

## Master Services Agreement for Hosted and Trunking Services VoicePro, Inc.

This Services Agreement, along with any Service Activation Form or Order on our approved form, any service specific addenda, and our Acceptable Use Policy posted on our website at [www.vpronetworks.com], shall constitute the agreement (“Agreement”) between **VoicePro, Inc.**, a Missouri corporation (“we,” “us” or “VoicePro”) and the user (“you,” “user”, “Customer” or “Subscriber”) of VoicePro’s business services and any related products or services (“Service”), This Agreement governs both the Service and any devices or equipment, such as an IP phone, Multimedia Terminal Adapter, Analog Telephone Adapter, switch, router or any other IP connection device (“Device” or “Equipment”), used in conjunction with the Service. BY ACTIVATING OR USING THE SERVICE, YOU REPRESENT THAT YOU ARE OF LEGAL AGE TO ENTER INTO THIS AGREEMENT AND THAT YOU HAVE READ, UNDERSTAND AND FULLY ACCEPT THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU ARE AN INDIVIDUAL ENTERING INTO THIS AGREEMENT ON BEHALF OF YOUR COMPANY, YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY AND ARE COMPETENT TO DO SO.

### 1. **EMERGENCY SERVICES – 911 DIALING**

**1.1 Non-Availability of Traditional 911 or E911 Dialing Service.** The Service does not support traditional 911 or E911 access to emergency services in all locations. Where we do not offer traditional 911 or E911 access, we offer a feature known as “911 Dialing” which is a limited emergency calling service available only on VoicePro certified Devices or Equipment. The 911 Dialing feature may not work at all when used in conjunction with a Soft Phone, Virtual Numbers or Subscriber provided Customer Premise Equipment. Our 911 Dialing feature is not automatic; you must separately take affirmative steps, as described in this Agreement and on our website, to register the address where you will use the Services in order to activate the 911 Dialing feature. You must do this for each VoicePro phone number that you obtain. The 911 Dialing feature of the Service is different in many important ways from traditional 911 or E911 service as described on our website and below. You shall inform any household residents, guests and other third persons who may be present at the physical location where you utilize the Service of

(i) the non-availability of traditional 911 or E911, and (ii) the important differences in and limitations of the VoicePro 911 Dialing feature as compared with traditional 911 or E911 dialing. The documentation that accompanies each Device should include a sticker concerning the potential non-availability of traditional 911 or E911 dialing (the “911 Sticker”). It is your responsibility, in accordance with the instructions that accompany each Device, to place the 911 Sticker on each Device that you use with the Service. If you did not receive a 911 Sticker with your Device, or you require additional 911 Stickers, please obtain via our website [www.vpronetworks.com].

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

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

#### **1.4 Service Outages.**

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

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

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

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

(e) *Other Service Outages.* If there is a Service outage for any reason, such outage will prevent all Service, including 911 Dialing, from functioning. Such outages may occur for a variety of reasons, including, but not limited to, those reasons described elsewhere in this Agreement.

**1.5 Re-Activation Required if You Change Your Number or Add or Port New Numbers.** 911 Dialing does not function if you change your phone number or if you add or port new phone numbers to your account, unless and until you successfully register your location of use for each changed, newly added or newly ported phone number.

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

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

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

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

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

## **2. SERVICE**

**2.1 Term.** Service is offered on a multi-month basis, as stated in your Service Activation or Order Form, or via our online ordering process. The term begins on the date that VoicePro activates your Service and ends on the termination date of your Term. Subsequent terms of this Agreement automatically renew for a 12 month term unless you give us written notice of non-renewal at least 30 days prior the end of the term. With each 12 month renewal, the monthly recurring amount or MRR will increase by a minimum of 5% based on your current monthly charges. You are purchasing the Service for a multi-month term. If you attempt to terminate Service prior to the end of the multi-month term, you will be responsible for all charges to the end of the term, including, without limitation, unbilled charges, plus a termination fee, if applicable, all of which will immediately become due and payable. Expiration of the term or termination of Service will not excuse you from paying all accrued and unpaid charges due under this Agreement.

### **2.2 Equipment Leased from VoicePro.**

(a) *Rental, Expenses and Charges.* The Equipment shall be delivered to you and returned to us at your risk, cost and expense. If a periodic rental rate is charged by us or our affiliate, rental charges are billed to you for each period or portions of the period from the time the equipment is delivered to you until its return. If a term rental rate is charged by us or our affiliate, rental charges are billed to you for the full term even if the Equipment is returned before the end of the term. If the Equipment is not returned at the end of the term, the rental charges shall continue on a full term basis for any additional term or portion thereof until the Equipment is returned. You hereby grant us a security agreement in any financed or leased equipment or devices. You authorize us to file UCC Financing Statements and other instruments as we deem necessary to perfect, maintain and renew any such security interests and/or assign same to third parties.

(b) *Maintenance.* You shall keep and maintain the rented Equipment during the terms of the rental at your own cost and expense. You shall keep the Equipment in a good state of repair, normal wear and tear expected.

(c) *Lost or Damaged Equipment.* You shall pay us full compensation for replacement and/or repair of any Equipment which is not returned because of loss or damage, or in need of repair to return equipment to its original condition, normal wear and tear excepted, or any equipment which is returned without original packaging, power supplies, original Ethernet cable, etc. Our invoice for replacement or repair is conclusive as to the amount you shall pay under this paragraph for repair or replacement.

(d) *Replacements.* Notwithstanding the above, any Equipment that fails due to manufacturer defect may be repaired or replaced by us at no charge for the duration of the rental period.

(e) *Removal.* You shall not remove installed Equipment from the Service address or the location shown herein as the place of use of the Equipment without our prior written approval. You shall inform us upon demand of the exact location of the Equipment while it is in your possession.

(f) *Inspections and Entry.* You shall allow us to enter your premises where the rented Equipment is stored or used at all reasonable times to locate and inspect the state and condition of the rented equipment. If you are in default of any of the terms and conditions of this Agreement, we may at any reasonable time, and at your risk, cost and expense, enter your premises where the rented Equipment is stored or used at any reasonable time and recover the rented Equipment.

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

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

**2.5 Prohibited Uses.**

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

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

**2.6 Intellectual Property; Unauthorized Usage of Equipment; Firmware or Software.**

(a) *End User License.* VoicePro grants you a limited, personal, revocable, non-exclusive, non-sub licensable, non-assignable, non-transferable, non-resalable license and right to use the Service in strict accordance with this Agreement. All rights not expressly granted under this Agreement are retained by VoicePro.

(b) *Intellectual Property.* You acknowledge and agree that any and all patents, copyrights, trademarks, service marks, trade secrets, and all other intellectual property rights (collectively, "IP Rights") in the Service are and shall remain the sole and exclusive property of VoicePro and its licensors. Nothing in this Agreement intends to or shall grant, transfer, or assign any IP Rights to, or vest any IP Rights in, you. You are only entitled to the limited use of the rights expressly granted to you in this Agreement. You will not take any action to jeopardize, limit, or interfere with the IP Rights. You acknowledge and agree that any unauthorized use of the IP Rights is a violation of this Agreement, as well as a violation of applicable intellectual property laws. You acknowledge and understand that all title and rights in and to any third party content that may be accessed through the Services is the property of the respective content owners and may be protected by applicable copyright or other intellectual property laws and treaties.

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

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

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

**2.9 Return of Equipment (Does Not Apply to Customers who use Equipment not provided by VoicePro directly).** At termination under this Agreement you shall return the Equipment to us within fourteen (14) days of the termination of Service. You shall return the equipment:

in its original condition, reasonable wear and tear excluded;

the original proof of purchase is returned with the Equipment, together with the original packaging, all parts, accessories, and documentation;

prior to returning the Equipment to us, you must obtain a valid return authorization number from our accounting department, which can be reached at [accounting@vpronetworks.com](mailto:accounting@vpronetworks.com); and

you pay all costs of shipping the Equipment back to us. If you receive cartons or Devices that are visibly damaged, you must note the damage on the carrier's freight bill or receipt and keep a copy. In such event, you must keep the original carton, all packing materials and parts intact in the same condition in which they were received from the carrier and contact our accounting department immediately at [accounting@vpronetworks.com](mailto:accounting@vpronetworks.com).

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

such new service provider is able to accept such number;

your account has been properly terminated;

your account is completely current, including payment for all charges and applicable termination fees; and

you request the transfer upon terminating your account.

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

**2.12 Ownership and Risk of Loss.** Regarding the Equipment, you shall bear all risk of loss of, theft of, casualty to or damage to the Equipment, from the time it is shipped to you until the time (if any) when it is returned to us in accordance with this Agreement. Insurance coverage for said equipment, if any, shall be your responsibility.

**2.13 No 0+ or Operator Assisted Calling; May Not Support x11 Calling.** The Service does not support 0+ or operator assisted calling (including, without limitation, collect calls, third party billing calls or calling card calls).

**2.14 No Directory Listing.** The phone numbers you obtain from us will not be listed in any telephone directories. Phone numbers transferred from your local phone company may be listed. As a result, someone with your phone number may not be able to utilize a reverse directory to lookup your address.

**2.15 Incompatibility With Other Services.**

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

(b) *Incompatibility with Certain Services; Interruptions of Service.* You acknowledge that the Service presently may not be

compatible with some broadband services. You further acknowledge that some providers of broadband service may provide modems that prevent the transmission of communications using the Service. We do not warrant that the Services will be compatible with all broadband services and expressly disclaim any express or implied warranties regarding the compatibility of the Service with any particular broadband service. You acknowledge and agree that the Services may not be available 100% of the time. Credit allowances for interruption of the Services may only be provided on a case-by-case basis at the sole discretion of VoicePro and shall be your sole remedy for any Service interruptions or other issues with the Services.

(c) *Pricing and Availability.* With respect to its advertising, offering, or sale of Services, Equipment or any other products (collectively, "Products"), VoicePro attempts to describe its products as accurately as possible. Nevertheless, VoicePro does not warrant that any descriptions, pricing, availability, or other information relating to the advertising, offering, or sale of Products (collectively, "Product Information") from its website, marketing materials, promotional flyers, advertisements, or other printed or electronic materials (collectively, "Product Materials") is accurate, complete, reliable, current, or error-free. Despite our efforts, it is possible that Product Information may be mispriced, described inaccurately, or that the Product may be unavailable. In the event VoicePro determines that a Product is mispriced, described inaccurately, or unavailable, VoicePro reserves the right to take any action it deems reasonable and necessary to rectify the error, including without limitation, canceling your account or subscription to the Service. You agree to notify VoicePro immediately if you become aware of any pricing or descriptive errors or inconsistencies with any Products you order through the Product Materials and comply with any corrective action taken by VoicePro.

#### **2.16. Statement of Work (if applicable).**

(a) VoicePro has used the following assumptions and dependencies in preparing the attached Statement of Work: These assumptions are inextricably related to the estimate VoicePro has made for these services.

(b) VoicePro will communicate with the appointed project lead for Customer on this project. He/she will be responsible for all communications among all parties and for the escalation and resolutions to any issues for the Customer. He/she will also be responsible for all project management associated with Project Plan tasks associated with the Customer's internal staff, or Customer's vendors and/or consultants.

(c) The participation and commitment of the Customer project team during the project will be critical to its success. This participation and involvement will include assigned tasks to team members as outlined in the Project Plan and in the roles defined in this document. Customer's network administrator, infrastructure administrator, database administrator, telephony system administrator, and help desk team are expected to be available onsite during go live/cutover.

(d) At any time during the project, changes in the scope, assumptions, deliverables, or project plan will follow VoicePro's standard change control procedures as outlined in Change Control section of this SOW. Customer must approve all change requests in order for VoicePro to proceed with performing the work required by the requested change(s). Additional fees may be incurred.

(e) Project timelines will not be confirmed nor resources assigned until a signed Statement of Work, purchase order, and any costs due upon signature have been received. VoicePro will schedule the project based upon available resources, and an accepted Project Plan.

(f) Any change to scheduled dates and tasks after acceptance of the plan will follow VoicePro's standard change control procedures, and may extend the timeline for deployment of the solution.

**2.17 Acceptance:** Upon completion of the above stated work, the Customer will sign a Deliverables Acceptance Form. Signing of the Deliverables Acceptance Form by the Customer, or use of the solution by Customer in a production environment for fourteen (14) days shall be considered acceptance of the solution. Acceptance of the solution shall indicate that VoicePro has fulfilled all tasks and obligations outlined in this SOW.

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

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

activation fees;  
monthly Service fees;  
international usage charges;  
advanced feature charges;  
Equipment and Device purchases and/or leasing payments;  
termination fees; and

\* shipping and handling charges. The amount of such fees and charges shall be published on our website and may change from time to time. Notification of monthly invoices will be sent to you via your email address on file with us. We reserve the right to bill at more frequent intervals if the amount you owe to us at any time exceeds \$250. Any usage charges will be billed in increments that are rounded up to the nearest minute except as otherwise set forth in the rate schedules found on our website.

**3.2 Taxes.** You are responsible for all applicable federal, state, provincial, municipal, local or other governmental sales, use, excise, value-added, personal property, public utility or other taxes, fees or charges now in force or enacted in the future, that arise from or as a result of your subscription or use or payment for the Service or a Equipment. Such amounts are in addition to payment for the Service or Equipment and will be billed to your credit card or bank account via ACH as set forth in this Agreement. If you are exempt from payment of such taxes, you must provide us with an original certificate that satisfies applicable legal requirements attesting to tax-exempt status. Tax exemption will only apply from and after the date we receive such certificate.

**3.3 Billing Disputes.** You must notify us in writing within seven (7) days after receiving your credit card or ACH billing statement if you dispute any VoicePro charges on that statement or you will be deemed to have waived any right to contest such charges. All notices of disputed charges should be sent to:

VoicePro, Inc. Billing Department 4390 Green Ash Drive Earth City, MO 63045 accounting@vpronetworks.com

**3.4 Payment and Collection.**

(a) *Payment.* We only accept payment by credit card or ACH, unless other payment terms have been explicitly agreed to in writing by VoicePro. Your subscription to the Service authorizes us to charge your credit card or bank account via ACH. This authorization will remain valid until thirty (30) days after we receive written notice from you terminating our authority to charge your credit card or bank account, whereupon we will charge your credit card or bank account via ACH for the termination fee, if applicable, and any other outstanding charges and terminate your Service. We may terminate your Service at any time in our sole and absolute discretion if any charge to your credit card or bank account ACH is declined or reversed, your credit card or bank account expires and you have not provided us with a valid replacement credit card or bank account or in case of any other nonpayment of account charges.

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

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

**3.6 Termination Fee.** You will be charged a termination fee specified per phone number or Device, and the FULL RETAIL PRICE for each Device and item of Equipment supplied by VoicePro, in the event your Service is terminated for any reason during the Term following the activation of your Service.

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

**3.8 Charges for Directory Calls (411, 911, etc).** We will charge you a specified fee for each call made.

**3.9 Charges for Conference Bridge Calls.** We will charge you per minute for each caller who calls into your conference bridge. Your Conference Bridge per minute usage fee will be the lower of (i) 3.9 cents per minute, or (ii) the per minute Conference Bridge usage fee determined in your Service Activation Form or online order form. Per minute usage fees will be calculated based on all participants on the conference bridge, including on-network and off-network participants.

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

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

an act or omission of an underlying carrier, service provider, vendor or other third party;

equipment, network or facility failure;

equipment, network or facility upgrade or modification;

force majeure events such as (but not limited to) acts of God, acts of nature, strikes, fire, war, riot, acts of terrorism and government actions;

equipment, network or facility shortage;

equipment or facility relocation;

service, equipment, network or facility failure caused by the loss of power to you; \* outage of, or blocking of ports by, your ISP or broadband service provider or other impediment to usage of the Service caused by any third party;

any act or omission by you or any person using the Service or Equipment provided to you; or

any other cause that is beyond our control, including, without limitation, a failure of or defect in any Equipment, the failure of an incoming or outgoing communication, the inability of communications (including, without limitation, 911 Dialing) to be connected or completed, or forwarded.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, OUR AGGREGATE LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED THE ACTUAL AMOUNT RECEIVED BY US ON YOUR ACCOUNT DURING THE CALENDAR MONTH IN WHICH THE ACT, EVENT OR OCCURRENCE GIVING RISE TO SUCH LIABILITY OCCURRED. YOU ACKNOWLEDGE AND AGREE THAT, BUT FOR SUCH LIMITATION OF LIABILITY, WE WOULD NOT ENTER INTO THIS AGREEMENT AND YOU WOULD NOT BENEFIT FROM THE PRICING CONTAINED HEREIN.

4.2 **DISCLAIMER OF LIABILITY FOR DAMAGES.** IN NO EVENT WILL VOICEPRO OR ITS AFFILIATES, THIRDPARTY SERVICE PROVIDERS, CARRIERS, OR ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICES TO YOU IN CONNECTION THE SERVICE OR EQUIPMENT, OR THEIR RESPECTIVE OWNERS, DIRECTORS, MANAGERS, OFFICERS, EMPLOYEES OR AGENTS (COLLECTIVELY, "VOICEPRO PARTIES") BE LIABLE FOR ANY DIRECT, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER DAMAGES, INCLUDING BUT NOT LIMITED TO PERSONAL INJURY, WRONGFUL DEATH, PROPERTY DAMAGE, LOSS OF DATA, LOSS OF REVENUE OR PROFITS, OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE OR INABILITY TO USE THE SERVICE, INCLUDING INABILITY TO ACCESS EMERGENCY SERVICE PERSONNEL THROUGH THE 911 DIALING SERVICE OR TO OBTAIN EMERGENCY HELP. THE LIMITATIONS SET FORTH HEREIN APPLY TO CLAIMS FOUNDED IN BREACH OF CONTRACT, BREACH OF WARRANTY, PRODUCT LIABILITY, TORT AND ANY AND ALL OTHER THEORIES OF LIABILITY AND APPLY WHETHER OR NOT WE WERE INFORMED OF THE LIKELIHOOD OF ANY PARTICULAR TYPE OF DAMAGES.

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

4.4 **Limited Equipment Warranties.**

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

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

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

4.5 **INDEMNIFICATION.** You shall defend, indemnify, and hold harmless the VoicePro Parties, from and against any and all claims, losses, damages, fines, penalties, costs and expenses (including, without limitation, attorney's fees) arising from or related to (i) any breach of this Agreement by you or your agents or employees or (ii) the activation or use of the Service or Equipment by you or your agents or employees, or any failure, delay or unavailability of the Services, unless such failure, delay or unavailability is caused by the gross negligence or reckless conduct of the VoicePro Parties.

**4.6 Force Majeure.** VoicePro will not be liable for delay or failure to furnish the Service(s) contemplated by this Agreement when the delay or failure is caused by circumstances that are not reasonably within VoicePro control, including an act of God, strike or lockout or other labor dispute, act of the public enemy, war (declared or undeclared), blockade, revolution, civil commotion, lightning, fire, storm, flood, earthquake, explosion, governmental restraint, embargo, inability to obtain or delay in obtaining governmental approvals, permits, or licenses.

**4.7 Service Level.** VoicePro does not guarantee or warrant the performance, availability, coverage, uninterrupted use, security, pricing, or operation of the services, the equipment or any of the products, content, applications, services, facilities, connections or networks used or provided by us or third parties.

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

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

**4.10 Basis of Bargain; Failure of Essential Purpose.** Customer acknowledges that VoicePro has established its prices and entered into one or more Service Orders in reliance upon the limitations and exclusions of liability, the disclaimers and the indemnifications set forth in this Agreement, including, without limitation Sections 4.1 through 4.6, and that the same form an essential basis of the bargain between the parties. The parties agree that the limitations and exclusions of liability and disclaimers specified in this Agreement will survive and apply even if found to have failed their essential purpose; and Customer hereby waives its right to contest the enforceability of any provision of this Agreement by reason of such failure.

## **5. MISCELLANEOUS**

**5.1 Governing Law.** The Agreement and the relationship between you and us are governed by the laws of the State of Missouri without regard to its conflict of law provisions. To the extent court action is initiated to enforce an arbitration award or for any other reason consistent with Section 5.2, you shall submit to the personal and exclusive jurisdiction of the courts located within St. Louis County, Missouri, and waive any objection as to venue or inconvenient forum.

**5.2 MANDATORY ARBITRATION AND NO JURY TRIAL.** Any dispute or claim between you, any member of your household or any guest or employee of you and us arising out of or relating to the Service or Equipment will be resolved by arbitration before a single arbitrator administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules. The arbitration will take place in St. Louis County, Missouri. The arbitrator's decision will follow the plain meaning of the relevant documents, and will be final and binding. Without limiting the foregoing, the parties agree that no arbitrator has the authority to: (i) award relief in excess of what this Agreement provides; or (ii) award punitive or exemplary damages. Judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. **REGARDLESS OF ANY STATUTE OR LAW TO THE CONTRARY, ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE SERVICE MUST BE FILED WITHIN ONE (1) YEAR AFTER SUCH CLAIM OR CAUSE OF ACTION AROSE OR BE FOREVER BARRED.** All claims shall be arbitrated individually. You shall not bring, or join any class action of any kind in court or in arbitration or seek to consolidate or bring previously consolidated claims in arbitration. **THIS ARBITRATION PROVISION CONSTITUTES A WAIVER OF ANY RIGHT TO A JURY TRIAL IN ST. LOUIS COUNTY, MISSOURI.**

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

**5.4 Survival.** Notwithstanding anything to the contrary in this Agreement, all provisions regarding limitation of liability, indemnification, payments or compensation to the VoicePro Parties of any kind or nature, portability of telephone number(s) after discontinuation of Service, and disclaimers of warranties shall survive any termination or expiration of this Agreement.

**5.5 Attorney Fees.** In the event VoicePro undertakes collection efforts against you by and through an attorney, or pursues or defends an action or suit pertaining to or arising out of this Agreement or the transactions hereunder, the prevailing party shall be entitled to the payment of reasonable attorneys, fees and costs, together with such other legal costs as may be authorized by law.

**5.6 Notices.** All notices, requests, demands, claims and other communications hereunder shall be in writing. Any notice, request, demand, claim or other communication hereunder shall be deemed duly given:

(a) when delivered personally to the recipient,

(b) one (1) business day after being sent to the recipient by reputable overnight courier service (charges prepaid),

(c) one (1) business day after being sent to the recipient by facsimile transmission or electronic mail, or (d) four (4) business days after being mailed to the recipient by certified or registered mail, return receipt requested and postage prepaid, and addressed to VoicePro's address, facsimile number, electronic mail address reflected on the Company books and records as specified in Section 3.2. Any party may change the address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other party notice in the manner herein set forth.



**5.7 Time Periods.** In computing any time period prescribed or allowed by this Agreement, the day of the act, event or default from which the designated period of time begins shall not be counted, but the last day of the period so computed shall be counted, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. When the period of time is less than three (3) calendar days, intermediate Saturdays, Sundays or legal holidays shall be excluded from the computation. If the specified time period is measured in business days, business days shall mean Monday through Friday, but excluding United States national banking holidays.

**5.8 Assignment.** This Agreement may be assigned by VoicePro at any time. You may not transfer or assign this Agreement or any of your rights or obligations under this Agreement. Any purported transfer or assignment in violation of this section is void. Subject to the foregoing, this Agreement shall be binding on and inure to the benefit of the parties, their successors, permitted assigns, and legal representatives.

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

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

**5.11 Privacy.** VoicePro Service utilizes, in whole or in part, the public Internet and third party networks to transmit voice and other communications. VoicePro is not liable for any lack of privacy, which may be experienced with regard to the Service. Please refer to our website at [www.vpronetworks.com] for additional Privacy Policy information.

**5.12 Publicity Rights.** You agree that VoicePro may identify you as a user of the Service in its business deals; press releases; marketing materials; electronic, printed, and broadcast advertising; newsletters; mailings; tradeshow; other promotional materials; on VoicePro website; or any other third-party website where VoicePro or its designated agents may promote the Services. You hereby grant VoicePro and its agents an irrevocable, perpetual, worldwide, non-exclusive, fully paid-up, royalty-free license (with right to sublicense) to use, reproduce, publish, and display your name, trademarks, service marks, designs, logos, and symbols in connection with such purpose.

**5.13 Non-disparagement.** You agree not to directly or indirectly through a third party engage in any conduct or make any communication (public or private) that disparages VoicePro or the Services in any way. Such communications include, but are not limited to, publishing, posting, printing, disseminating, or otherwise making such disparaging statements on or through the Internet, in any blog, or through any other form of social media. You further agree not to solicit or encourage, directly or indirectly, any such statements, comments, or communications by any third-party. In accordance with the termination provisions below, VoicePro may terminate your access to the Applications or Services if you breach the requirements of this section.

**5.14 Future Changes to Agreement.** We may change the terms and conditions of this Agreement from time to time. Notices will be considered given and effective on the date posted on [www.vpronetworks.com]. VoicePro will make best efforts to notify Customers in advance via email regarding changes to the terms and conditions of this Agreement. Such changes will become binding on the date they are posted to our website and no further notice by us is required upon your continued use of the Service. The Agreement as and when posted supersedes all previously agreed to electronic and written terms of service, including, without limitation, any terms included with the packaging of the Equipment and also supersedes any written terms provided to Retail Customers in connection with retail distribution, including, without limitation, any written terms enclosed within the packaging of the Equipment.

**5.15 Entire Agreement.** This Agreement, including any future modifications as may occur within the terms of the Agreement, and the rates for Services found on our website constitute the entire agreement between you and VoicePro and govern the use of the Service and Equipment by you, members of your business, employees and guests. This Agreement supersedes any prior agreements between you and VoicePro and any and all prior or contemporaneous statements, understandings, writings, commitments, or representations concerning its subject matter.

**THIS AGREEMENT INCLUDES A MANDATORY BINDING ARBITRATION CLAUSE.**

Buyer's Acceptance:

Accepted (Firm Name)

\_\_\_\_\_ / \_\_\_\_\_

Signature Title

Date: \_\_\_\_\_