended, regarding the collection, access, use, disclosure and distribution of CPNI. VTX makes an annual CPNI certification filing with the FCC and has adopted CPNI policies and procedures for training employees and agents, as well as for addressing and reporting any such violations.

### **NOTICES**

Unless otherwise specified in this Agreement, notices to you may be made by email, posting online at [www.vtx1.net](http://www.vtx1.net), bill insert, regular mail or call to your billed telephone number. It is your responsibility to check for such notices.

Unless otherwise specified in this Agreement, notices by you to VTX must be given by calling our offices at 1-800-446-2031, and such notices are effective as of the date that our records show we received your call.

LEGAL NOTICES must be given by letter delivered by overnight mail or certified mail to VTX, ATTN: Chief Executive Officer, 881 East Hidalgo Avenue, Raymondville, Texas 78580.