

# MASTER SERVICE AGREEMENT GENERAL TERMS & CONDITIONS

These Master Service Agreement General Terms and Conditions ("Terms") set forth below are fully applicable to each of the Services (as evidenced by a signed Service Order) sold by Montana Sky Networks("Provider") to \_\_\_\_\_ ("Customer").

1. **Term** The term of this Agreement begins on the Installation Date for each unique Service at each Service Location and continues for the number of months indicated on the Service Order at the "Term" designation. For purposes of this Agreement, the Installation Date shall be the date on which the Service is operational and ready for use by the Customer as determined by Provider. Provider shall provide Customer notification of the Installation Date.

## 2. **Scope of Agreement; Services; Change of Law or Tariff**

2.1 The Services ("Services") provided by Provider are as described in the Service Order. Any unlawful or unauthorized use of the Services by Customer shall be considered a material breach of this Agreement, and, in the case thereof, Provider may immediately terminate this Agreement and pursue any remedies available at equity or in law.

2.2 The provisions in this Agreement are intended to be in compliance with and based on the existing state of the law, rules, regulations and interpretations thereof governing the Services, including but not limited to Federal Communications Commission rules, regulations, and laws, as of the Effective Date ("Existing Rules"). If any Services are governed by federal or state tariff, the terms of such tariff, including applicable rates, apply to the Services. If a change in law, rule, or regulation materially impairs a Party's ability to perform or obtain a benefit under this Agreement, both Parties agree to negotiate in good faith such changes as may be necessary to address such material impairment. If a change in federal tariff requires a change in the pricing for any of the Services, the Parties agree that such change will become automatically effective as provided in the tariff. Provider will give notice of any such changes to Customer as soon as practical. Some of the Services may be provided by Provider's affiliates.

2.3 Service Moves and Changes: Customer may make changes in the Services from the original quantities and/or installation location(s) identified in the Service Order provided that Customer and Provider execute a separate written Service Order covering the change. Additional Services may require the Customer pay installation or other non-recurring charges. Service moves may involve construction charges and other non-recurring charges.

## 3. **Financial Terms**

3.1 The description of the Services and applicable rates are set forth in the Service Order. Customer agrees to pay the charges for Services set forth in the Service Order.

3.2 All charges for Services provided herein are exclusive of any federal, state, or local sales, use, excise, gross receipts, transaction or similar taxes, fees or surcharges, and Federal or State universal service surcharges or fees ("Tax" or "Taxes").

3.3 Amounts payable under this Agreement are due and payable within twenty (20) Days after the date of invoice or as otherwise stated on the invoice ("Payment Due Date"). If the Payment Due Date falls on a Sunday or on a holiday which is observed on a Monday, the payment date will be the first non holiday day following such Sunday or holiday. If such a payment date falls on a Saturday or on a holiday which is observed on Tuesday, Wednesday, Thursday or Friday, the payment date shall be the last non holiday day preceding such Saturday or holiday. After the Payment Due Date, late payment charges are applicable and they will be calculated and assessed at up to 1.5% per month of the unpaid balance. Provider may immediately terminate Services without any further notice for any unpaid balance that remains outstanding 30 days from the Payment Due Date.

3.4 Provider may request a security deposit or additional prepayment for services at any time should it determine that Customer

has not established satisfactory credit with Provider or Customer is repeatedly delinquent in making its payments, or is being reconnected after a disconnection. Cash deposits and accrued interest, if applicable, will be credited to Customer's account or refunded, as appropriate, upon the earlier of the expiration of the term of the Agreement or the establishment of satisfactory credit with Provider, which will generally be one full year of timely payments in full by Customer.

## 4. **Default and Breach; Termination.**

4.1 If Customer defaults in the payment of any amount due hereunder, or if either Party violates any other material provision of this Agreement and such default or violation continues for ten (10) days after written notice thereof, the other Party may terminate this Agreement and seek relief in accordance with any remedy under this Agreement.

4.2 Customer understands that Provider has a substantial investment in facilities and equipment purchased to provide the Services to the Customer. Therefore, if Provider terminates this Agreement for cause, or if Customer terminates this Agreement without cause, Customer shall pay early termination charges. If termination is prior to installation of Services, early termination charges shall be those reasonable costs incurred by Provider through the date of termination. If Customer disconnects all or part of the Services after installation to a level that is below the Service quantities established in this Agreement, Customer shall pay a termination charge that is equal to seventy five percent (75%) of the monthly rate for the Services terminated multiplied by the number of months, or portion thereof, remaining in the Term of the Agreement. In addition, Customer may be liable for any additional charges and fees assessed by third party providers on Provider for the provision of the Services. Any and all incentives, promotions, or give-a-way's will be become null and void if Customer terminates Service before the agreed upon date and will be added to the termination charge.

5. **Voice Services.** Certain IP based voices services include a 911 and/or an enhanced 911 ("E-911") function that may differ from the 911/E-911 function offered via traditional telephony service and equipment. As such, it may have certain limitations. CUSTOMER ACKNOWLEDGES AND ACCEPTS ANY LIMITATIONS OF 911/E-911. In order for Customer's 911/E-911 calls to be properly directed to emergency services, Provider must have Customer's correct service location address. If Customer moves all or a portion of the Service to a different service location address without prior notice or approval from Provider, Customer's 911/E-911 calls may be directed to the wrong emergency services authority, may transmit the wrong service location address, and/or fail altogether. Accordingly, Customer must contact Provider at least ten (10) business days prior to moving all or any portion of the Services to a different service location address. Customer understands and acknowledges that some voice services use electrical power at the Customer's service location. If there is an electrical outage, 911/E-911 calling may be interrupted if there is no battery back-up installed, it fails, or is exhausted. CUSTOMER ACKNOWLEDGES AND AGREES THAT NEITHER PROVIDER NOR ITS AFFILIATES WILL BE LIABLE FOR ANY SERVICE OUTAGE, INABILITY TO DIAL 911 USING THE SERVICE, AND/OR INAILTY TO ACCESS EMERGENCY SERVICES. CUSTOMER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS PROVIDER, ITS AFFILIATES, SHAREHOLDERS, OWNERS, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, FINES, PENALTIES, COSTS, AND EXPENSES BY, OR ON BEHALF OF, CUSTOMER OR ANY THIRD PARTY, OR USER OF THE SERVICES RELATING TO THE FIALURE OR OUTAGE OF THE SERVICES, INCLUDING THOSE RELATED TO 911/E-911.

Unlimited long distance services may not be used with automatic outbound dialing systems, call distribution systems, telemarketing or call center applications, or for Internet access. Usage may be monitored by Provider and customer may be required to show compliance if usage exceeds 1500 minutes/month/ per telephone line or per trunk or non-compliance is indicated. Provider reserves the right to charge customer for toll usage in excess of 1500 per month, per telephone line.

6. **Data Networking & Telecommunications Equipment.**

Provider shall use its best efforts to deliver and install any data networking or telecommunications equipment ("Equipment") in a timely manner. The Customer shall provide all necessary premises for installation of the Equipment, including necessary electrical service, and shall allow Provider and its personnel access to such premises for installation of the Equipment, and continuing maintenance if provided under this Agreement. Customer's acceptance shall be deemed to occur upon installation and testing of the equipment, with certification by Provider that the Equipment is functioning substantially as intended ("Acceptance"). Risk of loss of the Equipment shall pass to Customer upon delivery of the Equipment to the installation site provided by Customer, or other location specified by Customer and agreed to by Provider. Title to the Equipment shall pass to Customer upon payment in full of the purchase price to Provider. Until such time, the Customer acknowledges that Provider shall retain a Purchase Money Security Interest in the Equipment, and Customer shall execute all documents necessary to perfect such a security interest. If Customer shall fail to make any payments required hereunder; Provider may, at its option, terminate this Agreement and retain possession and title to all Equipment, or may suspend all further performance and pursue all remedies available under the Uniform Commercial Code or other state law. In the event suit is brought to enforce any of the provisions of this Agreement, the prevailing party shall be entitled to cost of suit and any appeal there from, including reasonable attorney fees.

7. **ISP Services.**

Some of the Services provided are subject to the Acceptable Use Policy and Terms and Conditions for Internet services set forth on Provider's website. Customer is responsible for all usage originating from its location and should inform users that the service is provided subject to an Acceptable Use Policy. Customer acknowledges that it has read and is familiar with these provisions. Provider reserves the right to amend these terms and conditions from time to time upon notice to Customer.

8. **Dispute Resolution.** Other than those claims over which a regulatory agency has exclusive jurisdiction, any dispute or controversy arising in connection with this Agreement shall be submitted to and settled by arbitration, closed to the public and held in Missoula, Montana, in accordance with the Uniform Arbitration Act as enacted by the State of Montana and in effect as of the date hereof.

9. **Service Level Agreement.** The Services provided by Provider to Customer shall be subject to performance as specified by the attached Service Level Agreement, attached as "Exhibit A."

10. **Limitation of Liability and Warranties.** Each Party shall be responsible for any actual physical damages it directly causes in the course of its performance under this Agreement, limited to damages resulting from personal injuries, death, or property damage arising from negligent acts or omissions; provided however, that neither party shall be liable for any incidental, consequential, indirect, or special damages of any kind, including but not limited to any loss of use, loss of business or loss of profit. Remedies under this Agreement are exclusive and limited to those expressly described in this Agreement. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, PROVIDER SPECIFICALLY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY SERVICE PROVIDED HEREUNDER. PROVIDER SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES; INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR TITLE OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

11. **Assignment.** Customer may not assign this Agreement or any rights or obligations hereunder without the prior written consent of Provider, which consent will not be unreasonably withheld. Provider may assign this Agreement to an affiliate under common control of Provider at any time and without notice to the Customer. Provider may assign this Agreement to a third party and provide Customer notice of such assignment.

12. **Confidentiality/ Nondisclosure.** Neither Party will, without the prior written consent of the other Party issue any public announcement regarding, or make any other disclosure of the terms of, this Agreement; or disclose or use (except as expressly permitted by, or required to achieve the purposes of, this Agreement) the Confidential Information of the other Party. For purposes of this Agreement, Confidential Information shall mean any pricing, network configurations, or any other information that a reasonable party would deem confidential or proprietary. A Party may disclose Confidential Information if required to do so by a governmental agency, by operation of law, or if necessary in any proceeding to establish rights or obligations under this Agreement, provided that the disclosing Party gives the non-disclosing Party reasonable prior written notice. All Confidential Information shall remain the property of the disclosing Party.

13. **Waiver.** Except as otherwise provided herein, neither Party's failure to enforce any right or remedy available to it under this Agreement will be construed as a waiver of such right or a waiver of any other provision hereunder.

14. **Notices.** Any notices required by or concerning this Agreement will be in writing and will be sufficiently given if delivered personally in writing, delivered by prepaid overnight express service, sent by facsimile with electronic confirmation, or sent by certified mail, return receipt requested, or by email where specified in this Agreement to Provider and Customer at the addresses shown on the Service Order.

15. **Force Majeure.** Neither Party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, power blackouts, volcanic action, other major environmental disturbances, or unusually severe weather conditions (collectively, a "Force Majeure Event"). Inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers shall be considered Force Majeure Events to the extent any delay or failure in performance caused by these circumstances is beyond the Party's reasonable control and without that Party's fault or negligence. The Party affected by a Force Majeure Event shall give prompt notice to the other Party, shall be excused from performance of its obligations hereunder on a day to day basis to the extent those obligations are prevented by the Force Majeure Event, and shall use reasonable efforts to remove or mitigate the Force Majeure Event. In the event of a labor dispute or strike the Parties agree to provide Service to each other at a level equivalent to the level they provide themselves. In no instance shall a failure to make payments for Services be considered a Force Majeure Event.

16. **Governing Law.** To the extent the Services are provided in the state of Montana, Montana state law, without regard to choice-of-law principles, shall govern all matters arising out of, or relating to, this Agreement. To the extent the Services are provided in the state of Idaho, Idaho state law, without regard to choice-of-law principles, shall govern all matters arising out of, or relating to, this Agreement. In the event Services are provided outside of Montana and Idaho or in both Montana and Idaho, than Montana state law shall apply.

17. **Entire Agreement.** This Agreement (including the Service Order and other documents referred to herein) constitutes the full and entire understanding and agreement between the Parties with regard to the subjects of this Agreement and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, including but not limited to, any proposal or term sheet to the extent they relate in any way to the subjects of this Agreement.