

## MASTER SALES AGREEMENT

This Master Sales Agreement (“Agreement”) applies to all sales transactions initiated and concluded with Westechs LLC (“Westechs”) and Buyer (“Client”). Westechs and Client shall also be referred to as the “Parties” and each as a “Party” to this Agreement.

Statements of Work, Proposals, Estimates and Quotations (“SOW”) are hereby incorporated into the terms and conditions of this Agreement. SOW shall provide description of the goods (“Products”) and Professional Services (“Services”) to be delivered to and/or performed by Westechs for Client under this Agreement. Client agrees to pay for the Products and Services in the manner described herein.

### 1.0 Effective Date and Term

This Agreement shall commence on SOW Effective Date and shall remain in effect for the period of time stipulated, or until terminated by either party upon thirty (30) days prior written notice.

### 2.0 General Obligations of Westechs

2.1 Title and Interest. Upon full payment by Client of amounts owed to Westechs under any SOW, Westechs shall assign to Client any and all rights, title and interest, including without limitation any copyright and other intellectual property rights, in all deliverable work product identified in and developed under such SOW, including without limitation all passwords, credentials, tangible items, intangible items and information incorporated therein, (“Deliverables”), but excluding all third party works and products incorporated or embedded in the Deliverables.

### 2.2 Client Property

Westechs shall exercise all due care with regard to all Client property under the control of or being used by Westechs, and shall identify, maintain appropriate records, verify, protect and safeguard such property. If any Client property is lost, damaged or otherwise found to be unsuitable for use while being used by or under the control of Westechs, Westechs shall make an appropriate and timely report to the Client with regard to such property, and shall negotiate with Client, in good faith, an appropriate settlement relating thereto.

### 2.3 Use of Subcontractors

Westechs may use subcontractors without the consent of Client. Westechs will not be relieved of its obligations hereunder by use of any such subcontractors. If Client reasonably determines that the performance or conduct of any Westechs subcontractor is unsatisfactory, Client may notify Westechs in writing of such determination, indicating with specificity all reasons therefore, and Westechs will promptly take all necessary actions to remedy the performance or conduct of such subcontractor.

### 2.4 Remote Monitoring and Support

Remote Monitoring and Support (“RMS”) consists of continuous monitoring of customer and/or Westechs owned equipment with alerting. RMS also includes up to one (1) hour of telephone or email based technical support with a minimum of fifteen (15) minutes per call/email exchange. Technical support provided in addition to the included hour will be billed at current rates.

## 2.5 Remote Management and Access

Some Products sold by Westechs includes Remote Management and Access (“RMA”). RMA allows authorized Westechs employees to perform technical support in an expeditious manner as well perform asset management and recovery in the event of non-payment by Client. Client may opt out of RMA by mailing a written request to Westechs via certified mail.

## 3.0 General Obligations of Client

### 3.1 Cooperation

Client agrees that where participation by its own staff is necessary in Westechs’ provision of its products and services, such staff shall possess the appropriate skill, experience and authority for the tasks assigned to them, and shall be available at such times as required by Westechs. Client agrees to designate a member of its staff who shall have the authority to represent Client on all matters relating to the products and services being delivered by Westechs.

### 3.2 Environment and Facilities

As applicable to the Services delivered by Westechs, Client will provide Westechs with: a) a safe and suitable environment in which to perform services, b) use of data communications and telecommunication facilities as reasonably necessary to perform the services, and c) the right, under Client’s license or agreement with each third-party licensor of software utilized by Client and relating to the applicable SOW, for Westechs to perform its services with respect to such software. Client shall indemnify and hold harmless Westechs from all costs, claims, expenses, damages, and/or liability that Westechs incurs as a result of any failure or claimed failure by Client to provide the rights referenced in this paragraph.

### 3.3 Accommodations

In the event that Westechs is providing Services to a hospitality Client that is outside of Midland, Texas, Client will provide Westechs with complimentary accommodations for each employee of Westechs for the duration of the delivery of Services.

### 3.4 Grant of License

As required, Client shall grant to Westechs a non-exclusive, royalty-free limited license during the term of this Agreement to use, reproduce, distribute, display, perform, encode, and transmit Client communications and data, and Client Intellectual Property for the purposes of providing solutions hereunder.

## 4.0 Financial, Cancellations and Restocking, Termination and Freight

### 4.1 Invoicing

Westechs shall invoice Client on Net 30 terms or such terms and schedules as described in the respective SOW. Westechs reserves the right to withhold final activation of equipment of Products, Services, support, credentials, passwords and access documentation until Westechs receives full payment for all outstanding invoices due by Client.

### 4.2 Payments

Client shall pay all amounts invoiced by Westechs, regardless of the expiration or termination of a SOW, by the Due Date printed on the respective invoice. These terms supersede any/all previous oral and/or written instructions or agreements, including Client purchase orders.

#### 4.3 Title

Title to each item sold to Client shall pass to Client upon payment. Westechs shall retain a security interest in any item(s) delivered to the Client and in any proceeds realized from the sale or disposition until the full purchase price thereof is paid by Client. Client authorizes Westechs to file any financing statements that are necessary in order to perfect such security interest. Should Client fail to perform any of its obligations including a default in payment of any charges hereunder when due, Westechs or its assignee may remove and repossess any or all item(s) hereunder with or without notice or demand, in addition to exercising such other rights and remedies as may be available to it under the law.

#### 4.4 Cancellations and Restocking

In the event that Client cancels any accepted SOW, Client may be subject to a restocking fee. The restocking fee is \$20.00 or 15% of the original sales amount, whichever is greater.

#### 4.5 Termination

If Westechs has not received full payment for any invoice by the respective invoice Due Date, Westechs may, at its sole discretion, revert all changes made under Services and/or SOW as well as deny, suspend or terminate (“Termination”) any and all current and future Services to Client. Termination also voids any and all warranties offered by Westechs and Client will be responsible for redeeming manufacturer warranties directly with the manufacturer or by alternate means.

Termination does not relieve Client of any outstanding invoices, nor does Termination relieve Client of payment for Services already rendered. Client understands and agrees that Termination allows Westechs to utilize RMA as described in section 2.5 of this Agreement to modify, deny access to, suspend, disable or shut down Equipment provided to Client until all outstanding invoices owed by Client are paid in full.

#### 4.6 Finance Charges

If Client has not paid Westechs’ invoices within thirty (30) days of receipt, interest may accrue retroactively to the first invoice paid late or unpaid, at the rate of one and one half percent (1.5%) per month.

#### 4.7 Taxes

The charges by Westechs under this Agreement or the related SOW may not include taxes or duties. If Westechs is required to pay or collect any federal, state, local, value added, goods and services, or any other similar taxes or duties under this Agreement, then such taxes and/or duties shall be invoiced to Client.

#### 4.8 Freight and Shipping

The charges by Westechs under this Agreement or the related SOW may not include freight or shipping fees. Such fees shall be invoiced to Client.

#### 5.0 Backup and Recovery Services

## 5.1 Definitions

“Account” means the account located upon the Infrastructure, created and maintained by Client in order to access the Services. “Device” means Windows or non-Windows servers, workstations, computers or any mobile devices upon which or through which the Services are used and/or installed. “Infrastructure” means the technical systems, hardware and all connected devices of Westechs or its third party suppliers. “Virus or Malware” means programming or software code designed to damage, destroy or otherwise interfere with programs, software, and/or devices, including, but not limited to: Trojan Horses; any Windows temporary files of any kind (including, without limitation, any \*.tmp or ~\*. \* files); worms, and/or corrupted files. “Service(s)” means the various services and components thereof indicated on the applicable Order Form, including, without limitation, Westechs Backup Services, the Software, any documentation both on and offline, as well as any modifications, derivatives, updates or upgrades as may be offered by Westechs from time to time, and which are subscribed to by the Client via a Subscription. “Order Form” means a written or electronic order instrument, invoice for Services or agreement entered into between Client and Westechs that references this Master Service Agreement, sets forth Client’s Subscription term and Subscription Fees. “Software” means any downloadable client software which is provided by Westechs solely for the purpose of accessing the Services. “Client” means an individual or entity (including that entities’ parent or affiliated companies) to which Services are provided by and as agreed to by Westechs. “Subscription” means the non-exclusive, non-transferable right to use the Services, as ordered by Client, subject to the terms of these Terms of Service and the full and timely payment of the Subscription Fees. “Subscription Fees” means the fees payable in respect of a Subscription order by Client as set forth on the Order Form.

## 5.2 Conditions of Use

Subject to the terms and conditions of this Agreement, Client may use the Services solely in accordance with the written communication by Westechs to Client. Westechs shall make commercially reasonable efforts to provide the Services to Client. This Agreement applies to the Client that uses the Services or that installs, otherwise uses or permits the installation of the Software or the use of the Services. Throughout the Subscription Period, unless terminated in accordance with the terms herein, Westechs grants Client the following rights only if Client complies with all of the terms and conditions of This Agreement.

The Subscription begins at the time the Client’s Subscription is activated by Westechs (other than on a trial basis) and thereafter continues in effect until the date of termination as set forth hereinafter. A Subscription may terminate in whole or in part, due to (i) Client’s cancellation, or breach of any of terms of this Agreement – including non-payment of any Fees within 14 days of the date when due; or (ii) upon expiration of the respective Services term subscribed to by Client in the relevant Order Form and non-renewal of such Service. Subscription Fees are non-refundable. As of the effective date of cancellation or termination and the expiration of a period of 14 days thereafter, Client shall no longer be able and shall have no further right to access or use the particular Services which have been cancelled or terminated. All licenses granted hereunder shall be term licenses for the term set forth in the relevant Order Form.

## 5.3 Grant of Right of Use

The Software is licensed and not sold. During a Subscription Period and subject to the due payment by Client and receipt by Westechs of all due and payable Subscription Fees, Westechs grants Client a revocable, limited, non-transferable, non-exclusive license to access the Services and use the Software pursuant to the terms of this

Agreement. This Agreement cover any updates, new releases or enhancement(s) of the Services and/or Software, which Westechs may, in its sole discretion, make available to Client from time to time.

Westechs warrants that it shall use commercially reasonable efforts to provide the Services to Client in accordance with standard industry practices in relation to availability of the Service, security of the data and provision of customer service. Westechs shall use commercially reasonable efforts to provide the Service on a constant basis and to avoid any unplanned downtime and minimize planned maintenance time.

#### 5.4 Account; Security

Westechs respects your privacy and the terms of Westechs' Privacy Policy can be found at "<https://www.westechs.com/website/privacypolicy>".

Client acknowledges and agrees that it is responsible for providing the following: (i) all equipment, such as a computer and network, necessary to access the Internet; and (ii) payment of all telephone, internet and other fees associated with such access.

Client is solely responsible for access to, content in or sharing and use of its Account. Westechs shall not be liable for any loss or damage arising from any access to, or sharing and use of Client's Account. In the event that Client believes or suspects there has been any unauthorized access to the Account, Client must notify Westechs immediately by email to [support@westechs.com](mailto:support@westechs.com).

#### 5.5 Client's Right and Obligations

Client may not: (i) make any copies of all or part of the Software other than as expressly permitted in this Agreement; (ii) sublicense, rent or lease any portion of the Software or the Services or host the Services or the Software; (iii) install the Software on any Device other than that owned by Client; (iv) reverse engineer, decompile, disassemble, modify, translate, or make any attempts to discover the source code of the Software or create derivative works of the Software or Services, except to the minimum extent permitted by applicable law and only if any inter-operability request is first sent to Westechs who reserves the right to charge a reasonable fee for such service; (v) use the Westechs or Service trademarks independently, or as part of a product name, trademark or business name, without prior written approval from Westechs; (vi) create, market or distribute add-ons or enhancements to the Software or the Service without prior written consent of Westechs; (vii) harm, disrupt or otherwise engage in activity that diminishes the Westechs brand, Services, or Infrastructure; (viii) use the Services in a manner that results in excessive bandwidth or storage; (ix) attempt to alter, circumvent or provide the method or means to circumvent any disabling mechanism in the Services or the Software; or (x) act or communicate in any way that may imply that Client has the right to represent or act on behalf of Westechs.

Client acknowledges, agrees and warrants that: (i) it will comply at all times with any and all applicable local, state, federal international laws and treaties laws; (ii) in order to ensure uninterrupted service, it is the responsibility of Client to ensure that there is a constant internet connection and electrical supply, and that the Software is installed on a supported platform and in accordance with Westechs' instructions; (iii) it will comply with all of the terms and conditions of this Agreement and that it has had a complete opportunity to review and understand this Agreement before using the Software or the Service.

#### 5.6 Content of Data

Client warrants that it has obtained sufficient consent and rights (i) to access any End User's systems or networks, and (ii) access, use and store all data and files on the Infrastructure. Westechs reserves the right, with or without notice to you, to remove any data and files from its Infrastructure that Westechs in its sole discretion believes or suspects is: (a) Virus or Malware; (b) is illegal, libelous, abusive, threatening, harmful, vulgar, pornographic, obscene; (c) is used for the purpose of spamming, chain letters or the use or dissemination of objectionable material of any kind or nature (d) is used in such a manner as to cause offense, defame or harass; or (e) infringes the intellectual property rights or any other rights of any third party.

#### 5.7 Consent to Use Data

Client's privacy is important to Westechs and Westechs shall abide by its Privacy Policy, which can be found at [www.westechs.com/wesite/privacypolicy](http://www.westechs.com/wesite/privacypolicy). However, Westechs reserves, in its sole discretion, the right to (i) monitor and access the Account and/or remove any data or content of data or files stored on its Infrastructure, and (ii) suspend or terminate the Account and/or Client's access to the Services in the event that Westechs believes or suspects that any of the terms of the preceding paragraph or any of the terms of this Agreement have been breached or contravened.

Westechs and Westechs' Agents collect, process and use your data for the implementation and processing of the contractual relationship with you, in particular for successfully providing the Services to you. Furthermore, Westechs analyzes data in order to understand and respond to our customers' requirements and to continually improve our Service. Non-personal data may be collected automatically to offer you first-class service, especially to facilitate and improve the provision of software updates, Support, Content and other services to Client.

#### 5.8 Data Protection

Each party shall comply with its respective obligations under applicable data protection laws ("DPL"). Neither party shall do any act that puts the other party in breach of its obligations as per this Section, nor shall anything in this Agreement be deemed to prevent any party from taking any action it reasonably deems necessary to comply with DPL. Client agrees that during the course of its use of the Services: (i) in respect of data Client collects, accesses or otherwise uses, Client alone shall determine the purposes for which and the manner in which personal data is, or will be, processed; (ii) Client is the data controller in respect of all personal data Client may process; and (iii) Client consents and, in the event Client processes any third party data, has obtained the consent from such third party, to send its personal data to Westechs. Westechs undertakes to procure that if the Services are accessed or used within the USA or Canada such data shall be retained in the USA or Canada as the case may be. Westechs agrees that, with Client's express consent, it is the data processor in respect of the personal data processed as provided by Client. Client warrants and undertakes that any instructions given by Client to Westechs will at all times be in accordance with the requirements of DPL. Client shall fully indemnify Westechs against any loss, damages, liability and costs (including attorneys' fees) incurred by Westechs as a result of any breach of DPL by Client.

Westechs shall comply with requests for information from legitimate judicial, legal or regulatory authorities or pursuant to any court order or a subpoena, discovery request or other lawful process that Westechs receives. Westechs may comply with these subpoenas or court orders with or without notice to Client.

#### 5.9 Equitable Relief



The parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to equitable relief, including injunctive relief or specific performance of the terms hereof (without any requirement to post bond or guarantee), in addition to any other remedy to which they are entitled at law or in equity.

#### 5.10 Service Updates/Support Services

Some Services require, for optimum use and Westechs may provide to Client, in a number of formats (feeds, definition files etc.), content that is automatically synchronized or updated from time to time with Westechs' servers or systems ("Content"). Such Content may be provided for a limited time, from time to time, in accordance with the applicable Service. Client consents that the respective Service will automatically contact Westechs to receive Content and, in addition, if and when any of the following events occur: (i) the Service is successfully installed by Client; (ii) Client fails to install the Service successfully; (iii) the Service has been successfully configured and/or (iv) the Service is uninstalled. Client acknowledges and consents that any data collected may be sent to any Westechs office or Westechs Agent for processing in locations, depending on location of Client, throughout the USA with the provisions of section 5.8. You may be required to download Software and the Services may automatically update the Software installed on any Device when a new version is available.

During the term of Client's Subscription Period, Westechs will provide support for the Services at no additional charge. Westechs will use commercially reasonable efforts to provide answers to Client's questions during established support department operating hours. Westechs and its suppliers will use reasonable efforts to update the Service with upgrades, bug fixes, and work-arounds as they become available. Client shall have the opportunity to contract with Westechs to purchase additional services at Westechs' then prevailing rates. Should Client modify or change the design of the Service without Westechs' prior written consent, Westechs shall no longer be obligated to provide support services described herein.

#### 5.11 Intellectual Property Rights

The Services may be protected by world-wide copyright, trademark, patent and other intellectual property laws and treaties that belong to Westechs, its licensors and any applicable Westechs Agent. Client acknowledges that (i) rights in the Services are licensed (not sold) to Client, and (ii) that Client shall have no rights or title in, or to, the Services other than the right to use them in accordance with the terms of this Agreement and (iii) Open Source and/or third-party software may be incorporated into the Services. Westechs, its licensors and any applicable third parties, own all title, copyright, and other intellectual property rights in and to the Services. The Services, in all formats existing, are a trade secret of and proprietary to Westechs, its suppliers and/or licensors, including but not limited to, the specific internal code, design and structure of individual programs and software, the display and associated interface information. Client shall not disclose the confidential aspects of the Services to third parties.

#### 5.12 Service Fee

Westechs will invoice the amount owed by Client on a monthly or quarterly basis. Client will pay all amounts owed within thirty (30) days after the invoice date. These payments will not be subject to compensation or deduction, unless required by law. It shall be deemed a breach of this Agreement if Client fails to fulfill any payment obligation and fails to cure the breach within fourteen (14) days of receipt of written notification from Westechs. In any case Client may be charged interest on a monthly basis, at the legal percentage rate, on all

outstanding debts starting from the date of failure to pay. Should Client dispute any payment obligation, Client will notify Westechs within seven (7) days after receiving the invoice. Disputed amounts do not hinder the payment of the undisputed amounts.

In the event of any non-payment of any undisputed amount, Westechs reserves the right in addition to all of its other rights and remedies hereunder and at law or in equity to (a) suspend all Support Services in the event the fees are not paid within forty-five (45) days of the date of the invoice; (b) suspend all access to the Service in the event the fees are not paid within sixty (60) days of the date of the invoice (c) remove all of Client backup data in the event the fees are not paid within ninety (90) days of the date of the invoice.

## 6.0 Telephone, Virtual Fax, Hosted PBX and Voice-over-IP Services

### 6.1 Definitions

“Telephone Service” means any telephone, telephone adapter, telephone line, fax line, virtual fax line, private branch exchange (“PBX”), hosted PBX and any other voice-related product or service provided by Westechs. “Equipment” means any supporting hardware including, but not limited to, battery backup systems, firewalls, routers, bridges and switches.

### 6.2 Power/Network Outages

Client acknowledges and understands that the Telephone Service will not function if any of the necessary Equipment is unplugged or otherwise disconnected from required power sources. Client further acknowledges and understands that the Telephone Service may not function in the event of power failure or if Client’s internet connection is unavailable or not properly functioning.

In the event of a power interruption to the Equipment, the Telephone Service may be powered by backup battery supply, but the inclusion of a battery backup does not ensure that the Telephone Service will work in all circumstances.

**CUSTOMER ACKNOWLEDGES AND UNDERSTANDS THAT WESTECHS DOES NOT GUARANTEE THAT E911 OR 911 DIALING WILL BE AVAILABLE IN THE EVENT OF A POWER FAILURE OR FAILURE OF THE WESTECHS AND ITS AUTHORIZED AGENT’S NETWORK.** Client understands and acknowledges that Telephone Service, including 911/E911, will be disabled if Client’s account is disabled, suspended or terminated.

### 6.3 Enhanced 911 Service

Enhanced 911 (“E911”), or 911 service is a feature of the Telephone Service. Prior to the activation of the Telephone Service, Client must provide Westechs the valid street address where the Telephone Service will be utilized (“Registered Address”). Client agrees not to move the Telephone Service from the location it was originally installed. **IF CUSTOMER MOVES THE TELEPHONE SERVICE FROM THE REGISTERED ADDRESS, CUSTOMER’S TELEPHONE SERVICE MAY NOT FUNCTION PROPERLY AND E911/911 OPERATORS WILL NOT BE ABLE TO IDENTIFY THE CORRECT LOCATION OF A CALLER IN THE EVENT OF AN EMERGENCY.**

### 6.4 E911 Calls



911 calls placed using the Telephone Service may take a longer time to route to the Public Safety Answering Point ("PSAP"). A 911 call placed using the Telephone Service will first be routed to a third-party call center. A live operator will answer the call and then forward the call onto the appropriate PSAP based on the location Client provides verbally to the operator. If Client is not able to provide Client's location, the operator will forward the call to the appropriate PSAP based on Client's registered physical location. The operator will then provide location and call back number information to the PSAP operator and then transfer the call to the PSAP operator. Routing 911 calls in this manner means that such calls will may longer to be connected to the PSAP than calls routed through traditional wireline, wireless or Voice over Internet Protocol services.

#### 6.5 Notification to All Users of the Telephone Service

Client is solely responsible for informing all its end users (including employees, visitors, and other third parties who may be present at the Registered Address) of the differences in and the limitations of E911 for the Telephone Service, including but not limited to, that E911 access to a PSAP is limited as described in this Agreement.

#### 6.6 Limitation of Liability and Indemnification for E911 Services

E911 for Telephone Service is offered solely as an aid in contacting an appropriate PSAP in connection with fire, police and other emergencies. Westechs is not responsible for any losses, claims, demands, suits or any liability whatsoever ("Losses"), including without limitation (i) losses to or relating to Client or a third party; (ii) losses for any personal injury or property damage or loss; or (iii) losses claimed to have been caused by (a) mistakes, omissions, interruptions, delays, errors or other defects in the provision of E911, or (b) installation, operation, failure to operate, maintenance, removal, presence, condition, location or use of any equipment and facilities furnishing the Telephone Service.

Westechs is also not responsible for any infringement or invasion of the right of privacy of any person or persons, caused or claimed to have been caused, directly or indirectly, by the installation, operation, failure to operate, maintenance, removal, presence, condition, occasion or use of E911 service and the equipment associated therewith, or by any Telephone Services furnished by Westechs including, but not limited to, the identification of the telephone number, address or name associated with the phone used by the party or parties accessing E911 service, and which arise out of the negligence or other wrongful acts of Westechs, Client, its users, agencies or municipalities, or the employees or agents of any of them.

Client will indemnify, defend and hold Westechs harmless from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without limitation, attorney fees) by, or on behalf of, Client or any third party relating to the absence, failure or outage of the Telephone Service, including access to E911, incorrectly routed E911 calls, and/or the inability of any user of the Service to be able to access E911 services or access emergency service personnel.

#### 6.7 Required E911 Service

Client acknowledges that E911 or 911 service to Client is provided as an express condition of the Telephone Service by Westechs. As a result, E911 or 911 service is not an optional feature and customer may not "opt-out," or decline to accept, the E911 or 911 service.

#### 6.8 Resetting Equipment after a Power or Network Failure

A power failure or disruption in the Telephone Service may require Client to reset or reconfigure equipment prior to utilizing the Telephone Service or E911 or 911 dialing. A power failure may also include a battery failure in the Equipment. If Client experiences a battery failure in the Equipment, it will be Client's responsibility to contact Westechs who will provide a replacement battery and installation instructions.

#### 6.9 TDD or TTY Devices

Client acknowledges that E911/911 service may not be fully compatible with all types of TDD or TTY devices for the hearing impaired. Westechs does not guaranty or offer emergency services compatible with any TDD/TTY or other hearing impaired devices.

#### 6.10 Softphones, Off-Site Phones & WiFi Connectivity

Telephone Service and customer provided softphones or off-site phones are capable of working over the public internet, including WiFi. However, for business-critical applications, please be aware that Westechs does not support the use of phones and softphones at any location aside from the Registered Address where the Telephone Service is located. In no event shall Westechs be responsible for, nor does it warrant the performance or interoperability of the service in connection with any softphones, off-site phones or wireless connectivity. It is Client's sole responsibility to support and troubleshoot any related connectivity issues under this section.

Since Westechs cannot control or troubleshoot the public internet, the Telephone Service may experience any of the following: (a) static/garbled calls; (b) call clipping and echo; (c) dropped calls; (d) one way audio; (e) cannot place outbound or receive inbound calls; (f) failure of phones to register; and/or (g) flashing keys.

Other issues that could contribute to a poor experience or sound quality issues include but are not limited to: (a) condition of the local area network or associated wiring; (b) number of devices being used concurrently; (c) quality of internet connection; (d) available bandwidth or bandwidth contention; (e) other network devices/traffic; (f) firewall not configured for SIP/RTSP traffic; (g) network routers or switches blocking phone access to the internet; and/or (h) internet provider blocking SIP/RTSP traffic.

If Client moves the Telephone Service, or if Client changes the Registered Address, or uses the Telephone Service at another location and Client does not provide a revised Registered Address to Westechs, 911 emergency calls may not be properly routed or supported.

#### 6.11 Security Systems and other Non-voice Communications Equipment

Client acknowledges that the Telephone Service may not be compatible with certain third-party security, medical monitoring and other non-voice communications systems. It is the Client's responsibility to test Client's third-party security, medical monitoring system or other non-voice communications system. Client acknowledges that these systems may not function properly in the event of a power outage or disruption in Client's internet service.

#### 6.12 Calling Plans

Client expressly agrees that Client will not have the option of subscribing to a "local only" or "long-distance only" service, nor will Client be able to subscribe to a separate local, toll or long-distance provider for use in conjunction with the Telephone Service.

#### 6.13 Security and Risk Awareness

Client acknowledges and agrees that (i) third parties may commit or attempt to commit unlawful, disruptive, violent, terrorist and/or warlike acts at times and places, and in manners, that cannot be predicted or prevented; (ii) information technology developments, configuration or implementation changes, software modifications (including routine maintenance, patches, enhancements and upgrades), human factors and other circumstances can create new, unknown and unpredictable security exposures; and (iii) information technology "hackers" and other third parties continue to develop and employ increasingly sophisticated and powerful techniques and tools which result in ever-growing security risks and potential for causing damage to persons and property. Westechs does not make any representation or warranty that Client's or any third party's information technology, software, information, equipment, facilities, or personnel are, or will be, secure, or safe from harm caused by the preceding and that Client has a responsibility to actively monitor the functions of its systems and to back up its data regularly. Westechs does not provide or represent or warrant that the Telephone Service or products Westechs provides will ensure Client's compliance with any particular law, including but not limited to any law relating to security or privacy. Client is solely responsible for complying with legal obligations of all data protection legislation, in particular with the legality of transmission of data to Westechs and the legal requirements for processing of data.

#### 6.14 Service Charges Related to Telephone Service

In addition to Clients monthly recurring charges, Client agrees to pay Westechs for all usage-based charges including, but not limited to, collect calls, charges for calls to Alaska and Hawaii, international calls, directory assistance, and/or Westechs assisted calls.

Unlimited voice service, including unlimited long distance, are provided solely for live dialog between two individuals. Unlimited voice service may not be used for monitoring services, data transmissions, transmission of broadcasts, transmission of recorded material, or other connections that do not consist of uninterrupted live dialog between two individuals. If Westechs finds that Client is using an unlimited voice service offering for other than live dialog between two individuals, Westechs may, at its option, terminate Client's service or change Client's plan to one with no unlimited usage components. Westechs will provide notice that it intends to take any of the above actions, and Client may terminate the Telephone Service.

#### 6.15 Taxes

The Client is responsible for the payment of any applicable sales, use, gross receipts, excise, access or other local, state and federal taxes, fees or surcharges (however designated) based upon the provision of Telephone Service, all of which will be separately designated on Client's invoice. It shall be the responsibility of the Client to pay any such taxes that subsequently become applicable retroactively.

#### 6.16 Regulatory Fees

Client also agrees to pay any applicable fees or payment obligations in connection with the Telephone Service that may be imposed by governmental or quasi-governmental bodies in connection with the sale, installation, use, or provision of the Telephone Service and any regulatory fees that Westechs invoices Client for to help defray its contribution to municipal, state and federal government programs in which Westechs participates, including but not limited to, universal service, telecom relay services for the visually/hearing impaired, 911/E911 programs and associated infrastructure. Westechs, in its sole discretion, has the right to determine what fees, taxes and surcharges are due by Client and to collect and remit them to the governmental authority.

The Westechs Parties shall in no way be liable to Client for the collection or remittance of any fees, taxes and surcharges.

#### 6.17 Surcharges

A surcharge may be imposed on charges for Telephone Service originating from states which levy, or assert a claim of right to levy, a gross receipts tax on Westechs' operations in any such state, or a tax on interstate access charges incurred by Westechs for originating access to telephone exchanges in that state. This surcharge is based on state imposed receipts tax and other state taxes imposed directly or indirectly upon Westechs by virtue of, and measured by, the gross receipts or revenues of Westechs in that state and/or payment of interstate access charges in that state. Any applicable surcharge will be shown as a separate line item on the Client's monthly invoice.

#### 6.18 Charges Caused by Third Parties

Client is responsible in all respects (including payment obligations) for all use of the Telephone Service under Client's account, whether or not Client actually authorized the use. Client will be responsible for ensuring that all use of the Telephone Service under Client's account fully complies with this Agreement.

#### 6.19 Casual Calling Charges

Client agrees to pay for any charges arising out of the use of any "casual calling" (e.g., 10-10-333) services provided by any third party.

#### 6.20 Pay-Per-Call/900 Calls

It is Client's sole responsibility to pay all charges or fees assessed by any pay-per-call service provider (if such service is available). Westechs does not assist such providers in billing or collecting for their services, and Westechs will not intervene on Client's behalf in a billing dispute with pay-per-call providers.

#### 6.21 Wiring

Client agrees that Westechs and its authorized agents may disconnect Client's existing service to the local telephone company, and that Westechs or its authorized agent may disconnect, rearrange, splice or otherwise manipulate the existing telephone wiring in or on Client's premises in order to connect the premises to the Telephone Service.

#### 6.22 Use of Telephone Service

Client will not use the Telephone Service for any unlawful purpose, or for any use which Client has not obtained all required governmental approvals, authorizations, licenses, consents and permits. Nor will Client use any features, functions, or other inputs to the Telephone Service (including the features, functions and services of a third party) for any unlawful purpose, or for any use which Client has not obtained all required governmental approvals, authorizations, licenses, consents and permits. Westechs may terminate Client's Telephone Service without notice if Westechs finds, in Westechs' sole judgment, that Client's use is unauthorized or fraudulent.

#### 6.23 Prohibited Uses

Telephone Service is intended for the small business customer and may not be resold, used for illegal purpose, for completion of excessive auto-dialed or short duration calls with predictive dialers, or for any use that could harm or interfere with the ability of Westechs or others to use Westechs' network. Additionally, Telephone Service may not be used for purposes including, but not limited to, telemarketing, call center services, medical transcription, facsimile broadcasting, resell purposes, or engineered calling to utilize Telephone Service solely for outbound calling, including utilizing call forwarding or any other calling feature to achieve outbound calling or permitting others to call another person or company so frequently or at such times of the day or in such a manner as to harass, abuse or torment such other person(s) or company including the use of profane or obscene language. Westechs reserves the right to disconnect all Telephone Services without notice for any prohibited transmissions or uses, including the use of the Telephone Service by Client that injuriously affects the efficiency of Westechs' personnel (direct or subcontracted), plant or property and to terminate Telephone Service in the event of violation of the foregoing use restrictions. Client shall be responsible for all charges incurred as a result of fraud, including toll fraud, abuse or unauthorized use of Telephone Service.

#### 6.24 Interference/Hazardous Conditions

Westechs may disable Client's Telephone Service without prior notice if Westechs finds, in its sole judgment, that Client's use of the Service is causing interference to others or Client has moved or tampered or allowed others to tamper with any Equipment. Westechs may also suspend Client's Telephone Service without prior notice if Westechs finds, in its sole judgment, that hazardous conditions exist that would make Client's continued use of the Telephone Service unsafe.

#### 6.25 Call Recording

The Telephone Service offers call recording capability. Recordings will be maintained for up to 30 days and then deleted. Client understands that recording a call without the consent of all participants in that call may be illegal in some states. Client is solely responsible for ensuring compliance with all applicable laws with respect to use of the call recording feature. WESTECHS HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES AND MAKES NO REPRESENTATIONS OF ANY KIND REGARDING THE QUALITY OF ANY RECORDING MADE USING THE CALL RECORDING FEATURE AND SHALL HAVE NO LIABILITY IF THE RECORDING MADE USING THIS FEATURE FAILS OR IS OF POOR QUALITY.

#### 6.26 Incompatible Equipment and Services

Client acknowledges and understands that Telephone Service may not support or be compatible with: (a) non-recommended configurations including but not limited to Equipment not currently certified by Westechs as compatible with Telephone Service; (b) certain non-voice communications equipment, including certain makes or models of alarm and security systems, certain medical monitoring devices, certain fax machines, and certain "dial-up" modems; (c) rotary-dial phone handsets, pulse-dial phone handsets, and models of other voice-related communications equipment such as PBX equipment, answering machines, and traditional Caller ID units. d) casual/dial around (10-10) calling; 976, 900, 700, or 500 number calling; (e) 311, 511, or other x11 calling (other than 411, 611, 711, and 911); and (f) other call types not expressly set forth in Westechs' product literature (e.g., outbound shore-to-ship calling).

#### 6.27 Phone Numbers/Portability

If Client is switching to Telephone Service from another service provider, Client may transfer Client's existing phone numbers (if any) to the Telephone Service, provided that the following conditions apply:

- i. Client requests the phone number transfer when Client places Client's order for the Telephone Service.
- ii. Client provides complete and accurate information, including Client's address, existing phone number and name of Client's current service provider.
- iii. Client's current service provider releases Client's existing phone number, without delay and without imposing non-industry-standard charges on Westechs.
- iv. Transfer of Client's existing phone number to the Telephone Service would not, in Westechs' sole discretion, violate applicable law or Westechs' processes and procedures.

Client acknowledges and agrees that if Client's Equipment is self-installed (where Westechs makes that option available) before the date that the number transfer becomes effective ("Port Effective Date"), Client should keep Client's current phone service until after the Port Effective Date, after which Client will be able both to make and to receive calls using the Telephone Service. Client acknowledges and agrees that to avoid an interruption in telephone service, Client must have the Equipment installed on or before the Port Effective Date. Client's current telephone service for the number that Client is transferring will be disconnected on the Port Effective Date; if Client's Equipment is not yet activated, Client will not have access to Telephone Service. Westechs will provide Client with an estimate of the Port Effective Date at the time of service ordering or via e-mail following Client's completion of the ordering process.

## 7.0 General Terms and Conditions

### 7.1 Non-Exclusivity

This Agreement shall not preclude Westechs from performing Services to others that are competitive.

### 7.2 Proprietary Rights

As between the parties, Westechs will retain all right, title, and interest in and to any software, tools, techniques, and other materials used in connection with providing products and services. As between the parties, Client will retain all right, title, and interest in and to any software, products, documentation, and other materials it supplies.

### 7.3 Confidential Information

Each party ("Receiving Party") agrees that all code, inventions, algorithms, know-how, and ideas and all other business, technical, and financial information it obtains from the other party ("Disclosing Party") are the confidential property of the disclosing party ("Confidential Information" of the Disclosing Party). Except with the consent of the Disclosing Party, the Receiving Party shall hold in confidence and not use or disclose any Confidential Information of the Disclosing Party for at least five (5) years after this Agreement expires or otherwise terminates. The Receiving Party's nondisclosure obligation shall not apply to information it can document: (i) is generally available to the public other than through breach of this Agreement; (ii) is rightfully disclosed to the Receiving Party by a third party; (iii) is independently developed by the Receiving Party without use of any Confidential Information of the Disclosing Party; or (iv) is disclosed pursuant to law or an order requirement, guidance, or request of a court or government authority. Because of the unique and proprietary nature of the Confidential Information, it is understood and agreed that the Disclosing Party's remedies at law for a



breach by the Receiving Party of its obligations under this Section will be in adequate and that the Disclosing Party shall be entitled to equitable relief (including without limitation provisional and permanent injunctive relief and specific performance). Nothing stated herein shall limit any other remedies provided under this Agreement or available to the Disclosing Party at law. Upon expiration or termination of this Agreement for any reason, each party will return all copies of all Confidential Information of the other party in its possession or control.

#### 7.4 Warranty and Disclaimer.

Westechs hereby warrants to Client, and only Client, that all Services shall be performed in a professional and workmanlike manner. Westechs may resell products from multiple manufacturers that include their own product warranties. WESTECHS MAKES NO OTHER WARRANTIES OR REPRESENTATIONS AS TO THE SERVICES RENDERED AND HEREBY DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT. WESTECHS FURTHER DISCLAIMS ANY WARRANTY THAT THE SERVICES WILL SUCCEED IN RESOLVING ANY PROBLEM, OR THAT ANY WORK PRODUCT OF THE SERVICES WILL BE FREE FROM PROGRAM OR HUMAN ERRORS.

#### 7.5 Limitation of Liability

NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT OR OTHERWISE, WESTECHS SHALL NOT BE LIABLE OR OBLIGATED WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT OR UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER LEGAL OR EQUITABLE THEORY: (I) FOR ANY AMOUNTS IN EXCESS IN THE AGGREGATE OF THE FEES PAID TO IT HEREUNDER WITH RESPECT TO THE APPLICABLE SERVICES.

NEITHER PARTY TO THIS AGREEMENT SHALL BE LIABLE OR OBLIGATED WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT OR UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY: (I) FOR ANY MATTER BEYOND ITS REASONABLE CONTROL, OR (ii) FOR ANY INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OR LOST PROFITS.

#### 7.6 Indemnification

Client agrees to indemnify, defend, and hold Westechs harmless from and against any and all damages, fines, penalties, assessments, liabilities, losses, costs and expenses (including attorneys' fees, expert fees and out-of-pocket expenses) in connection with (i) claims asserted by any third party due to or arising out of Client's breach of any provision of this Agreement, (ii) Client's use of the Services, violation of any third-party rights, including any intellectual property rights and/or violation of any applicable laws (including DPL) and/or This Agreement, and (iii) any claim of misuse of the Services, including but not limited to any claim that Client is storing illegal files or data in its Account.

#### 7.7 Miscellaneous

This Agreement is not assignable or transferable by Client without the prior written consent of Westechs; any attempt to do so shall be void. Westechs may assign this Agreement in whole or in part, or subcontract the performance of Services to third parties. Services may be used solely by Client for Client's internal use for Client's own benefit. The parties agree that they are independent contractors and that this Agreement and

relationship between Westechs and Client hereby established do not constitute a joint venture, agency, or contract of employment between them or any other similar relationship. Neither party has the right or authority to assume or create any obligation or responsibility on behalf of the other. Any notice, report, approval, or consent required or permitted hereunder shall be in writing. No failure or delay in exercising any right hereunder will operate as a waiver thereof, nor will any partial exercise of any right or power hereunder preclude further exercise. If any provision of this Agreement shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable. Any waivers or amendments shall be effective only if made in writing. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement. The prevailing party in any action to enforce this Agreement will be entitled to recover its attorney's fees and costs in connection with such action.

#### 7.8 Governing Law and Jurisdiction

This Agreement and all transactions contemplated hereby, shall be governed by, construed, and enforced in accordance with the laws of the State of Texas, excluding that body of law controlling conflicts of law.

#### 7.9 Independent Contractor

Under the Agreement, Westechs shall be an independent contractor. The Agreement shall not be construed as creating a partnership, joint venture, agency or employment relationship, or as granting a franchise under either federal or state law.

#### 7.10 Publicity

Client agrees that Westechs may refer to the name of Client as a customer of Westechs, both internally and in externally published media.

#### 7.11 Venue

The venue of any action under this Agreement shall be in Midland County, Texas.