

## GridPBX Master Services Agreement

### Introduction

The following GridPBX Master Services Agreement (“Agreement” or “MSA”) is a legal agreement between the Subscriber (either an individual or an entity that you are representing, hereinafter “Subscriber” or “you”) and Grid Communications, Inc., a California Corporation and its affiliates, vendors, subcontractors, suppliers, licensors, and other service-providers (collectively “Grid” or “Us”) for the Grid Communications Services (the “Service” or “Services”). Grid and Subscriber are referred to individually as “Party” and collectively as the “Parties.” This MSA and the attached Quote(s), Service Order(s) (“Orders”) shall collectively be referred to as the “Agreement.”

### Recitals

WHEREAS, Grid is in the business of providing technology related services and products including but not limited to a Communications Platform, Voice over Internet Protocol (“VoIP”) telecommunications services and related hardware;

WHEREAS, Grid desires to provide, and Subscriber desires to obtain, the services or products described within a Quotation (“Quote”), or Service Order (“Order”), or Pricing Schedule (“Schedule”) pursuant to the terms and conditions set forth in the Agreement (“Service”, or collectively “Services”).

WHEREAS, the individual acting on behalf of Subscriber represents and warrants their authority to encumber Subscriber and are competent to do so.

WHEREAS, Any of the following actions constitutes, without limitation or qualification, your approval to be bound by, and to comply with, the terms of this Agreement: (i) Your registering for Service anywhere on a Grid website and selecting “I Accept” or “I Agree” as part of the registration or setup process; (ii) Your electronic or manual handwritten signature on a Quote, Order, or Schedule ; or (iii) Your use of the Grid Service.

**IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT, THEN DO NOT DOWNLOAD, INSTALL, ACCESS OR USE THE SERVICES. WHEN YOU ACCEPT THESE TERMS IN CONJUNCTION WITH ORDERING SERVICES, OR WHEN YOU ACCESS OR USE THE SERVICES AFTER YOU ARE NOTIFIED THAT THESE TERMS APPLY TO THE SERVICES, YOU AGREED TO BOUND BY THIS AGREEMENT.**

**READ THESE TERMS CAREFULLY BECAUSE THEY AFFECT THE LEGAL RIGHTS BETWEEN YOU AND GRID BY AMONG OTHER THINGS, (1) LIMITING GRID’S LIABILITY TO YOU, (2) REQUIRING ARBITRATION OF CERTAIN DISPUTES RATHER THAN A JURY TRIAL, (3) REQUIRING PAYMENT OF EARLY TERMINATION CHARGES OR DISCONNECT FEES AND (4) LIMITATIONS REGARDING YOUR ACCESS AND USE OF EMERGENCY SERVICES (911 DIALING).**

**This Agreement shall amend and restate, supersede, or replace in their entirety any earlier versions of the GridPBX Master Service Agreement previously applicable to your services.**

NOW, THEREFORE, in consideration of the recitals and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

#### 1.0 Term

The initial term of each Service (“Service Commitment Period”) shall be set forth in the applicable Quote, Schedule, or Order. Unless prohibited by law, after the initial Service Commitment Period, this Agreement will be extended automatically for additional one-year periods on the last day of the initial Service Commitment Period or the last day of the then current Service Commitment Period unless a written notice of termination (the “Termination Notice”) is provided by one party to the other at least thirty (30) calendar days prior to the end of the then current Service Commitment Period. A Termination Notice will

be deemed provided only if it states a termination date no earlier than thirty (30) days from the Termination Notice (the "Termination Date") and no earlier than the last day of the then Current Service Commitment Period and is in accordance with the Termination Notice section of this Agreement. The Service Commitment Period and all Renewal periods, if any, are collectively referred to as the Term. Purchase Orders or other documents issued by Subscriber shall not be deemed to supersede, amend, modify, or supplement the Agreement or any Schedule or Order issued hereunder and shall be absolutely null, void, and without effect upon Grid.

In the event Grid offers the Subscriber a free introductory period (the duration of which may vary), the Service Commitment Period shall be automatically extended by a period equal to the duration of the free introductory period. This extension shall apply notwithstanding any other provisions to the contrary within the Agreement. All other terms and conditions of this Agreement shall remain in full force and effect, and the extended term shall be subject to the same rights, obligations, and limitations as the original term.

## 2.0 Initial Service Commitment Period and Billing Commencement

Unless otherwise expressly stated in the applicable Quote(s), Order(s), or Schedule(s), the commencement date for the Service Commitment Period and Billing shall be expressly deemed to have commenced upon the earlier to occur of (a) usage of the Services by the Subscriber or (b) seven calendar days following the actual delivery or installation of the equipment or (c) seven calendar days after the Subscriber has been notified the services are ready.

## 3.0 Pricing and Payment

- 3.1 A Subscriber electing a "Month to Month" ("Monthly Subscriber") term will pay the monthly price(s) listed on the Pricing Schedule corresponding to the Plan and Options chosen by the Monthly Subscriber at the time of the order, such monthly pricing is subject to increase at any time to Grid's then current pricing.
- 3.2 Unless specified explicitly by Grid to the contrary, all prices are in U.S. dollars and must be settled in U.S. dollars.
- 3.3 For the Services provided pursuant to this Agreement, Subscriber shall pay Grid per the pricing and provisions set forth in the applicable Quote, Order, or Schedule and in the case of a Quote or Order pricing for the services shall be guaranteed for the Initial Commitment period; in the event there are multiple applicable Quotes, Orders or Schedules, Grid in its sole discretion will select the Quote, Order or Schedule to be used. Subscriber agrees to pay any and all charges that Subscriber incurs while using Grid's Services. For any Service used by Subscriber for which a rate is not specified on a Quote, Order, or Schedule, Grid's then current rates shall apply.
- 3.4 As a result of the usage of the Services and In addition to regular fees set forth in the applicable Quote, Order, or Schedule, the Subscriber agrees to pay all other charges, including but not limited to network usage, pass-through charges, directory assistance calls, operator assistance calls, payphone charges, and international duties, applicable taxes, fees, and surcharges, including charges imposed against Grid by third party providers that it passes on to the Subscriber. Taxes and Surcharges may vary monthly and change at any time without notice; any variations will be reflected in the monthly charges. When possible, Grid will break out such charges on the monthly invoice.
- 3.5 Grid provides prepaid Services only. Subscriber must keep a positive balance to retain Services with Grid. Subscriber must pay all negative balances immediately and authorize Grid to debit any payment method on file to satisfy the balance.
- 3.6 Subscriber agrees to pay all charges due and payable under the Agreement without counterclaim, set-off or deduction, other than amounts disputed.
- 3.7 Any termination of this Agreement shall not relieve Subscriber of its obligation to make payments due hereunder including past balances.
- 3.8 Both Parties agree that all bills shall be solely calculated and paid based on Grid's records.

3.9 When you subscribe to our service, you authorize us to collect from your payment method, including, if applicable, Early Termination Fees, late fee, check return fees, recovery and administrative fees, and any other outstanding charges. This authorization will remain valid until 30 calendar days after you terminate our authority to charge your payment method.

#### 4.0 Termination

##### 4.1 Termination by Subscriber

Subscriber may terminate this Agreement at any time for any reason by providing Grid with a thirty (30) day written notice in the form of a valid written termination request and paying all fees including applicable early termination fees and other charges accrued or otherwise payable under the terms of this Agreement. Such thirty (30) day period begins on the date on which Grid receives the Subscriber's valid written termination request. Notwithstanding notice by Subscriber to terminate this Agreement, Services will remain in effect through the effective date of the termination and the terms of this Agreement and applicable Quote(s), Order(s) or Schedule(s) will continue to apply to such services.

SUBSCRIBER MAY CANCEL SERVICES ONLY THROUGH THE METHODS SPECIFIED BELOW, FAILURE TO CANCEL IN ACCORDANCE WITH THIS SECTION WILL RESULT IN GOING SERVICE CHARGES, FEES, AND TAXES. ALL GRID EQUIPMENT MUST BE RETURNED WITHIN 30 DAYS AFTER SERVICE CANCELLATION TO AVOID BILLING.

Subscriber's written termination notice must include the Subscriber's account number, date Subscriber wishes service to be cancelled and must be submitted using one of the following methods:

E-Mail:

[cancel@gridpbx.com](mailto:cancel@gridpbx.com)

Postal Mail

Grid Communications, Inc.

Attn: Cancellation Department

3900 Prospect Avenue, Unit G

Yorba Linda, CA 92886

Upon termination or cancellation of the Services, Subscriber shall discontinue use of any Grid Services including but not limited to telephone numbers, logins, voicemail access numbers or any web portal provided for Grid Subscribers. In the event the Subscriber purchases or uses ancillary services provided by Grid, cancellation, or termination of services for any reason shall also result in the cancellation or termination of such ancillary services.

##### 4.2 Early Termination

If this Agreement is terminated prior to the end of a Service Commitment Period, the Subscriber must pay, in addition to all fees and other charges accrued or otherwise payable under the terms of this Agreement, an Early Termination Fee in the amount that is equal to the amount due and payable through the end of the Service Commitment Period, excluding any service credits or discounts. In the event a Contract Subscriber terminates this Agreement prior to the end of their Service Commitment Period because of a service-related problem not caused by the Subscriber that Grid has failed to cure after what Grid determines in its sole discretion to be a reasonable amount of time based on the circumstances, the Subscriber is entitled to a waiver of Early Termination Fee. For such waiver to apply, the reason for the waiver stated above must have occurred before termination and the Subscriber must report such reason for termination to Grid in the Subscriber's valid written termination request. Grid, in turn, must be given the opportunity to resolve the problem and the Subscriber must be willing and able to troubleshoot with Grid.

#### 4.3 Termination by Grid

If, in Grid's sole and absolute discretion, (a) Subscriber is in breach of any of the terms of this Agreement (including but not limited to the Acceptable Use Section of this Agreement); (b) Subscriber's use of the Service is prohibited by law or is disruptive to, adversely impacts or causes a malfunction to the Service, Grid's infrastructure or other equipment, or the use and enjoyment of other Subscribers; (c) Subscriber acts in an abusive or menacing manner when dealing with Grid's employees or representatives; (d) Grid receives an order from a court of competent

jurisdiction to terminate a Subscriber's Service; (e) Grid for any reason ceases to offer the Service, then Grid at its sole and absolute discretion may terminate or suspend such Subscriber's Service immediately without notice. Terminations made in accordance with this paragraph shall not relieve the Subscriber of any obligations to pay unpaid fees or other charges accrued or other payable under the terms of this Agreement, including without limitation the equipment charges set for herein, if applicable.

Grid, in its sole and absolute discretion may refuse to accept a Subscriber's application for renewal or re-subscription following a termination or suspension of such Subscriber's use of the Service. If a Subscriber's Service is terminated for any reason, such Subscriber, upon approval by Grid, may enter into a new Agreement and must pay a new setup or activation fee if required. Upon the termination of a Subscriber's use of the Service, Grid has the right to immediately delete all data, files and other information stored in or for the Subscriber's account without further notice to the Subscriber.

#### 5.0 Taxes and Regulatory Assessments

Prices do not include any sales, use, or excise taxes - federal, state, or local. Nor any public utility or other similar taxes. All such taxes shall be paid by the Subscriber and will be added to any amounts otherwise charged to Subscriber unless in advance the Subscriber provides Grid with an exemption certificate acceptable to Grid.

#### 6.0 Equipment

##### 6.1 Subscriber Provided Equipment

Grid provides the option for Subscribers to supply their own equipment for use with the Services. If the Subscriber supplies their own equipment, the Subscriber assumes the risk of service incompatibility and/or security issues. Incompatible Subscriber equipment shall not relieve Subscribers from any of their obligations under this Agreement while troubleshooting defective or incompatible equipment, even if Subscriber's Service is down during such periods of troubleshooting. Grid reserves the right to alter the firmware on Subscriber's Hardware in order to guarantee security and compatibility with Grid's Services. Any device used with Grid's service must not be locked or currently provisioned to any other provider and you must have the admin password for the device.

##### 6.2 Equipment Purchases

Upon receipt of each Purchased Device, you will examine each Device, and unless you notify Grid within five business days of your receipt of said Device to any issue with a Purchased Device, each Device is deemed to be in good working order at the time of receipt. Subscriber will be provided a twelve (12) month manufacturer's warranty from the date of purchase of Equipment or Services. Grid will provide replacement Equipment only if the Equipment is deemed to be defective and covered under the warranty. Grid will not cover replacement for lost, stolen or modified Equipment. Equipment returned by Subscriber that is not covered under warranty may be refused by Grid, and Subscriber will be responsible to pay return shipping charges.

### 6.3 Grid Provided Equipment

As part of a service agreement, Grid may provide Equipment to the Subscriber, including but not limited to IP telephony hardware, Analog Telephone Adapters (ATAs), and routers. Equipment is provided to the Subscriber in two possible methods: Equipment Purchase and Equipment Rental. Subscriber shall be required to obtain authorization from Grid to return any Equipment. By using the equipment provided by Grid you are agreeing to be bound by the terms of the one (1) year limited warranty as set out below. Do not use the product until you have read the terms of the warranty. If you do not agree to the terms of the warranty, do not use the product and return it to Grid immediately.

#### 6.3.1 Rental Agreement

This Rental Agreement is for the rental of certain telephone hardware (each a “Rental Device”) from Grid (collectively, the “Rental Services”). Grid is and will remain the owner of all rental paid or free rental devices. Grid charges a recurring monthly fee for each Rental Device (collectively, the “Rental Fees”). As a part of the Subscriber’s recurring bill from Grid, Subscriber agrees to pay the Rental Fees for all Rental Devices, using the same payment method and payment period as your payments for all other Grid Services. In the event the rental devices are provided free of charge the rental fees will be \$0. The Rental Services with respect to a Rental Device shall commence on the Rental Start Date and terminate upon the termination of the Services. Notwithstanding the above, at any time within thirty (30) days after the Rental Start Date, you may terminate the Rental Services with respect to a Rental Device immediately upon written notice from you to Grid, without paying any Rental Fees for such Rental Device.

Upon any termination of the Rental Agreement or Rental Services, you agree to return or purchase a Rental Device (including all accessories and materials that were provided with the primary hardware device) consistent with Grid’s written instructions and in accordance with the Return or Purchase Rights section of the service agreement, and that Rental Device will no longer be considered a Rental Device upon the completion of a return or purchase. If you do not return a Rental Device (subject to Grid’s inspection and acceptance of the returned Rental Device in its reasonable discretion) within (30) days following the termination of the Rental Services for such Rental Device, you will be deemed to have purchased that device at the manufacturer retail purchase price. If you wish to upgrade a Rental Device, the replacement of the current Rental Device shall be deemed a termination of the Rental Services with respect to the current Rental Device and be subject to the termination provisions hereof, including the return or purchase provisions for the Rental Device set forth in the Return or Purchase Rights section of this Service Agreement; provided that the Rental Services for the current Rental Device shall be deemed to terminate, and the Rental Services of the replacement Rental Device shall commence, on the date the replacement Rental Device is recorded as delivered by a designated courier.

The Rental Fees for the Rental Services do not include additional services you may select, taxes, fees, international usage, and other additional services. Sales tax varies by jurisdiction of purchase or rental and may be calculated based on full retail price or Grid cost price, as determined by the tax law in the jurisdiction of purchase or rental.

#### 6.3.2 Ownership

Grid is and will remain the owner of each Rental Device unless title is conveyed to you in writing following Grid’s confirmation to you of its receipt of your payment in full of the purchase price for the Rental Device. You will not grant any third party any right to use, possess, or control any Rental Device, sublease any

Rental Device, attempt to dispose of any Rental Device, grant any interest or right in a Rental Device to any third party, or otherwise do anything that undermines Grid's ownership of each Rental Device. Grid may, without notifying you, assign Grid's interest in any Rental Device, and in that event, Grid's assignee will have all of Grid's rights in the Rental Device under this Agreement, but none of Grid's obligations. You agree not to assert against Grid's assignee any claims, offsets, or defenses you may have against Grid. Upon Grid's request, you will execute and deliver to Grid any documents or forms for protecting Grid's ownership and interest in each Rental Device, including finance statements under the Uniform Commercial Code.

### 6.3.3 Damage, Loss and Replacement

Upon receipt of each Rental Device, you will examine each Rental Device, and unless you notify Grid within five business days of your receipt of a Rental Device to any issue with a Rental Device, each Rental Device is deemed to be in good working order at the time of receipt. Grid covers Rental Devices with an extended manufacturer's warranty in perpetuity as long as the Subscriber is active and in good standing with Grid. Grid will provide replacement Equipment only if the Equipment is deemed to be defective and covered under the warranty. In the event that any Rental Device delivered to you is stolen, lost, damaged, or transferred to any third party, regardless of the circumstances or cause, you will immediately notify Grid in writing and pay Grid a purchase price equal to the full manufacturer retail price.

### 6.3.4 Return & Purchase Rights

When you return a Rental Device or Free Rental Device, you agree to return a fully functional and non-damaged Device beyond normal wear and tear to Grid. You agree to pay all shipping and handling charges related to any Rental Device and related hardware returns. All returned Devices and related hardware must be fully functional, include all components, manuals, peripheral devices, and all other accessories that were originally shipped with the Device. At our discretion, we may decline your return or charge you an additional fee of thirty dollars (\$30) for each missing item or for each item that we determine is damaged or not in good working condition. Before returning any Device or hardware that has data in its memory, please transfer all files you wish to retain to another file source. Once the hardware is returned, your files cannot be recovered and you release us of any liability for any lost, damaged, or destroyed files, data, or other information.

### 6.3.5 Other Remedies

If you are obligated to return or purchase a Rental Device or Free Rental Device subject to this Return or Purchase Rights section of this Agreement, and you have not returned a Rental Device or Free Rental Device or you have defaulted in any obligation to pay the purchase price due for a Device to be purchased, Grid may, in addition to those remedies available at law, in equity, or as otherwise set forth in this Agreement, take possession of any or all Rental Devices without demand, notice, or legal process, wherever each Rental Device may be located, and you hereby waive any and all damages occasioned by that taking of possession.

### 6.3.6 Standard Warranty Exclusions

The Standard Warranty does not apply and is void with respect to: (a) cosmetic damage, (b) product that has been improperly installed or maintained, (c) costs of any installation or deinstallation, (d) Hardware not manufactured or supplied by Grid, (e) failures or defects caused by misuse, abuse, accidents, physical damage, abnormal operation, improper handling and storage, neglect, exposure to fire, fluids, biological



waste, hazardous materials, chemicals, excessive moisture or dampness, extreme changes in climate or temperature, spills of food or liquids, or alterations, (f) problems caused by the End User network (e.g., connectivity, coverage or other signal reception problems), (g) floods, (h) acts of God, (i) riots, (j) Hardware from which warranty stickers, electronic serial numbers and/or serial labels have been removed, altered or rendered illegible, (k) Hardware operated outside published environmental parameters, (l) performance of Hardware in combination with other items not manufactured or supplied by Grid, (m) any Hardware which has been opened, repaired, modified or altered by anyone other than Grid or a Grid authorized service center, (n) engraving; (o) Accessories and materials subject to normal wear and tear, or (p) other circumstances beyond the reasonable control of Grid.

EACH RENTAL DEVICE AND ANY TELEPHONE HARDWARE PURCHASED IN CONNECTION WITH THIS RENTAL AGREEMENT IS PROVIDED "AS IS" AND "AS AVAILABLE." TO THE EXTENT PERMITTED BY LAW, THIS WARRANTY AND THE REMEDIES SET FORTH ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, REMEDIES AND CONDITIONS, WHETHER ORAL, WRITTEN, STATUTORY, EXPRESS OR IMPLIED. GRID DISCLAIMS ALL STATUTORY AND IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES AGAINST HIDDEN OR LATENT DEFECTS, TO THE EXTENT PERMITTED BY LAW. IN SO FAR AS SUCH WARRANTIES CANNOT BE DISCLAIMED, GRID LIMITS THE DURATION AND REMEDIES OF SUCH WARRANTIES TO THE DURATION OF THIS EXPRESS WARRANTY AND, AT GRID'S OPTION, THE REPAIR OR REPLACEMENT SERVICES DESCRIBED BELOW. SOME STATES (COUNTRIES AND PROVINCES) DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY (OR CONDITION) MAY LAST, SO THE LIMITATION DESCRIBED ABOVE MAY NOT APPLY TO YOU. GRID MAKES NO REPRESENTATIONS OR WARRANTIES THAT ANY RENTAL DEVICE WILL BE DELIVERED TO YOU BY A PARTICULAR DATE OR IS FREE OF RIGHTFUL CLAIMS OF ANY THIRD PARTY FOR INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY OR OTHER PROPRIETARY RIGHTS (INCLUDING PATENT AND TRADE SECRET RIGHTS). THE ENTIRE RISK ASSOCIATED WITH THE USE OF ANY RENTAL DEVICE SHALL BE BORNE SOLELY BY YOU.

## 7.0 Subscriber Requirements

Grid is in the business of providing Services, some of these Services rely on the Internet and the Subscribers local network and equipment. Subscriber is seeking to utilize Grid's Services for its own purposes. The Parties acknowledge that the Internet is neither owned nor controlled by any one entity; therefore, Grid can make no guarantee that Subscriber shall be able to access Grid's services at any given time. Grid shall make every good faith effort to ensure that its Service is available as widely as possible and with as little Service interruption as possible.

### 7.1.1 High Speed Internet Connection Required

Subscriber understands, acknowledges, and agrees that (1) subscriber must have a high-quality, high-speed internet connection to use the services; and (2) Grid is not providing an internet connection for Subscriber. Grid does not control and is not responsible for (1) Subscriber's internet connection; (2) the quality of Subscriber's internet connection; (3) any third-party products and/or services related to Subscriber's internet connection; or (4) problems with the services that are caused by or related to Subscriber's internet connection.

### 7.1.2 Subscriber Premise Network

The Subscriber's local network is expected to be VoIP ready. This means that the Subscriber has a Business Class Firewall that provides QoS and Prioritization settings and a Managed Business Class Ethernet Switch.

In the event that the Subscriber does not have this equipment or cabling in place then the Subscriber agrees to acquire it or source it from Grid at an additional cost so that the network is VoIP ready at the time of implementation.

## 8.0 Software

### 8.1 Software

If software is provided by Grid in connection with the services, Grid grants to Subscriber a personal, limited, revocable, non-exclusive, non-assignable and non-transferable license to use the software solely for the purposes of using the services. The license will permit such use by Subscriber and any of its employees or contractors (but only within the scope of their employment or services with Subscriber) authorized by Subscriber to use the Service, provided that Subscriber shall be responsible for all uses of the Service as provided by this Agreement.

### 8.2 End-User Licenses

Certain Software Grid provides to the Subscriber may contain third-party software (“Third-Party Software”), including open source software. Use of such Third-Party Software may be governed by separate copyright notices and license provisions, which may be found or identified in documentation or on other media delivered with the Third-Party Software and which are incorporated by reference into this license. Such provisions shall govern the use of Third-Party Software. Subscriber agrees to comply with the terms of all end user license agreements accompanying any Software (including Third-Party Software) or plug-ins to such Software distributed in connection with the Service. All end user licenses shall immediately terminate on the date that the Service expires, or this Agreement is terminated.

### 8.3 Copyright / Trademark / Unauthorized Usage of Device, Firmware or Software

The Service, Grid Equipment and Software and all information, documents and materials on Grid’s website(s) are protected by trademark, copyright, patent and other intellectual property laws and international treaty provisions. All websites, website content, corporate names, service marks, trademarks, trade names, logos and domain names of Grid are and shall remain the exclusive property of Grid and/or its Affiliates and nothing in this Agreement shall grant Subscriber the right or license to use any of the foregoing. Subscriber may not undertake, cause, permit or authorize the modification, creation of derivative works, or translate, reverse compile, disassemble, hack or reverse engineer, or otherwise attempt to derive the source code from the binary code of the Software.

## 9.0 Emergency Services

### 9.1 Dialing 9-1-1

Grid will make 911 dialing available for the Subscribers using two-way voice services. It is the Subscribers sole responsibility to provide Grid with an accurate 911 location address for each device, updates to the device location can take several business days. Address locations that do not qualify for E911 auto location will still be able to dial 911 but may need to provide their address to the emergency call center operator. Subscriber acknowledges and understands that, because of the unique nature of the Services, the Services do not support traditional 911 access to emergency services and that 911 dialing and the Services do not function in the event of network congestion, power failure, service failure, or service outage of whatever nature and may require the device to be reset or reconfigured to restore service including 911 dialing. Under no circumstances shall Subscriber have any claim against Grid in connection with Grid’s failure or restricted ability to provide 911 or E911 access to emergency services.

### 9.2 Alternate 9-1-1 Access

If you are not comfortable with the limitations of the 911 Dialing service, you should make arrangements for an alternate means of accessing traditional 911 or E911 services or disconnecting the Service. You understand that



additional arrangements should be made to access emergency services. To access emergency services, you acknowledge and accept that it is your sole responsibility to purchase, with a third-party separately from Grid, traditional wireless or wire line telephone service that offers access to emergency services. You further recognize that Grid is not a replacement for your primary telephone service and you are hereby advised to maintain a traditional wire line or wire-based telephone service at all times. By agreeing to these terms of service and by your use of the Device, you acknowledge and accept that the Device may not support or provide emergency service at all times. You represent and warrant to Grid that you already have made additional arrangements with a third party to access emergency services.

### 9.3 Information Disclosure

Subscriber authorizes Grid to disclose your name and address to third parties involved with providing 911 Dialing to you, including, by way of illustration but not limitation, call routers, call centers, and local emergency centers.

### 9.4 Disclaimer of Liability and Indemnification

Grid does not have any control over whether, or the manner in which, calls using our 911 Dialing service are answered or addressed by any local emergency response center. Grid expressly disclaims any and all responsibility for the conduct of such local emergency response centers and the national emergency calling center. We rely on third parties to assist us in routing 911 calls to local emergency response centers and to a national emergency calling center. Grid 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 Grid nor any of its officers, directors, members, or employees may be held liable for any claim, damage, or loss, and you hereby waive any and all such claims or causes of action, arising from or relating to our 911 Dialing service, unless such claims or causes of action arise from our gross negligence, recklessness, or willful misconduct. Subscriber shall defend, indemnify, and hold harmless Grid, its officers, directors, members, employees, affiliates, and agents and any other service provider who furnishes services to you in connection with the Service, from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without limitation, attorneys' fees) by, or on behalf of, you or any third party relating to the absence, failure, or outage of the Service, including 911 Dialing, incorrectly routed 911 Dialing calls, and/or the inability of any user of the Service to be able to use 911 Dialing or access emergency service personnel.

### 9.5 Non-Provisioned 911 Calls

In the event the Subscriber places calls to 911 but does not have a valid 911 address on file with Grid, Grid shall charge \$75.00 for each call placed. These charges are non-negotiable and Subscriber waives the right to dispute these charges.

## 10.0 Support

### 10.1 Obtaining Support via E-mail

Subscribers shall submit support requests via e-mail to [support@gridpbx.com](mailto:support@gridpbx.com) from their registered e-mail address. Grid's support system will send you an automated response with a ticket number to confirm receipt, the Subscriber is advised to contact Grid by telephone if they do not receive an automated response with a Ticket #.

### 10.2 Obtaining Support via Phone

Subscribers shall submit support requests via phone by calling 800-733-5905 and selecting the appropriate menu option for Support.

### 10.3 Support Exclusions

#### 10.3.1 Support for Wi-Fi

Grid does not provide support for our Services over Wi-Fi networks. While Grid Services may work over Wi-Fi the quality of the call will be dependent on the quality and reliability of the WIFI network. Grid is unable to provide support for the Subscriber's WIFI networks.

#### 10.3.2 Support for Subscriber Network Devices

Subscriber is responsible for Subscriber Network equipment, configuration, and installation to ensure compatibility with the services. Grid will provide a best effort support to assist the subscriber in configuring the device to work with the Services. Subscriber acknowledges that not all devices may be compatible with the Services and replacement may be necessary.

### 11.0 Confidentiality

Each Party acknowledges that the other Party may disclose confidential information to it ("Confidential Information") in the performance of the Agreement, additionally Grid may disclose the Subscriber's contact information, demographics, prospective purchases, purchase history, credit worthiness and other relevant information to 3rd parties including but not limited to Vendors, Distributors, Manufacturers, Government Bodies, or other Service Providers for the purposes including but not limited to reporting, researching, obtaining or qualifying, hardware, software, services, financing or other solutions related to delivery of the Service(s). Notwithstanding the foregoing, each Party further acknowledges the other Party's assertion that its Confidential Information is deemed to include but not be limited to, valuable trade secrets, client or service provider information, pricing information exchanged in connection with the Agreement, proprietary network information, confidential business information, other information deemed proprietary by the disclosing Party, and information required to be maintained as confidential under applicable law. Accordingly, each Party shall: (a) hold the Confidential Information disclosed by the other Party confidential; (b) use and disclose such Confidential Information only with the receiving Party's employees, and contractors who have a need to know and only for the purposes of the Agreement, except as may be permitted in a written agreement signed by the disclosing Party; and (c) protect such Confidential Information from access, use, and disclosure that is not strictly required for the performance of the Agreement using the same degree of care as it employs for its own Confidential Information but in no event less than a reasonable degree of care for such Confidential Information. For the purposes of the Agreement only, "employees" also includes individual third parties retained for consultative services or temporary administrative, clerical or programming support. A "need to know" means that the employee requires the Confidential Information to perform his or her responsibilities relative to the limited purposes of the Agreement. The requirement to maintain information as confidential shall survive the expiration or termination of the Agreement for a period of ten (10) years.

### 12.0 Acceptable Use

Grid provides the Services for normal and reasonable use. Residential Services may not be used by business subscribers and must reflect typical usage patterns consistent with other residential subscribers using a similar Service provided by Grid. Business subscribers must reflect normal and reasonable use consistent with the types and levels of usage by typical business subscribers on the same Service. Grid reserves the right to cancel any Service or bill for usage above and beyond what is considered normal and reasonable as determined by Grid. Considerations for determining normal and reasonable use may include but are not limited to: (a) Unique numbers called; (b) Call lengths; (c) Excessive call forwarding; (d) Excessive short duration calls; (e) Number of calls made in a month; (f) average number of registrations per user; (g) simultaneous use of shared devices.

### 13.0 Prohibited Use

Any use of the Service or any other action that causes a disruption in the integrity of Grid's Facilities or its vendors, whether directly or indirectly, is strictly prohibited and could result in termination of the Service and/or payment for damages relating to such conduct. The Subscriber understands that neither Grid nor its vendors are responsible for the content of the transmissions that may pass through the Internet and/or the Service. The Subscriber agrees that it will not use or knowingly resell the Service in ways that violate laws, infringe the rights of others, or interfere with the subscribers, services, or equipment of the network. Use of the Services shall not include certain activities, including but not limited to any autodialing, fax broadcast, fax blasting, telemarketing or any other activity that would be inconsistent with personal, residential and reasonable business use patterns without the prior written consent of Grid or any use that is contrary to the terms outlined on this Agreement.

Pricing and other considerations for Grid's Services are based on the Services intended use. Services that are improperly used are subject to usage penalties and administrative cost recovery charges. Usage penalties are calculated from the affected Services' first use date and equal to a minimum of three times Grid's current rate or Grid's actual cost plus twenty (20) percent whichever is greater. Administrative cost recovery charges are calculated using Grid's business hours labor rate and are for labor hours required to correct the Service and calculate any Service penalties or recovery charges. Subscriber assumes all responsibilities for improper use of any Service.

### 14.0 Monitoring

Grid may monitor the use of the Services for violations of these Terms. We may remove or block all communications if we suspect a violation of this Agreement, or if we think it necessary in order to protect our service, or Grid, its parent, affiliates, directors, officers, agents, and employees from harm.

### 15.0 Communications Records

The Subscriber acknowledges and agrees (a) all communication including but not limited to telephone calls, electronic messages, instant messages, SMS messages, voicemails, attachments and postal mail placed to or originating from Grid, its employees, contractors or other duly authorized representatives may be recorded, transcribed, monitored, analyzed and archived (b) to obtain any necessary consent and give any necessary notice to any party communicating with Grid on the Subscriber's behalf (c) to the extent permitted by applicable law, that any communication collected under this provision may be submitted in evidence in any proceedings.

### 16.0 High Risk Activities

Unless otherwise agreed through execution of separate agreement the services provided by Grid are not designed or intended for use in hazardous environments requiring fail-safe performance, including but not limited to the operation of fire or alarm systems, nuclear facilities, aircraft navigation or communication systems, air traffic control, weapons systems, direct life-support machines or any other application in which the failure of the services could lead directly to the death, personal injury, or severe physical or property damage (collectively, "High Risk Activities") Grid (Or its Officers, Employees, Contractors, Subsidiaries, Affiliates or Agents) hereby expressly disclaim any express or implied warranty of fitness for high risk activities.

### 17.0 Notices

Notices by Grid to Subscriber shall be deemed given: (a) when sent to the Subscribers primary contact email address; (b) when deposited in the United States mail addressed to the Subscriber at the Subscriber's address listed on the account.

## 18.0 Electronic Signatures

Grid may provide agreements, quotes, contracts, and other documents in electronic form for electronic signature. The Subscriber hereby acknowledges these electronic signatures are the legal equivalent of a manual or handwritten signature.

## 19.0 Publicity

Grid may publicly refer to the Subscriber as a Client of Grid and use Subscriber's name, trademarks, or other proprietary identifying symbols as part of Grid's marketing activities.

## 20.0 Past Due Accounts

In the event the Subscriber fails to make payment in accordance with the terms of any Invoice or portion thereof by the invoice due date, the Subscriber's account shall be deemed past due and in material breach of this Agreement. During the time in which the Subscriber's account is deemed past due, additionally Grid in its sole discretion may take one or more of the following actions (a) not accept any Orders to change or move services; (b) suspend access to management portals; (c) restrict access to support and direct all support calls to the finance department regardless of urgency; (d) withhold, suspend or otherwise disable service functionalities; (e) require a deposit to restore Services; (f) require the Subscriber to pay all hourly fees associated with the restoral of services. In addition, Grid may charge interest at the rate of 1.5% per month, or the maximum allowed under law, or \$35 per month (whichever is greater) for any outstanding balance from the invoice due date until paid in full.

## 21.0 Modifications

### 21.1 GridPBX Master Service Agreement

Grid may update this Agreement or any of its Policies from time to time and will provide notice to you via email. Such updates will become effective thirty (30) days after such notice to you. In the event that any such update would be of material detriment to you and is not required by Law, you must inform Grid of your objection within ten (10) days of receiving the notice provided under this provision. If the Parties, negotiating in good faith cannot reach agreement within thirty (30) days, either Party may terminate the portion of the Services affected by the change without penalty by written notice to the other Party. Any use of the Services after the effective date will be deemed your acceptance of the change and your agreement.

### 21.2 Quotes, Orders

Grid reserves the right to modify or cancel any Quote(s), Order(s) prior to acceptance for any reason. In no event will handwritten changes to any terms or conditions, including in the applicable Quote, Order, be effective.

### 21.3 Schedules

Grid reserves the right to modify pricing schedules at any time. In no event will handwritten changes to any terms or conditions, including in the applicable Quote, Order, be effective.

## 22.0 3<sup>rd</sup> Party Beneficiaries

All duties and responsibilities performed pursuant to this Agreement, or addendums will be for the sole and exclusive benefit of the Subscriber and Grid and not for the benefit of any other party. Nothing contained in this agreement shall constitute a contractual relationship with or a cause of action of a third party against either Subscriber or Grid.

#### 23.0 Assignments and Transfers

This Agreement shall bind Grid and Subscriber, their respective affiliates, and successors. No Party may assign its rights or obligations under this Agreement without the prior written consent of the other parties, which consent shall not be unreasonably withheld, provided that Grid may assign this Agreement and its obligations hereunder to any successor to its business by merger or consolidation or to any party acquiring substantially all of the assets of the Grid's business, provided the assigning party guarantees the performance of and causes the assignee to assume in writing all obligations of the assignor under this Agreement.

#### 24.0 Limitation of Liability and Remedies

THE TOTAL AGGREGATE LIABILITY OF GRID ARISING FROM OR RELATED TO THIS AGREEMENT SHALL BE LIMITED TO THE TOTAL NET PAYMENTS PAID BY THE SUBSCRIBER TO GRID FOR THE AFFECTED SERVICE WHICH GIVES RISE TO SUCH LIABILITY IN THE ONE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE IN WHICH THE CLAIM ARISES. IN NO EVENT UNLESS REQUIRED BY APPLICABLE LAW SHALL GRID (OR ITS OFFICERS, EMPLOYEES, CONTRACTORS, SUBSIDIARIES, AFFILIATES OR AGENTS) BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, OR COVER DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF GOODWILL, LOSS OF ANTICIPATED PROFITS, LOSS OR CORRUPTION OF DATA, LOSS RESULTING FROM BUSINESS DISRUPTION, LOSS OF GOOD WILL, LOSS OF ANTICIPATED SAVINGS, SOFTWARE OR FIRMWARE, OR DATA LOSS, EVEN IF GRID HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. GRID SHALL NOT BE LIABLE FOR ANY ILLEGAL OR FRAUDULENT USE OF THE SERVICES BY THE SUBSCRIBER. TO THE FULLEST EXTENT PERMITTED BY LAW, SUBSCRIBER AND GRID AGREE THAT REGARDLESS OF ANY STATUTE OR LAW TO THE CONTRARY, ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE USE OF THE SERVICE OR THIS AGREEMENT MUST BE FILED WITHIN ONE (1) YEAR AFTER SUCH CLAIM OR CAUSE OF ACTION AROSE OR BE FOREVER BARRED.

#### 25.0 Reliance on Limitations

Subscriber acknowledges and agrees that the essential purpose of Section with the heading "Limitation of Liability and Remedies" is to allocate the risks under the Agreement between the parties and to limit Grid's potential liability in light of the agreed-upon pricing for the Services, which would have been substantially higher if Grid were to assume the risk of Subscriber's incidental or consequential damages, or other types of losses listed in the Section with the heading "Limitation of Liability and Remedies", or the risk of liability in excess of the limit described above. Grid relied on these limitations when offering to provide the Services to Subscriber.

#### 26.0 Disclaimer of Warranties

GRID MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, RESPECTING THE SERVICE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON INFRINGEMENT. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE SERVICE IS WITH THE SUBSCRIBER. GRID IS NOT LIABLE OR RESPONSIBLE FOR ENSURING THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE OR AVAILABLE 100% OF THE TIME, OR THAT ALL ATTEMPTED VOICE, FAX OTHER COMMUNICATIONS WILL BE DELIVERED. Grid provides the service, equipment and software on an "as is" and "as available" basis without warranty or representation of any kind. Grid makes no warranty that the services will meet Subscriber requirements, specification, expectations or that services will be uninterrupted, timely, secure or free from errors. Subscriber acknowledges that Grid does not control the transfer of data over communications facilities, and that the services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

#### 27.0 Indemnification

The Subscriber shall indemnify, defend and hold Grid, its affiliates, underlying carriers, and each of its owners, directors, officers, employees and agents, harmless from any and all claims, suits, expenses, losses, demands, damages, costs, and liabilities of any kind or nature whatsoever (including, but not limited to, reasonable attorney's fees, costs of investigation and court costs) arising from or relating to any use, attempted use of the Services or otherwise arising from or relating to this agreement.

#### 28.0 Force Majeure

Neither party will be liable for any failure or delay in its performance under the Agreement (other than a failure to comply with payment obligations) due to an unforeseeable event beyond a party's reasonable control, including but not limited to, acts of war; acts of God; earthquake; flood; embargo; riot; sabotage; labor shortage or dispute; changes in government codes, ordinances, laws, rules, regulations or restrictions; failure of the Internet; terrorist acts; failure of data, products or services controlled by any third party, including the providers of communications or network services; utility power failure; material shortages or unavailability or other delay in delivery not resulting from the responsible party's failure to timely place orders therefore, or lack of or delay in transportation. In the event an unforeseeable event beyond a party's reasonable control suspends the provision of Service hereunder for a period of thirty (30) days, either party may terminate the affected Service by providing thirty (30) days written notice of such election.

#### 29.0 Waiver

Except as otherwise stated herein and elsewhere in the Agreement, neither party's failure to insist upon strict performance of any provision of the Agreement shall be construed as a waiver of any of its rights hereunder. Neither the course of conduct between parties nor trade practice shall act to modify any provision of the Agreement.

#### 30.0 Governing Law

Subscriber and Grid agree that the substantive laws of the state of California will be applied to govern, construe and enforce all of the rights and duties of the parties arising from or relating in any way to the subject matter of this Agreement, except to the extent such law is inconsistent with Federal law. The proper venue for any action is in the City of Santa Ana, County of Orange and Subscriber waives any objection as to venue or inconvenient forum in such courts.

#### 31.0 Severability

If any provision or provisions of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality and unenforceability of the remaining provisions shall not in any way be affected or impaired thereby.

#### 32.0 Captions Headings & References

The captions, headings, and references are inserted in this Agreement for convenience only, and in no event be deemed to define, limit, or describe the scope or intent of this Agreement, or of any provision hereof, nor in any way affect the interpretation of this Agreement.



### 33.0 Binding Arbitration

**READ THIS SECTION CAREFULLY BECAUSE IT REQUIRES THE PARTIES TO ARBITRATE THEIR DISPUTES.**

In the unlikely event that Grid has not been able to resolve a dispute it has regarding Subscriber's Equipment or Services arising out of or relating to use of the Equipment or Services after 60 days, any claim, dispute, or controversy (excluding any Grid claims for injunctive or other equitable relief), whether based in contract, tort, statute or otherwise arising out of or in connection with or relating to this Agreement, the Equipment, the Services, or the breach or alleged breach of this Agreement (collectively, "Claims"), shall be decided by binding arbitration in accordance with the Arbitration Rules of the American Arbitration Association. This agreement to arbitrate is intended to be given the broadest possible meaning under Applicable Laws. The initiation of an arbitration dispute shall not otherwise prevent Grid or Subscriber from terminating services in accordance with this Agreement. Disputes about the arbitrability of any claims and/or the scope, enforceability, or validity of this arbitration agreement shall be decided by an arbitrator.

If an agreement to resolve the dispute is not reached, an arbitration proceeding may be commenced by downloading or copying a form from the AAA website (<http://www.adr.org>). The amount of any settlement offer made by Subscriber or Grid shall not be disclosed to the arbitrator. Each party will be responsible for its own costs incurred in the arbitration, including arbitration filing fees and attorneys' or expert witness fees. The arbitrator's costs and expenses shall be shared equally between the parties.

The arbitration will be conducted in Orange County, California. Each party will be responsible for paying any filing, administrative and arbitrator fees in accordance with the Arbitrator's rules. The award rendered by the arbitrator may be entered in any court of competent jurisdiction. Nothing in this Section shall be deemed as preventing Grid from seeking injunctive or other equitable relief from the courts as necessary to protect any of Grid's proprietary interests. Subscriber and Grid agree that, by entering into this agreement, Subscriber and Grid are waiving the right to a trial by jury.

ALL CLAIMS MUST BE BROUGHT IN THE PARTIES' INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS ACTION, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION OR OTHER REPRESENTATIVE PROCEEDING OF ANY KIND. THIS WAIVER APPLIES TO CLASS ARBITRATION, AND THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE ENTITY OR PERSON'S CLAIMS. WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THIS PROVISION TO BINDING NEUTRAL ARBITRATION.

### 34.0 Entire Agreement

This Agreement constitutes the entire agreement between you and Grid with respect to the subject matter hereto and supersedes any and all prior or contemporaneous agreements whether written or oral. Any changes by you to this Agreement, or any additional or different terms in your purchase orders, acknowledgements, or other documents, written or electronic, are void.