



TERMS OF SERVICE

These Terms of Service (“**TOS**”) constitute the entire agreement between Valley Electric Association, Inc. (“**Valley Electric**”), Valley Communications, LLC (“**Valley Communications**”) and you on behalf of yourself and any party you represent (“**You**”), as the user of Valley Electric/Valley Communications voice and advanced communications services, collaboration services, and all associated software and hardware or web portals, include the Plan Services (the “**Valley Electric/Valley Communications Services**”).

This TOS regulates Your use of the Plan Services provided by Valley Electric/Valley Communications. These TOS were previously identified as the End User License Agreement and Terms of Service; all references to the “End User License Agreement” or the “EULA TOS” in any Valley Electric/Valley Communications publications, notices, or agreements refer to the TOS as laid out in this document.

Within are important 911 terms related to Your VoIP services. Please review the TOS in its entirety. By activating the Plan Services, you acknowledge that You have read, understood and agree to these terms and conditions.

If any limitations of the Valley Electric/Valley Communications 911 service are unamenable to Your specific needs, you should explore using an alternative means of access to traditional 911 or E911 services or discontinuing the Plan Services.

By subscribing to or using Valley Electric/Valley Communications Services, including any services, features or functionality provided by means of mobile applications, or by downloading, installing, or using any associated software or hardware, you agree to these TOS.

If You do not wish to accept Valley Electric/Valley Communications’ TOS, do not subscribe to or use any Valley Electric/Valley Communications Services or associated software or hardware.

When You accept these TOS by signing up for, subscribing to, downloading and installing any Valley Electric/Valley Communications software or using the Valley Electric/Valley Communications Plan Services, You represent and warrant that:

- (i) You possess the legal right and capacity to enter into the agreement with Valley Electric/Valley Communications and to perform all of Your obligations thereunder;
- (ii) You are of legal age to enter into this Agreement;
- (iii) You possess full power and authority to execute and deliver any agreement documents and to perform all Your obligations appertaining thereto;
- (iv) In accepting on behalf of an organization, You represent that You are authorized to bind that organization, and references to “You” in these TOS expressly includes, without limitation, the entity that You represent; and
- (v) You shall be legally bound by the Agreement.

Any capitalized terms set forth below have the meanings set forth in Section 26 (“Definitions”) below, unless otherwise defined.

1. OPERATION AND LIMITATIONS OF THE VALLEY ELECTRIC/VALLEY COMMUNICATIONS 911 SERVICE

A. Valley Electric/Valley Communications Provides Access to Emergency Calling Services (911).

Valley Electric/Valley Communications furnishes access to emergency calling services, allowing most Valley Electric/Valley Communications Office users to access either basic 911 or Enhanced 911 (E911) service. Your access may differ depending on Your location or the device You are using, and emergency calling services work differently than You may have experienced using traditional wireline or wireless telephones.

It is strongly recommended that You have available an alternate means for placing emergency calls at all times.

Valley Electric/Valley Communications Office users using IP Desk Phones or 911-Enabled Softphones can dial 911 directly from their IP Desk Phones or 911-Enabled Softphones. EMERGENCY CALLS CANNOT BE PLACED USING SOFTPHONES THAT ARE NOT 911-ENABLED. Calls to 911 placed through the Valley Electric/Valley Communications Mobile Application on a smartphone are automatically routed to the native dialer on the smartphone.

If Your wireless service is available, the call will be handled by Your wireless service provider. If Your wireless service is not available, the 911 call cannot be placed. The Valley Electric/Valley Communications Mobile Application cannot place emergency calls over Wi-Fi access. Emergency dialing is not available while using the Valley Electric/Valley Communications Mobile Application on tablets or other mobile devices without a native phone dialer and a wireless service plan.

B. How it Works.

When a Valley Electric/Valley Communications Office user dials 911 on an IP Desk Phone or 911-Enabled Softphone, the Valley Electric/Valley Communications phone number and the Registered Address You have provided is directed to the local emergency center serving Your location. In some areas, emergency operators have access to this information; however, in areas where only basic 911 service is available, the emergency operator answering the call may not have access to Your Valley Electric/Valley Communications telephone number or Your Registered Address.



You should always be prepared to provide the emergency operator with Your Valley Electric/Valley Communications telephone number and Registered Address in the event the call is dropped or disconnected. If You are unable to speak, the emergency operator may be unable to send help to Your location and/or call You back should the call be disconnected. Valley Electric/Valley Communications does not control the emergency operator's ability to receive Your telephone number and Registered Address.

Emergency dialing with Your Office Service does not work in the same way as emergency dialing over traditional phone service. In some cases, 911 calls dialed from Your Valley Electric/Valley Communications Office device cannot be directed to the local emergency response center, and are directed instead to a National Emergency Call Center (the "NECC"). Instances in which that may happen include (but are not limited to) problems validating a Registered Address, a Registered Address that is an international location, or a Registered Address located in an area that is not covered by the landline 911 network.

911 calls that are directed to the NECC may not include Your Valley Electric/Valley Communications telephone number or Your registered address. Trained operators at the NECC will request Your name, location, and telephone number and attempt to reach emergency responders in Your geographical area. Until You give the operator Your phone number and location, the operator may not be able to call You back or dispatch emergency services to Your location if the call is dropped or disconnected.

C. Service limitations.

Valley Electric/Valley Communications 911 service will not function in the event of an Internet or power outage, if You do not have cellular service (on the Valley Electric/Valley Communications Mobile Application), or if Your broadband, ISP, or Valley Electric/Valley Communications Office service is terminated. The Valley Electric/Valley Communications Mobile Application cannot deliver emergency calls over Wi-Fi access. It is possible for network congestion to delay or prevent the completion of a 911 call. Valley Electric/Valley Communications 911 service may be unavailable if You are dialing from a Valley Electric/Valley Communications number that is not a Canadian or United States number.

D. Registering Your Location.

You agree to register with Valley Electric/Valley Communications immediately upon activation of Your Account the address of the physical location where You will use the Valley Electric/Valley Communications Office Service, including individual IP Desk Phones and individual 911-Enabled Softphones. This is Your Registered Address. You agree to accurately register each individual line through the Account Admin Portal or the Customer Portal for the appropriate End User.

If You or Your End Users move a registered device, you agree to update immediately the Registered Address listing the new physical location of the device with Valley Electric/Valley Communications through the Admin Portal or in Your account settings.

You hereby acknowledge that if You fail to update the Registered Address, any 911 calls made from the device may be directed to the wrong emergency response center and fail to transmit Your current location information to emergency responders, delaying Your emergency assistance. It may take up to several hours for the address update to take effect. Customers having more than one line or extension are solely responsible for ensuring that an accurate and Registered Address is maintained and kept updated for each IP Desk Phone and each 911-Enabled Softphone, and that their End Users are aware of the required process for changing the Registered Address.

E. Text-to-911 Services.

In some areas, emergency operators have the ability to receive text messages sent to 911. In areas where the service is available, Your Office Service Permits Emergency SMS messages, also known as Text-to-911, only through the Valley Electric/Valley Communications Mobile Application. Texts to 911 by Valley Electric/Valley Communications Office users operating through the Valley Electric/Valley Communications Office Mobile Application are directed automatically to the native dialer on the mobile phone, allowing You to send the text via Your wireless service provider, if available. If wireless service is not available, the text cannot be sent. Text-to-911 functionality is not available on tablets or other mobile devices that do not have a native phone dialer and a subscription to wireless services.

F. Notification of Employees, Guests, or Other Users.

You agree to notify any employees, guests, contractors, or persons who may place calls using the Office Services or who may be present at the physical location where the Office Services may be utilized, of the limitations of Valley Electric/Valley Communications 911 Service from Your Valley Electric/Valley Communications Office IP phone, other equipment, or the Valley Electric/Valley Communications Softphone. You agree to affix a Valley Electric/Valley Communications provided sticker warning that 911 services may be unavailable or limited, in a readily visible place on each item of equipment that might be used to use or access the Office Services. You and Your End Users should at all times have an alternative means to place 911 calls and/or send text messages to 911.

G. Disclaimer of Liability for Emergency Response.

You acknowledge and agree that Your use, and any use by Your employees and/or guests or third parties, of Valley Electric/Valley Communications 911 Services and Text-to-911 Services is subject to the limitations set forth herein.

The availability of certain features, such as the transmission of a Registered Address or Your Valley Electric/Valley Communications telephone number, depends on the support of those features by local emergency response centers, and other factors outside of Valley Electric/Valley Communications control. Valley Electric/Valley Communications relies on third-party assistance in the routing of 911 calls and text messages to local emergency response centers and to the NECC.



Valley Electric/Valley Communications does not have control over the NECC, local emergency response centers, emergency responders, or other third parties. Valley Electric/Valley Communications disclaims any and all responsibility for the conduct of the NECC, local emergency response centers, and all other third parties involved in providing emergency response services. In accordance, to the extent permitted by applicable Law, You hereby release, discharge, and hold harmless Valley Electric/Valley Communications from and against any and all liability arising from or relating to any acts or omissions of such third parties or other parties involved in the handling of or response to any 911 or emergency call.

You agree to indemnify and hold harmless Valley Electric/Valley Communications, and any third-party provider(s) from any and all third-party claims, losses, damages, fines, or penalties arising from:

- (i) Your provision to Valley Electric/Valley Communications of incorrect information, including physical addresses, or Your failure to keep current Your Registered Address;
- (ii) Your failure to adequately notify of the 911 limitations any person who may place calls using the Office Services; or
- (iii) the absence, failure, or outage of emergency service dialing using Office Services for any reason; and (iv) the inability of any user of Office Services to dial 911 or access emergency service personnel for any reason.

2. PLAN SUBSCRIPTION

A. Purchase of Plan Services

Pursuant to these TOS, you are purchasing a subscription for the Plan Services as set forth in Your initial order, and agreeing to use and pay for the same as outlined in these TOS for the entirety of the period in the initial order (the "Initial Term"), in addition to any Renewal Terms. You hereby acknowledge Your financial responsibility for Your use of the Plan Services, including any and all authorized or unauthorized use of Your Account. In order to use the Plan Services, you must obtain properly configured and working broadband connection or Internet services as set forth in Section 13(C), below. Valley Electric/Valley Communications does not provide any access to the Internet.

B. Account Registration

Upon subscribing to the Plan Services and at subsequent times as requested by Valley Electric/Valley Communications. You or Your End Users may be required to furnish certain information in order to begin using or to update Plan Services, activate features, or add or modify an individual line(s) or extension (e.g., activating an Account or End User or provisioning a device) ("**Registration Information**").

You hereby grant to Valley Electric/Valley Communications permission and a perpetual, worldwide, royalty-free, non-exclusive, fully paid-up, non-transferable right and license to copy, reproduce, record, store, disclose, display, transmit, access, and use Registration Information in connection with the activation, provision, support, improvement, management or administration of Your Plan Services, as set forth in these TOS or otherwise permitted by Law.

You hereby represent and warrant that all Registration Information provided to Valley Electric/Valley Communications by or on behalf of You or any End User will be true, accurate, up-to-date, and complete, and that You will promptly confirm, update, or supplement Registration Information on file in the event that Valley Electric/Valley Communications requests such Registration Information or that such Registration Information changes.

C. Account Administrators

You are responsible for designating Account Administrator(s) of Your Plan Services. The End User(s) you designate as Account Administrators will have rights to choose or modify the settings or preferences of other End Users of Your Account. You are responsible for any and all acts and omissions by Your Account Administrators, and any other End Users, including any and all changes or purchases such individuals may make to Your Account.

D. Purchase of Additional Digital Lines

Your Plan Services may include Digital Lines as set forth in the applicable Order. Your Account Administrators may purchase additional Digital Lines for Your Account at any time by placing an Order through the Account's Admin Portal or by contacting the Valley Electric/Valley Communications account representative for that Account. Any and all additional Digital Lines existing on or added to Your Account are subject to these TOS. The Term of the additional Digital Lines shall run conterminously with the Term of Your initial purchase (renewed either monthly or annually, as applicable).

E. Term and Automatic Renewal

Your license for the Plan Services is provided for the Initial Term as contracted. The Initial Term for all Service plans will renew automatically for successive terms ("Renewal Terms") of the same length without further notice to or action by You unless You notify Valley Electric/Valley Communications customer service of non-renewal no fewer than thirty (30) days before the end of the Initial Term or current Renewal Term. The Initial Term together with any and all Renewal Terms shall be collectively referred to as the "**Term**".

F. Equipment

Any and all IP Desk phones and/or equipment associated with IP Desk phones, including but not limited to, headsets, handsets, software installed on or related to those devices, and any other product(s) directly associated with IP devices, shall be provided to the Valley Electric/Valley Communications customer by a third-party vendor. The terms and conditions governing any equipment, including but not limited to purchases, returns, exchanges, and warranties, may be updated by the third-party vendor(s) at any time with or without notice to You.



3. END USER LICENSE AND RESTRICTIONS

A. Limited License.

Valley Electric/Valley Communications grants You and Your End Users a limited, personal, non-exclusive, revocable, non-sub-licensable, non-assignable, non-resalable, non-transferable license to use the software and hardware furnished in conjunction with the Plan Services during the Term with strict adherence to these TOS and solely for Your own internal business use. In the event of expiration or termination of Your subscription to Valley Electric/Valley Communications services or termination of these terms of service, all license rights granted herein or in connection with any and all software or hardware shall terminate immediately. Any IP Rights included in the Plan Services or in any technology used in the delivery thereof are and shall remain the sole and exclusive property of Valley Electric/Valley Communications and its licensors.

Valley Electric/Valley Communications and its licensors reserve and retain all rights not expressly granted herein. No IP Rights or any other rights or licenses are granted, assigned, or transferred to You, any End User(s), or any third party by implication, estoppel, or otherwise. You acknowledge that any misuse of the Plan Services may violate the IP Rights of third parties in the software and/or hardware provided in connection with the Plan Services. You may not use or disclose any Intellectual Property or IP Rights in the Plan Services or use or disclose any hardware or software related to the same except as expressly contemplated by this section.

B. Valley Electric/Valley Communications IP Rights.

You agree that all rights, title and interest in and to any and all Intellectual Property within the Plan Services, any software and/or hardware used in conjunction with the Plan Services, and any materials provided in association with the Plan Services are owned exclusively by Valley Electric/Valley Communications or their licensors. Excepting the express provisions herein, the limited license contracted to You under the Plan Services does not convey any rights of ownership, nor any other rights, express or implicit, in the Plan Services, any materials provided in conjunction with Plan Services, or in any Intellectual Property.

C. Use and Disclosure of Intellectual Property.

You represent, warrant, covenant and agree that You shall not disclose or use any of the Intellectual Property in the Plan Services, any hardware or software used in combination with the Plan Services, or any promotional materials for any purpose during the tenure of or following termination of the Plan Services or the limited license granted thereunder to use the Plan Services.

D. New Versions of the Software

Valley Electric/Valley Communications, in its sole discretion, reserves the right to add, modify or remove functions or features, and to provide fixes, updates and upgrades to the Plan Services without providing You notification. You acknowledge and agree that Valley Electric/Valley Communications has no obligation to provide You any subsequent versions of the Plan Services; provided, however, Valley Electric/Valley Communications shall make available to You any such functions, features, upgrades and updates and subsequent versions of the Plan Services that Valley Electric/Valley Communications makes generally available at no additional charge to customers who subscribe to the same edition of the Plan Services purchased by You.

In addition, You and Valley Electric/Valley Communications acknowledge that no third party has any obligation whatsoever to supply maintenance or support services in regard to the Plan Services and that Valley Electric/Valley Communications is solely responsible for the provision of maintenance and support as set forth in these TOS and to the extent that such maintenance and support is required under applicable Law.

4. CUSTOMER SECURITY POLICY

A. Password Information Security

You agree that You are responsible for any and all Password Information that You or any End User utilize with the Plan Services. You further agree to make certain that all such Password Information:

- (i) shall immediately be changed in the instance that You or Your End Users discover, are notified that or suspect that any Account Security Incident has occurred;
- (ii) shall not be transmitted or stored in any insecure manner (including, without limitation, via any auto-storage, caching, "remember," or auto-fill feature); and
- (iii) shall be safeguarded from theft or unauthorized access, use, or disclosure with a reasonable degree of care and diligence.

B. End-Point Security

You agree to protect all End Points using generally accepted security measures or better, including without limitation:

- (i) highly secure passwords or other credentials;
- (ii) network segmentation and access restrictions using an accurate and current access control list;
- (iii) session time-out and/or locking screen-saver features; and
- (iv) the use of an effective and current firewall for any and all networks to or through which any End Point might connect

YOU HEREBY ACKNOWLEDGE AND AGREE THAT THESE REQUIREMENTS APPLY TO IP DESK PHONES, WHICH USE THE SAME CONNECTIVITY-AND ARE SUBJECT TO THE SAME SECURITY RISKS-AS COMPUTERS.



C. Update of Security Features

You acknowledge that certain Plan Services security features may require activation or installation of software and/or firmware updates and that software may be de-activated or uninstalled. You agree to download and install in a prompt manner all updates to software and/or hardware or firmware used in conjunction with Plan Services, and to ensure the activation and use of any and all features that are necessary or appropriate to safeguard the Accounts, Users, End Users, or the assets and operations of Your organization. You acknowledge and agree that if You fail to install updates, this may result in diminished and unstable functionality of the Plan Services.

D. Account and End User Management

You acknowledge and agree that any End Users You designate as Account Administrators have the ability to initiate and complete transactions on Your behalf and/or to perform acts in connection with Your Plan Services, or Your Account, including any individual line(s), extension(s), or ancillary service(s), which may significantly affect You or the operation of Your Plan Services, including without limitation removing, modifying, or adding numbers or extensions assigned to any Account; payment method(s); modifications to software or hardware; adding, removing, or modifying ancillary services; and/or modifying settings.

You are responsible for any and all such changes made to Your account. You agree to maintain sole, exclusive and continuous control over Your Plan Services or Your Account and to ensure that all Account rights, permissions, and settings, and all use and Usage, are effectively managed as required to prevent any unauthorized Usage of, access to, or transaction or activity through or relating to the Plan Services, including, without limitation, implementation of the following measures and practices:

- (i) Disable international calling and/or calling to Alaska, Hawaii, and/or Puerto Rico for all lines and/or extensions for which such calls are unnecessary or unauthorized;
- (ii) Restrict international calling destinations to those that are necessary and authorized;
- (iii) Block inbound calls from any caller IDs and area codes from which You do not wish Users to receive calls and block inbound calls with no caller ID if appropriate;
- (iv) Disable calling card feature for any Account for which such feature is unnecessary;
- (v) Disable attachment of facsimile image and/or audio files to message notification emails associated with Your Account and/or individual numbers or lines for which such functionality is not necessary and to the extent that such files may include sensitive or confidential content;
- (vi) Regularly monitor, review, and analyze End User calling and other Account activity;
- (vii) Promptly notify Valley Electric/Valley Communications of any Account Security Incident and provide any and all reasonable information and cooperation requested by Valley Electric/Valley Communications when responding to any Account Security Incident; and
- (viii) Implement and train all End Users in accordance with general security controls and practices, as necessary to ensure Your compliance with this "Customer Security Policy" section.

5. SERVICE AND PROMOTIONAL COMMUNICATIONS AND PUBLICATIONS

A. Erroneous Product Information

In its advertising, marketing, offering, and sale of Plan Services, Valley Electric/Valley Communications attempts to explain the Plan Services as accurately as possible. Nevertheless, Valley Electric/Valley Communications does not warrant that any such information about Plan Services, including any related software and hardware, is accurate, reliable, current, complete, or error-free. It is possible that such may be out-of-date or inaccurate, such as listing erroneous or outdated pricing information or references to features or services that are no longer available. Such information is furnished solely for customers' convenience and does not constitute part of these TOS, any agreement for purchase of the Plan Services, or any other agreement with Valley Electric/Valley Communications.

B. Valley Electric/Valley Communications

You agree that Valley Electric/Valley Communications may send, or have sent, to You, Account Administrators, contacts, and/or End Users certain Service Communications and Marketing Communications. Valley Electric/Valley Communications shall not send any Marketing Communications to You or, or Your Users without first providing notification and the right to opt out.

You hereby consent to Valley Electric/Valley Communications' dissemination of Service and Marketing Communications in accordance with this Sub-Section 5(B) entitled "Valley Electric/Valley Communications". In such event that You or any End User provides Valley Electric/Valley Communications with any feedback, ideas, comments, answers, or other information in connection with any of the above mentioned communications, you hereby grant Valley Electric/Valley Communications a perpetual, unlimited, irrevocable, worldwide, royalty free, fully paid up right and license to use the same.



C. Directory Listing Service

You acknowledge and agree that in such event that You subscribe to the Valley Electric/Valley Communications directory listing service, any and all information that You may provide in connection with foregoing subscription:

- (i) may be used or reproduced by, or disclosed to, third parties and otherwise made available to the public,
- (ii) Valley Electric/Valley Communications may not be able to remove, alter, update, or correct such information or listing, and
- (iii) You and End Users may receive calls, mailings, messages, and other communications from third parties as a result of Your participation in the Valley Electric/Valley Communications' directory listing service. You represent and warrant that all information provided by You or any End User relating to any subscription to the Valley Electric/Valley Communications directory listing service shall be true, accurate, and current and that You shall immediately update any such information in the event that it becomes inaccurate or changes. You hereby authorize and grant Valley Electric/Valley Communications a worldwide, non-exclusive, irrevocable, royalty-free, fully paid-up license to use, disclose, publish, transmit, or publicize, in any medium or technology now or hereafter available, all information that You furnish in connection with subscribing to, participating in, or using the Valley Electric/Valley Communications directory listing service. You hereby discharge, release, and hold harmless Valley Electric/Valley Communications from and against any and all liability relating to or arising from any release or publication of information in connection with Your subscription to the Valley Electric/Valley Communications directory listing service and any third party's use of the same.

D. Promotional Services

You acknowledge and agree that in such event that Valley Electric/Valley Communications offers or furnishes You with discounts or promotional services in relation to Your Plan Services or an Account, Valley Electric/Valley Communications may terminate or alter the scope of such services at any time without prior notice, unless Valley Electric/Valley Communications specifically provides written agreement otherwise in connection with its provision of aforementioned discounts or promotional services.

6. ACCEPTABLE USE POLICY

A. High Risk Use

YOU ACKNOWLEDGE THAT YOUR PLAN SERVICES ARE NOT DESIGNED, INTENDED, MANUFACTURED, OR RECOMMENDED FOR USE FOR ANY HIGH-RISK OR FAIL-SAFE PURPOSE OR ACTIVITY OR IN ANY ENVIRONMENT IN WHICH FAILURE, INTERRUPTION, ERROR, MALFUNCTION, OR UNAVAILABILITY COULD RESULT IN SUBSTANTIAL LIABILITY OR DAMAGES, PHYSICAL HARM OR PERSONAL INJURY, DEATH OR DISMEMBERMENT, OR DAMAGE TO PROPERTY OR ENVIRONMENT. YOU HEREBY REPRESENT AND WARRANT THAT YOU AND ANY END USERS WILL NOT USE THE PLAN SERVICES FOR ANY SUCH PURPOSE OR ACTIVITY OR IN ANY SUCH ENVIRONMENT.

B. Customer Legal Compliance

You represent and warrant that all use and usage of the Plan Services and Account(s) will comply at all times with all applicable Laws, including but not limited to the rules, regulations and policies of the Federal Communications Commission ("FCC"), and all Laws relating to telemarketing; Do-Not-Call provisions; unsolicited marketing; faxing; email marketing; telemarketing; spamming or phishing; data security or privacy; account or debt collection; international communications; recording of calls or conversations; export of technical or personal data; export control; end user, end-use, and destination restrictions enacted by the United States or foreign governments; trade practices; consumer protection; false advertising; pornography; unfair competition; harassment; defamation; anti-discrimination; intellectual property; or securities.

C. Unsolicited Advertisements and TCPA Compliance

Certain telecommunication practices-including without limitation, the placing of unsolicited calls; the sending of unsolicited facsimile, internet facsimile, SMS, or other messages; the placing of commercial messages; and the use of certain automated equipment to place certain calls-are regulated in the United States by the Federal Telephone Consumer Protection Act of 1991 (also known as the "TCPA") (available at <http://www.fcc.gov/document/telephone-consumer-protection-act-1991M>), the Junk Fax Prevention Act of 2005, and under numerous related state, municipal or local laws, codes, regulations, rules and ordinances.

You agree, represent and warrant that:

- (i) You are the creator of the content, and are solely responsible for determining all destination(s) and recipient(s), of any and all outbound communications conducted using Your Plan Services ("**Customer Communication**");
- (ii) All content, communications, information, data, files, and other content furnished for transmission through Your Account and Office Plan, or the Plan Services, shall be provided solely for lawful purposes, and in no event shall any Customer Communication or any content thereof be in breach of the TCPA, Junk Fax Prevention Act, or any other Law; and
- (iii) No unsolicited commercial messages, advertisements, marketing or promotional materials, solicitations, or commercial messages or content shall be transmitted or distributed in the form of facsimiles or internet facsimiles via the Plan Services.

At Valley Electric/Valley Communications' sole discretion and without further notice, Valley Electric/Valley Communications may utilize technologies and procedures, including without limitation, filters that may terminate or block such unsolicited advertisements without delivering them. You hereby agree to indemnify and hold harmless Valley Electric/Valley Communications, and any third-party provider(s) from any and all third-party claims, damages, fines, losses, or penalties arising:



- (i) out of Your violation or alleged violation of the TCPA or Junk Fax Prevention Act or any similar Law or regulation; or
- (ii) otherwise related to any voicemail, text, and/or fax spam, commercial messages or solicitations that You may send and/or receive while using the Plan Services.

D. Export Restrictions

You hereby acknowledge and agree that any software and/or hardware used in conjunction with Your Plan Services may be subject to Canadian, United States and other foreign Laws and regulations governing any export, re-export, and/or transfer of software either by physical or electronic means. You agree, represent, covenant, and warrant that:

Neither You nor any User (nor any person or entity that controls You or any User):

- (i) is located in an Embargoed Area or enumerated on any Export Control List or
- (ii) will export or re-export any Valley Electric/Valley Communications software or hardware into any Embargoed Area or to any organization, person, or entity on any Export Control List, or to any person, organization, or entity subject to economic sanctions owing to ownership or control by any such person, organization, or entity, without prior authorization by license, license exception, or license exemption; and
- (iii) the Plan Services and Valley Electric/Valley Communications software and/or hardware will not be Used or accessed from any Embargoed Area.

E. Recording Conversations or Calls

Certain features or functions of the Plan Services may permit You or users of Your Plan Services to record calls or other communications. The notification and consent requirements pertaining to the recording of calls and other communications may vary by state, municipality, locality and/or country. You should consult an attorney prior to recording any call as some governments may require callers or users to obtain prior consent from all parties to any recorded call, or other communication, before the caller or User may record the call, or other communication.

You hereby represent, covenant, and warrant that You will examine all applicable Laws before You use or permit use of the Plan Services to record any calls or other communications and shall at all times comply with all applicable Laws. You hereby agree to advise all users of Your Account that they are obligated to comply with all Laws pertaining to the use of the call recording feature. Violations of call recording Laws may be subject to criminal or civil penalties.

Valley Electric/Valley Communications expressly disclaims all liability with regards to Your recording of telephone conversations and other communications that fall under Laws pertaining to the recording thereof. You agree to indemnify and hold harmless Valley Electric/Valley Communications, and any third party provider(s) from any and all third-party claims, damages, fines, losses, or penalties arising from Your violation or alleged violation of any communication recording Laws. Valley Electric/Valley Communications disclaims all liability and all warranties with respect to recording of calls and/or conversations.

F. Prohibited Use of the Plan Services.

Neither You nor any Plan Services User may use or allow use of Your Plan Services in any of the following ways:

- (i) in any manner or for any purpose that is deceptive, fraudulent, dishonest, malicious, abusive, threatening, harassing, obscene, tortious, improper, libelous, slanderous, defamatory, or in violation of any Law;
- (ii) to intentionally send or transmit unsolicited or "spam" or "junk" advertisements, messages (commercial or otherwise), or communications without consent, including without limitation through email, SMS, voicemail, facsimile, or internet facsimile;
- (iii) to harvest or otherwise collect information regarding others, including without limitation email addresses or personally-identifiable information, absent their consent;
- (iv) to intentionally engage in broadcasting or blasting bulk communications, messages (e.g. sending numerous messages simultaneously), or advertisements, including without limitation through email, SMS, voicemail, facsimile, or internet facsimile;
- (v) to carry out auto-dialing or "predictive" dialing (i.e., non-manual dialing or using a software program or other means to continuously dial or place outbound calls) in violation of applicable Law;
- (vi) to transmit any communication in violation of any applicable Law, including but not limited to the Telephone Consumer Protection Act, the Junk Fax Prevention Act of 2005, the rules governing the Do Not Call Registry, Canadian Unsolicited Telecommunications Rules, or any other applicable Law.
- (vii) to intentionally transmit or store any material that contains viruses, Trojan horses, worms, time bombs, malware, spyware, or any other programs, applications or materials that may be harmful or dangerous;
- (viii) to transmit misleading or inaccurate caller ID information with the intent to cause harm, defraud, or wrongfully obtain anything of value, including by creating a false Caller ID identity or a forged email/SMS header or address, or by otherwise attempting to misinform others as to the identity of the sender or as to the origin of any outbound Customer Communication;
- (ix) to infringe, misappropriate, or otherwise violate the foreign or domestic Intellectual Property Right or proprietary right of any party, including without limitation by transmitting or storing any material that might infringe upon, misappropriate, or violate otherwise any such right;
- (x) to violate the right of privacy, publicity or personality of any party, including without limitation by transmitting or storing any material that might violate any such right;
- (xi) to violate any Law regarding the transmission of information or software or technical data through the Plan Services;



- (xii) in any manner that interferes with Valley Electric/Valley Communications' ability to provide a high level of products or services to other customers;
- (xiii) to store PHI; or if You qualify as a "covered entity," "business associate," or "subcontractor" under HIPAA (or similar terms under similar legislation in other jurisdictions) or if you are otherwise subject to HIPAA, to transmit, receive, or store PHI without the Valley Electric/Valley Communications "Communications HIPAA Conduit" setting being active and in effect. A breach of obligations in this Section constitutes a material breach of these Terms of Service or Your Office Agreement, as applicable, such that Valley Electric/Valley Communications may terminate the Agreement immediately, suspend service, or take any other action Valley Electric/Valley Communications deems necessary to enforce the terms of this Section;

G. Prohibited Acts.

You represent, covenant, warrant, and agree that neither You nor any End User(s) shall do any of the following during the Term:

- (i) transmit, upload, distribute in any way, or store any corrupted file or material that contains worms, time bombs, Trojan horses, viruses, malware, spyware, or any other programs or materials that may be harmful or dangerous or may impair the operation of the Plan Services or another party's computers, devices, equipment, systems, or networks;
- (ii) take advantage of, exploit, bypass, or otherwise avoid Your obligations or the provisions, prohibitions, and restrictions set forth in this Section 6, or attempt to do so;
- (iii) interfere with or otherwise disrupt networks or systems connected to the Plan Services;
- (iv) sell; resell; distribute; lease; import; export; or otherwise grant or purport to grant rights to third parties with regard to the Plan Services, and any hardware or software used in conjunction with the Plan Services or any part thereof without Valley Electric/Valley Communications prior written consent;
- (v) display or use of any Valley Electric/Valley Communications Mark in any manner in violation of Valley Electric/Valley Communications then-current policies concerning its trademark and logo usage or without Valley Electric/Valley Communications express, prior written permission, to be granted or denied in Valley Electric/Valley Communications sole discretion,
- (vi) display or use of any Third Party Mark without obtaining the prior, written consent of the owner of the Third Party Mark;
- (vii) undertake, direct, cause, attempt, permit, or authorize the modification, creation of derivative works, translation, decompiling, disassembling, hacking, or reverse engineering of the Plan Services or any software and/or hardware used in conjunction with the Plan Services, or parts thereof;
- (viii) disable, circumvent, or defeat any protection mechanism in relation to the Plan Services;
- (ix) capture, sniff, intercept, emulate, monitor, modify, decrypt, or redirect any communication or data used by Valley Electric/Valley Communications for any reason, including without limitation by causing any product to connect to any computer server or any other device not authorized by Valley Electric/Valley Communications or in any manner without obtaining prior written authorization by Valley Electric/Valley Communications;
- (x) permit any service provider or other third party- with the sole exception of Valley Electric/Valley Communications authorized maintenance providers acting with the express, prior authorization of Valley Electric/Valley Communications -to use or execute any software commands that facilitate the repair or maintenance of any software or hardware used in combination with the Plan Services;
- (xi) gain access to or use (or attempt to gain access to or use) any account, plan, device, network, or system in any unauthorized manner (including, without limitation, through password mining);
- (xii) engage in or allow trunking or forwarding of Your Valley Electric/Valley Communications telephone or facsimile number to (an)other number(s) with the capability to handle multiple simultaneous calls, or to a private branch exchange (PBX) or key system; or
- (xiii) violate or take any action to limit, jeopardize, or interfere with Valley Electric/Valley Communications' IP Rights, including without limitation their IP Rights in any and all software and hardware used in conjunction with the Plan Services.

Any breach of the obligations outlined in this Section constitutes a material breach of these TOS or Your Office Agreement, as applicable, such that Valley Electric/Valley Communications may suspend service, terminate Your Agreement immediately, or take any other action Valley Electric/Valley Communications deems necessary to enforce the terms of this Section.

7. CHARGES AND PLAN CREDITS

All prices, surcharges, fees, and Taxes are subject to change at any time. You are solely responsible for paying all charges in respect to Your Account, including but not limited to local, long distance, toll -free, international minutes, 411 and operator assisted charges, directory assistance charges, additional feature charges, and for all surcharges, fees, and Taxes imposed on You or us arising from of Your use of the Plan Service.

Customers with a past-due balance on previous or multiple accounts shall be charged the full balance of said account(s) upon opening a new account or updating the payment information on file. Valley Electric/Valley Communications additionally reserves the right to charge termination and transfer fees in accordance with the terms and conditions and as set forth in these TOS.

A. Charges and Plan Credits

Valley Electric/Valley Communications offers a number of different Plan options for Plan Service. You may modify Your Plan Service plan at any time; however, a processing fee of ten dollars (\$10) may apply when "downgrading" an existing plan to a plan with lower fees (e.g. a plan with fewer minutes). Additionally, certain plans may entitle You to certain discounts on equipment used in conjunction with Valley Electric/Valley Communications Plan Service.

If You receive any equipment discounts concomitant with a Plan Service plan and subsequently change Your plan to one under which that equipment is not discounted, you agree to reimburse Valley Electric/Valley Communications, and hereby authorize Valley Electric/Valley Communications to charge Your credit card on file, or invoice You, as applicable, for any such equipment discounts.



B. Service Availability

You hereby acknowledge and agree that the products or services you are purchasing, including without limitation the Plan Services, may not be accessible one hundred percent (100%) of the time. Credit allowances for interruption to the Plan Services may only be provided on a case-by-case basis and at the sole discretion of Valley Electric/Valley Communications and shall be Your sole remedy for any interruptions to Your Plan Services or other concerns with the Plan Services.

C. Plan Credits and Minutes

Valley Electric/Valley Communications offers several different plans for its products and services. Some of Valley Electric/Valley Communications' s plans provide for a fixed monthly quantity of usage minutes ("**Plan Credits**"). If You exceed Your monthly allotment of Plan Credits during the course of a Service month, you may purchase supplementary **Plan Credits** as needed. Valley Electric/Valley Communications may also furnish You with certain bonus credit minutes and/or certain other promotional incentives upon fulfillment of all applicable requirements in respect to such promotions.

All Plan Credits are quoted in terms of domestic minute usage, and Plan Credits may be referred to on the Valley Electric/Valley Communications website or by a Valley Electric/Valley Communications Customer service representative as "minutes". As set forth below, international calling may be billed at a different rate than domestic calling, and a Plan Credit "minute" therefore shall not entitle You to a minute of international calling ("**International Minutes**").

D. Metered Calling Plans

Valley Electric/Valley Communications offers a number of monthly metered plans for certain products and services. Each metered calling plan furnishes You with a toll-free or local telephone number and a fixed quantity of Plan Credits each month for a monthly fee, not including surcharges, fees, and Taxes. When You consume Your initial allotment of paid Plan Credits for Your metered plan, Valley Electric/Valley Communications will automatically bill Your Account for the minimum available bundle of Plan Credits for the applicable service unless You advise Valley Electric/Valley Communications otherwise in writing.

Additional minute usage shall be debited at the applicable per-minute rate(s) offered for Your metered plan. However, in certain limited instances, calls placed within a metered plan may not be counted against Your monthly Plan Credits allotment (e.g. calls answered on the Valley Electric/Valley Communications Softphone or local calls to leave or check voicemail). Please check the specifics of Your metered plan to establish which calls (if any) are not calculated against Your monthly minute allotment. For international calling, international rates shall apply.

E. Unlimited Plan

Valley Electric/Valley Communications offers unlimited monthly plans for certain of its products and services. An unlimited plan furnishes You with a local or toll-free telephone number and is subject to the terms and restrictions set forth in these TOS. If, for any reason, Valley Electric/Valley Communications believes or suspects that Your usage of the unlimited plan and services violates these TOS, then Valley Electric/Valley Communications may, in its sole discretion either with or without notice, either terminate Your unlimited plan or convert Your unlimited plan immediately to a metered plan, as set forth above.

F. Value, Ownership, and Expiration of Credits or Minutes

In no event shall any Toll-Free Minute, Billing Credit, Plan Credit, International Minute Credit, or any other type of minute or credit issued to You or applied to an Account possess any monetary value or be commutable or exchanged for cash. Account Credits may be applied exclusively to the Account for which they were purchased and/or provided, and may not be transferred, assigned, sold, or applied to any other Account, customer, account, or plan. Credited Toll-Free Minutes not applied to Usage of the affiliated Account during the monthly billing cycle for which they are credited shall expire upon the end of such cycle and shall in no instance be available for application (or "roll over") to Usage occurring during any other period. Any other Account Credits shall expire according to the terms of their purchase or provision.

G. Discounts

Occasionally in its sole discretion, Valley Electric/Valley Communications may offer promotions or discounts. Any promotion or discount codes must be provided to Valley Electric/Valley Communications upon purchase of the Plan Services. You are not entitled to any subsequent credit for any promotions or discounts if You fail to request credit for the promotion or discount at the time of Account creation or a change of service. Promotions and/or discounts may not be retroactively or cumulatively.

8. BILLING AND PAYMENT

A. Plan Services Fees.

The initial order sets forth the base recurring fees for Your Plan Services and the number of minutes of inbound Usage of any toll-free number(s) assigned to any Account(s) included in the Plan Services Fees associated with each monthly billing cycle. Any applicable initiation charges, monthly recurring charges, support charges, Usage, Taxes, and other fees are billed fully and in advance. International minutes, equipment return fees, termination, and transfer charges, if any, are billed in arrears. Upon termination of Your Account for any reason, any unused Plan Credits and/or unused International Minutes shall, in their entirety, expire on the termination date. No transfer, proration, or refund shall be made of any unused Plan Credits, International Minutes, Promotional Credits, or any other credits to Your Account.



B. Taxes and Fees.

All fees for Services advertised or otherwise listed on the Valley Electric/Valley Communications website are exclusive of any Taxes. You agree to pay any and all Taxes and similar liabilities that may now or henceforth be levied upon Your Plan Services and any related software or hardware by any local, state, federal, or international Law or regulation, as well as any administrative and/or recovery fees and/or charges levied on the Plan Services by Valley Electric/Valley Communications, whether or not mandated by law or regulation.

Should Valley Electric/Valley Communications pay or be required to pay such liabilities (including any Taxes due but not charged or previously collected), You agree that Valley Electric/Valley Communications may charge Your credit card or invoice You, as applicable, for such payments on receipt of an invoice and establishment of indebtedness to Valley Electric/Valley Communications.

C. Billing for Mid-Year Transactions

In such event that any transaction, purchase, or event resulting in or involving an annually-incurred Plan Services Amount occurs after the beginning of an annual billing cycle, Valley Electric/Valley Communications may bill You a pro-rated amount at that time for the remainder of the then current cycle and thereafter bill You conterminously with each subsequent cycle.

D. Late Fees

You agree and acknowledge that payment of all fees and charges shall be completed in a timely manner. Any fees or charges not paid by the time due shall incur interest at a rate of the lesser of: (i) eighteen percent (18%) per annum; or (ii) the highest rate allowed by Law. Valley Electric/Valley Communications' acceptance of late or partial payments (regardless of marking or designation (including without limitation "Paid in Full," "Accord and Satisfaction," or similarly, shall not limit, waive, or prejudice in any way Valley Electric/Valley Communications rights to collect any amount due. Valley Electric/Valley Communications may terminate the Plan Services for non-payment if any fees or charges are not paid within thirty (30) days of their due date.

E. Form of Payment

All fees and charges are payable to Valley Electric/Valley Communications by check or credit or debit card. You agree to be liable for a processing fee in the amount of the lesser of:

- (i) fifty dollars (\$50.00); or
- (ii) the highest amount allowed by Law for any credit card chargeback or check, bank draft or other payment returned for nonpayment or any other reason.

When You subscribe to Plan Services, you shall provide us with a payment method, such as a valid credit card or invoicing information (if You are pre-approved by Valley Electric/Valley Communications in its sole discretion to be billed via invoice), and, if applicable, hereby authorize us to collect from the payment method You provided. Any authorization to charge a provided credit card shall remain valid until thirty (30) days after You withdraw authorization, or immediately upon provision of a valid replacement credit card.

Upon termination of this Agreement, we will charge You for any fees and other outstanding charges and disconnect Your service. You agree to notify and advise us of any changes with respect to Your payment method, such as credit card account number(s) or expiration date changes. If the credit card or other payment method on Your Account is declined or fails for any reason, Valley Electric/Valley Communications shall use reasonable efforts to contact You and advise You of the failed billing attempts.

Notwithstanding the foregoing, Valley Electric/Valley Communications reserves the right to sever Your Service and terminate Your Account if Your payment method fails for any reason, or is declined, or if You withdraw authorization to charge a valid credit and fail to provide an alternative payment method, and Valley Electric/Valley Communications reserves the right to continue attempts to charge Your credit card for any outstanding Service charges and additional fees as well as pursue any other legal remedies available to Valley Electric/Valley Communications.

F. Disputed Amounts

You shall waive the right to dispute any billed amount if You fail to dispute such amount within thirty (30) days of the date of the amount's billing. In the event that You dispute a billed amount within the allotted time and Valley Electric/Valley Communications confirms that You were over-billed, Valley Electric/Valley Communications shall credit the applicable Account in the amount of Your over-billing ("Billing Credits"). Billing Credits shall be Valley Electric/Valley Communications sole and exclusive obligation and Your sole and exclusive remedy in the event of any erroneous billing.

Notwithstanding the above mentioned, if You request that Your bank or credit card company perform a chargeback or decline to process a payment without first contacting Valley Electric/Valley Communications to dispute the charge, and Valley Electric/Valley Communications subsequently determines that the charges in question are not erroneous, Valley Electric/Valley Communications reserves the right to terminate Your Account immediately and pursue any available legal action.

You retain sole liability for any transactions or usage on Your Account, whether by You, any End User(s), or any other user of Your Plan Services, and Valley Electric/Valley Communications shall in no event be liable for any unauthorized use of Your Account.



9. TREATMENT OF CUSTOMER COMMUNICATIONS, CONTENT, AND ACCOUNT DATA

A. Passive Conduit Role

The Parties hereby acknowledge and agree that:

- (i) Valley Electric/Valley Communications role in regards to Customer Communications and any contents thereof shall be that of a passive conduit; and
- (ii) Any storage of Customer Communications and/or Account Data by Valley Electric/Valley Communications shall merely be performed as a convenience to You and as a complement to and incidental to Valley Electric/Valley Communications core data transmission function.

B. Disclaimer of Data Storage Responsibilities

You acknowledge and agree that:

- (i) Valley Electric/Valley Communications is under no obligation to store, back-up, retain, or ensure availability of any stored Account Data and/or Customer Communications;
- (ii) to the extent that You wish to preserve any Account Data or other information concerning Your Plan Services, any Account, or the use thereof, You shall confirm that such information is saved, backed up, and/or downloaded outside of Your Plan Services Account, as appropriate or necessary for the purposes of You and/or the End Users;
- (iii) You shall not rely on Your Plan Services or Account as a repository for or means by which to back up, store, or retain Account Data or any other information, data, or materials;
- (iv) Valley Electric/Valley Communications may delete or purge any and all versions and copies of any and all stored Customer Communications and/or Account Data or other information at any time without notice, including without limitation after You delete such information from an Account or following termination of the TOS or closure of an Account; and (v) Valley Electric/Valley Communications may, in its sole discretion and option, without notice, implement reasonable limits in regards to the size or duration of storage of Account Data.

C. Access to Account Data

You and Your End Users may obtain Account Data and any saved Customer Communications with Your login credentials using the relevant Valley Electric/Valley Communications administrative or customer portals. Valley Electric/Valley Communications shall not otherwise provide access to You, Your End Users, or Your agents of stored Customer Communications or Account Data, except as otherwise stipulated in any agreement of the purchase of Valley Electric/Valley Communications Office Services, or these TOS, or as required by Law.

D. Record / Information Gathering and Production

You acknowledge and agree that the performance of any of the following tasks or work by Valley Electric/Valley Communications is not included in the Plan Services, and in no event shall Valley Electric/Valley Communications be obligated under these TOS to execute any of the following tasks or work:

- (i) the access, investigation, gathering, compilation, correction, alteration, review, production, or verification of any Customer Communications, Account Data, or any other records, information, documents, or evidence related to You or Your Plan Services or received, transmitted, or stored through an Account;
- (ii) the provision of counsel, legal or otherwise; or
- (iii) the provision of assistance, cooperation, or information beyond that which is specifically and directly associated with Valley Electric/Valley Communications fulfillment of its obligations under this TOS agreement or pursuant to applicable law. Except as furnished herein or required by Law, Valley Electric/Valley Communications is not obligated to:
 - a. prove, disprove, or determine any fact or claim;
 - b. defend against or pursue any claim, action, lawsuit, allegation, demand, or proceeding;
 - c. substantiate any party's compliance in respect to any Law or Legal Process;
 - d. respond to or comply with any demand or request;
 - e. (v) conduct any surveillance, or (vi) identify any party.

E. Export of Account Data

You acknowledge and agree that any Account Data, stored Customer Communications, or other materials or information that You export will not be under Valley Electric/Valley Communications control and shall not be subject to or protected by Valley Electric/Valley Communications security controls. You and Your End Users shall comply with all applicable Law relating to use, disclosure, access, or export of data from Your Account or the Plan Services.

F. Release.

You hereby release, discharge, and hold harmless Valley Electric/Valley Communications from and against any and all liability relating to or arising from any and all acts or omissions in accordance with this Section entitled "Treatment of Customer Communications, Content, and Account Data."



10. VALLEY ELECTRIC/VALLEY COMMUNICATIONS AND HIPAA

A. No Storage of Personal Health Information.

You acknowledge and agree that the Plan Services are neither designed, intended, or recommended for use as a repository or a means by which to hold "protected health information," as specified under the Health Insurance Portability and Accountability Act of 1996, the Health Information Technology for Economic and Clinical Health Act, and any similar legislation in other jurisdictions, and all regulations promulgated pursuant thereto (such laws and regulations, "HIPAA"; such information, "PHI") on a non-temporary basis. You represent and warrant that neither Your Plan Services nor any supplementary service or product that is a part thereof will be used for such purpose.

Valley Electric/Valley Communications SPECIFICALLY MAKES NO REPRESENTATION, GUARANTEE, OR WARRANTY THAT YOUR PLAN SERVICES, THE ACCOUNT(S), OR PRODUCTS (OR THE USE OF ANY OF THE FOREGOING BY ANY PARTY) COMPLIES OR SHALL COMPLY WITH HIPAA NOR ANY OTHER LAW OR WILL RENDER ANY PARTY COMPLIANT WITH HIPAA NOR ANY OTHER LAW.

B. Operation of Valley Electric/Valley Communications HIPAA Conduit Setting; Consequences of Activation

Valley Electric/Valley Communications offers a HIPAA Conduit Setting for its Customers based in the United States. You acknowledge that:

- (i) activation of the Valley Electric/Valley Communications HIPAA Conduit Setting may cause the automatic and permanent deletion from the applicable Account(s) any Customer Communications stored in those Account(s) and that date back thirty (30) or more days;
- (ii) if any Customer Communications that date back thirty (30) or more days are currently stored in the applicable Account(s), they risk being permanently deleted from such Account(s), and such deletion may occur immediately after activation of the Valley Electric/Valley Communications HIPAA Conduit Setting;
- (iii) the deletion functions as described above may permanently delete Customer Communications in such a manner that they are not retained in any form (including on any back up or disaster recovery system) by Valley Electric/Valley Communications; and
- (iv) the Valley Electric/Valley Communications HIPAA Conduit setting may disable SMS messaging through the applicable Account(s) and may disable attachment of any voicemail and facsimile/internet facsimile messages onto message notification emails sent by Valley Electric/Valley Communications in association with any such Accounts.

C. Release.

You hereby release, discharge, and hold harmless Valley Electric/Valley Communications from and against any and all liability pertaining to or arising from any of its acts or omissions in accordance with this Section entitled "Valley Electric/Valley Communications and HIPAA."

11. NUMBER POLICIES

A. Number Availability.

Valley Electric/Valley Communications may provide telephone and/or facsimile numbers for Your selection and allocation to Account(s). You acknowledge and agree that Valley Electric/Valley Communications listing of any number may be in error and does not constitute a representation or guarantee that such number is truly available for such assignment, and that Valley Electric/Valley Communications shall be authorized to remove any such number from an Account in the event that it is not truly available.

B. Number Porting Policy

- (i) Federal Porting Law. Number porting is regulated and defined by the Federal Communications Commission. You may visit <http://www.fcc.gov/cgb/NumberPortability> to read more about number porting.
- (ii) Number Port-In Request Procedures. In order to request the porting of any telephone or facsimile number into an Account, the designated Account Administrator for the Account into which You wish to port the telephone or facsimile number must log in to the Admin Portal for such Account and must complete all steps and provide all information requested in the course of the number port-in request process (which may without limitation include provision of an executed Letter of Agency) or as requested by Valley Electric/Valley Communications for any reason. Additionally, if You wish to have ported into an Account more than 100 telephone or facsimile numbers from the same third-party service provider account, You must contact Valley Electric/Valley Communications Project Porting Department at porting@valleycom.com and comply with their instructions.
- (iii) The Number Porting Process. In order to request the porting out to any other services provider of a telephone or facsimile number assigned to an Account, you must follow the instructions specified by the third-party service provider and must provide all information and cooperation requested by the relevant service providers, Valley Electric/Valley Communications, or any other relevant third party. You acknowledge and agree that:
 - a. porting telephone or facsimile numbers into or from an Account requires You to provide detailed and specific information to Valley Electric/Valley Communications and/or third parties (including without limitation other service providers) and the completion of procedures and steps, as well as third parties' completion of certain actions; and
 - b. numbers may not be ported out of or into an Account unless and until You are able to provide specific information that matches other information on record with Valley Electric/Valley Communications or other service providers. For these and other reasons, the completion of any number port request as well as the date by which any such request may be completed and timing thereof are dependent on numerous factors outside of Valley Electric/Valley Communications control, including without limitation any acts and omissions of both You and third parties, including without limitation other service providers.
- (iv) Unauthorized Port Outs. You acknowledge and agree that telephone or facsimile numbers may be subject to porting out from Your Plan Services or an Account as a result of acts or omissions of third parties, and that it may be difficult or impossible for Valley Electric/Valley Communications to:



- a. prevent any such port-outs: (ii) retrieve any numbers ported-out of an Account; or
 - b. port any such numbers back into an Account. Valley Electric/Valley Communications bears no responsibility or liability in the event of such port-outs.
- (v) Accurate Porting Information. You agree, represent and warrant that all information and/or representations provided in relation to any request to numbers in or out (including without limitation any representations or information in any Letter of Agency) by You, any User or End User, or any party acting at the direction or request of, on behalf of, or with the permission or knowledge of any of the preceding shall be true, accurate, and up-to-date.
- (vi) Customer Compliance with Porting Laws. You agree and acknowledge that the porting of numbers is governed by telecommunications and other Laws and may be subject to third-party terms and conditions. You agree, represent, and warrant that neither You; nor any User or End User; nor any party acting at the direction or request of, on behalf of, or with the permission or knowledge of any of the above mentioned will at any time:
 - a. infringe upon any applicable Law or engage in any fraudulent or deceptive conduct in its requests or activities with respect to porting;
 - b. engage in or facilitate the porting out (or "slamming") of any telephone or facsimile number or change or attempt to change any party's telephony service provider without prior receipt of the appropriate consents and authorizations; or
 - c. violate contractual or any other obligations to services providers or other third parties.
- (vii) Release of Numbers. You acknowledge that in the event of Your account's termination or cancellation, all such telephone numbers associated with Your Account as have not previously been ported to another provider, may be discharged. Similarly, the cancellation of any individual lines may result in the release of any and all related numbers such as have not been ported previously to another provider. You acknowledge that You bear sole responsibility for enlisting a third-party provider to port out any numbers prior to the termination or cancellation of Your Account or Plan Services, or of any individual line.

C. Number Publication by Customer

Neither You nor any End User may list, publicize, or communicate any number that You believe to be allocated to Your Account or Office Services, or purchase or invest in any materials or communications reflecting any such number unless and until You have verified that such number is active and working as desired, including without limitation the test calling of such number from a non-Valley Electric/Valley Communications service plan and verifying that any and all fees and charges to be incurred in connection with Use of such number are acceptable to You.

12. ACCOUNT DISPUTES

The Account owner shall be the legal entity (e.g., partnership, individual, corporation) that contracts the Plan Services with Valley Electric/Valley Communications. If no legal entity is specified upon sign-up, the Account owner shall be the owner of the credit card used to open Your Account. Any subsequent changes to ownership of the Account must be supported by appropriate legal documentation.

A. Account Disputes

You agree that in no event shall Valley Electric/Valley Communications be obligated to-and in no event shall You request that Valley Electric/Valley Communications participate in or act as the adjudicator, arbiter, or intermediary in regards to any claim or dispute relating to the control of, rights relating to, or ownership of any Account, any numbers assigned to an Account, Your Plan Services, or any Account Data or any other information pertaining to Your Plan Services or an Account ("**Account Ownership Disputes**"). In the event of any Account Ownership Dispute, Valley Electric/Valley Communications is authorized to take whatsoever course of action that it deems appropriate, including without limitation declining to take any action.

B. Access to Account Data or Customer Communications

As permitted or required by Law, Valley Electric/Valley Communications may monitor, use, access, or disclose Your Customer Communications, Account Data, and/or personal information to:

- (i) act in accordance with the Law or respond to legal process or lawful requests;
- (ii) protect the rights or property of Valley Electric/Valley Communications, our customers, our agents, members, and others including to enforce our agreements, policies and terms of use;
- (iii) respond to emergencies;
- (iv) initiate, render, bill, and collect for services; or
- (v) enable or verify the appropriate calculation of Taxes, fees, or other obligations resulting from a local, state, or federal government requirement.

C. Release

You agree to release, discharge, and hold harmless Valley Electric/Valley Communications from and against any and all liability relating to or arising from any acts or omissions with respect to any Account Ownership Dispute or in the pursuit of compliance with any Law or regulation or any Legal Process.

13. SERVICE REQUIREMENTS AND LIMITATIONS

A. Caller ID Display Limitations and Compliance

You acknowledge and agree that any disclosure and/or display of information relating to the origination of calls, messages, and other communications (including and without limitation any "Caller ID" information) may be subject to certain legal requirements, including without limitation those pertaining to the accurate display of such information or the enforcement of privacy instructions, settings, etc.



You agree to comply with any and all such applicable Laws and implementation regulations, including without limitation the "Truth in Caller ID Act". Valley Electric/Valley Communications is under no obligation to display, disclose, or transmit any such information for or in relation to any Customer Communication.

You agree to indemnify and hold harmless Valley Electric/Valley Communications from any and all third-party claims, damages, losses, fines, or penalties arising from Your breach of this Section.

B. Voice-to-Text and Text-to-Voice

You hereby acknowledge and agree that:

- (i) any Voice/Text Features are furnished merely as a convenience and may not accurately articulate text messages, transcribe voice content, or perform any such functionality for any and all voice content or text messages or for the entirety of text messages or voice content;
- (ii) neither You nor any End User may be dependent on any Voice/Text Feature to perform any such accurate transcription or expression; and
- (iii) You and all End Users shall bear responsibility for listening to and/or reviewing the original content of any Customer Communication or other media as appropriate or necessary to prevent You, any End User, or any third party from incurring any expense, cost, liability, damage, harm, or loss.

C. IP Network Sufficiency

You acknowledge and agree that:

- (i) the Plan Services require an accurately-configured, enterprise-grade, high performance broadband IP network and connection;
- (ii) use of the Plan Services with any inferior network, services, or connection may give rise to partial or complete unavailability, underperformance, or interruption of the Plan Services or other services using the same services, connection, or network; and
- (iii) 3G and 4G networks are not recommended for use with Your Plan Services. Accordingly, you agree to provide and maintain, at Your own cost, an IP network, services, and connection meeting the abovementioned standard and all equipment required for the Plan Services to connect to and use such services, network, and connection. Valley Electric/Valley Communications is not liable for any interruption, unavailability, or underperformance of the Plan Services related to Your IP network or Your connection.

D. Use of Third Party Devices

Valley Electric/Valley Communications does not guarantee or make any representation or warranty that any third-party IP telephone or any other device will operate or be compatible with the Plan Services or uphold the Plan Services' full potential for performance or quality of service, or range of features and functionalities.

E. Use of Mobile Application

The Valley Electric/Valley Communications Mobile Application can be configured to place or receive calls on Your 3G or 4G network while using Your data service, which may result in additional data use fees from Your mobile service provider. You may disable 3G/4G calling by configuring Your Mobile Application to make/receive calls only using a WI-FI connection. Configuration of the Mobile Application to disable VoIP calls will result in Valley Electric/Valley Communications making/receiving calls using Your voice connection through Your mobile provider; this may result in additional usage fees from Your mobile service provider.

14. SUPPORT AND FEEDBACK

Valley Electric/Valley Communications will make support available to You and Your End Users via our call center, which shall be available to attempt to resolve technical concerns with, and answer questions pertaining to the implementation and/or use of Your Plan Services. Such support shall not include, and Valley Electric/Valley Communications shall have no obligation hereunder to perform any of the following:

- (i) support on-site;
- (ii) implementation of any software or hardware;
- (iii) configuration of any device;
- (iv) any dedicated representative support; or
- (v) network or third party equipment support. If You have a customer support question, You may visit www.valleycom.com or open a case with Valley Electric/Valley Communications Customer Care ("Customer Care") at <http://www.valleycom.com>. Any End User contacting Customer Care may be required to perform certain verification duties (e.g. answer a security question) in order to receive support from Customer Care, and Customer Care may limit the level of support it shall provide or scope of information it will disclose or confirm to any inquiring End User based upon the scope of that User's Account rights or permissions.

From time to time, Valley Electric/Valley Communications may send You comment cards, customer satisfaction forms, surveys, or other requests to provide feedback. You hereby grant Valley Electric/Valley Communications, its licensors and suppliers a perpetual, worldwide fully-paid up, unlimited, royalty free license to use all answers, ideas, feedback, comments, or other information You provide to Valley Electric/Valley Communications.



15. SERVICE CHANGES

You understand and agree that Valley Electric/Valley Communications may, without prior notice to You, perform upgrades or make changes to the Services which will not materially diminish the functionality of Your Services. In the event that a change to the Services would, in Valley Electric/Valley Communications reasonable discretion and judgment, materially and permanently diminish or impair the functionality of Your Services (a "Change"), and such Change is unacceptable to You, You may choose to terminate the Services without penalty within thirty (30) days of learning of the Change by calling Valley Electric/Valley Communications at (775) 727-5312. Any use of the Services after such date shall be deemed Your acceptance of the Change.

16. ADDITIONAL TERMS FOR VALLEY ELECTRIC/VALLEY COMMUNICATIONS VOIP SERVICE

Valley Electric/Valley Communications Plan Services includes one (or more) Voice over Internet Protocol ("VoIP") lines within Your Plan Services, and for other plans, Valley Electric/Valley Communications offers options to add one or more VoIP lines to Your Services. In either case, Services for the VoIP line(s) shall be referred to as "VoIP Service", for which the following additional terms shall apply:

A. Operator Assisted Calling, 311, 511 and other X11 Calling

Valley Electric/Valley Communications does not support 0+ or operator-assisted calling (including, without limitation, third party billing calls, collect calls, 900 calls, or calling card calls). Your Plan Service may not support any 211, 311, 411, 511, and/or other N11 calling (except as otherwise set forth in these TOS) in one or more service areas.

B. Additional Licenses

The Plan Services may also be subject to the additional terms of certain software licenses, which are available here:

- (i) JSON Framework License
- (ii) KissXML License
- (iii) Global IP Solutions iLBC Public License
- (iv) libSRTP License
- (v) Vovida Software License
- (vi) PortAudio

The Services also may be licensed under certain patents, which are available here:

- (i) Licensed Patents

17. ADDITIONAL TERMS AND CONDITIONS FOR THE VALLEY ELECTRIC/VALLEY COMMUNICATIONS GLOBAL OFFICE

If You have subscribed to Valley Electric/Valley Communications Global Office ("NCGO"), this section defines additional terms and conditions concerning NCGO. For the purposes of this section, the term "Home Country" means the United States, where You have purchased general telephony services from Valley Electric/Valley Communications. Additional updates or notices pertaining to Your services in NCGO countries are available at <http://www.valleycom.com/>

Emergency Service Limitations.

Valley Electric/Valley Communications furnishes access to emergency call services in many, but not all, countries in which NCGO is available, allowing most Valley Electric/Valley Communications Office Users to access Emergency Services (911 in the United States and Canada, 999/112 in the United Kingdom and the European Union, 999/995/993 in Singapore, and any other applicable Emergency Services numbers).

Your access to these services may differ depending upon Your location or the device You are using. Your device works differently than traditional wireline or wireless telephones. Access to emergency calling services in NCGO countries, where available, is contingent on the limitations set forth in Section 1 (Operation and Limitations of the Valley Electric/Valley Communications 911 Service) above.

It is strongly advised that You have an alternate means for placing emergency calls readily available at all times.

Disclaimer of Liability for Emergency Services in NCGO Countries. You represent and warrant that You have made available and at all times will maintain traditional landline and/or mobile telephone services that will enable users of Your Valley Electric/Valley Communications Services to place calls to 911/112/999 or any other applicable Emergency Services number(s).

You represent and warrant that You will not use the Valley Electric/Valley Communications Services in environments necessitating fail-safe performance or in which the failure of the Valley Electric/Valley Communications Services could lead directly to personal injury, death, or severe physical or environmental damage.

Accordingly, you agree that Valley Electric/Valley Communications shall not be responsible or liable for-and agree to fully, finally, and forever discharge, release, indemnify, and hold harmless the Valley Electric/Valley Communications from and against any claim resulting from, based on, or relating to-any and all acts or omissions related to the response, or lack of response, handling of, or not handling of any emergency call or other communication in connection with the NCGO service.



NCGO Service Provided in Connection with Home Country Service.

You hereby represent and warrant that if:

- (i) You have a presence currently in the Home Country and will continue to maintain a presence in the Home Country throughout the tenure of these TOS; and
- (ii) that Your purchase of NCGO Service is in connection with Your subscription to Plan Services within the Home Country.

You acknowledge and agree that Valley Electric/Valley Communications will provide NCGO Service to You only in connection with the Plan Service in the Home Country. Valley Electric/Valley Communications may terminate Your NCGO Service immediately if You no longer have any Plan Service or lines in the Home Country.

You acknowledge and agree that all billing for the NCGO service shall be done in the Home Country using the currency of the Home Country. You agree to provide a billing address located in the Home Country at all times during the term of these TOS. You acknowledge and agree that all licenses, documentation, and services in connection with NCGO Service will be provided only in English and shall be governed by the Law of the Home Country.

18. PUBLICITY RIGHTS

You agree that Valley Electric/Valley Communications may identify You as a user of the Plan Services in its press releases, marketing materials, business deals, electronic, printed, and broadcast advertising, tradeshows, newsletters, mailings, other promotional materials, on Valley Electric/Valley Communications website, or any other third-party website where Valley Electric/Valley Communications or its designated agents may promote the Services.

You hereby grant Valley Electric/Valley Communications and its agents an irrevocable, worldwide, non-exclusive, perpetual, fully paid-up, royalty-free license (with right to sublicense) to use, publish, reproduce, and display Your name, service marks, designs, trademarks, logos, and symbols in connection with such purpose.

19. COPYRIGHT INFRINGEMENT

Pursuant to the Digital Millennium Copyright Act of 1998 (17 U.S.C. §512) (the "DMCA") upon the good faith belief that copyrighted content transmitted via Valley Electric/Valley Communications is infringed, the copyright owner or its agent may send Valley Electric/Valley Communications a notice requesting removal of the infringing content or blocking access to it.

Additionally, the DMCA allows any party against whom a copyright infringement notice has been filed to subsequently submit a counter-notice. Notices and counter-notices must meet statutory requirements set forth in the DMCA. Notices and counter-notices may be sent to Valley Electric/Valley Communications registered copyright agent at the following address or our email address:

Valley Electric Association, Inc./Valley Communications Association, LLC.
800 E Hwy 372
Pahrump, NV 89041
USA
info@valleycom.com

The notice must include:

- (i) the physical or electronic signature of the owner (or party authorized to act on the owner's behalf) of the copyrighted work;
- (ii) a description of the copyrighted work upon which the infringement claim is based;
- (iii) information reasonably sufficient to permit Valley Electric/Valley Communications to locate the copyrighted work;
- (iv) an address, telephone number and e-mail address for the owner of the copyrighted work;
- (v) a statement by the owner of the copyrighted work or its agent, asserting that party's good-faith belief that the use in question is unauthorized by the copyright owner, the owner's agent, or the Law; and
- (vi) a statement by the copyrighted work's owner or its agent, made under penalty of perjury, that the preceding information in the notice is accurate, as well as affirming ownership of the copyright or is authorized to act on the copyright owner's behalf.

Any notice or counter-notice must be truthful and submitted under penalty of perjury. A false notice or counter-notice may constitute grounds for personal liability. Parties should seek advice from legal counsel before submitting any notice or counter-notice. Upon receipt of the notice, Valley Electric/Valley Communications may make a good-faith attempt to transmit the notice to such party as received or transmitted the allegedly infringing copyrighted work, and may transmit any counter-notification to the complaining party.

Valley Electric/Valley Communications may, at its sole discretion, terminate, disconnect, or suspend such party's use of and/or access to the Plan Services or Account if it is determined that such party has participated in more than one instance of copyright infringement.



20. INDEMNIFICATION

To the maximum extent allowable by applicable Law, You shall indemnify and hold harmless, individually and collectively, Valley Electric/Valley Communications, its agents, resellers, affiliates, and other providers who supply goods and services to You in connection with the Services, and their managers, employees, officers, directors, and shareholders (the "Indemnified Parties") from and against any and all liability, losses (including loss of profits, revenue and goodwill), claims, damages, injuries to persons or property, costs, fines, penalties, and expenses (including attorneys' fees and dispute resolution expenses) related to or arising from:

- (i) the reliance upon or use of the Plan Services by You or any third party acting with Your knowledge, authority, permission, or direction;
- (ii) a breach of this TOS by You or any End User;
- (iii) any or willful misconduct, negligent acts, or omissions to act by You or any third party acting with Your knowledge, authority, permission, or direction;
- (iv) any inability to use the Plan Services or outage or failure of the Plan Services for any and all reasons, including but not limited to those relating to calling "911" or other emergency services;
- (v) the use of Your Plan Services in connection with a violation of any applicable regulation, law, code, or ordinance; or
- (vi) the breach, violation, infringement, or misappropriation of any right, title or interest of any third party, including but not limited to, Intellectual Property rights, rights of privacy, contractual rights, and rights of publicity and personality.

21. TERMINATION

A. Monthly Plan Customers.

For monthly plan customers, You may terminate or cancel Your use of the Plan Services at any time with or without cause by calling customer service at (888) 368-9283, subject to the restrictions and fees provided within these TOS, and any additional agreements governing the products or services.

B. Annual Plan Customers.

For annual plan customers, You agree to purchase the Plan Service for the complete length of the applicable Term. You have thirty (30) days from the date of purchase to request a prorated refund. After the initial thirty (30) days, if You terminate the Plan Services before the end of Your Term, You are subject to applicable Law-responsible for all charges for any and all remaining time left on Your Term, including, without limitation, unbilled charges, outstanding charges, Taxes and fees, including any applicable disconnection fees. In addition, You shall not be entitled to a refund for any unused portion of Your prepaid Term.

C. Generally.

You understand and agree that Valley Electric/Valley Communications may at any time, and without additional notice to You, modify, suspend, disconnect, terminate, discontinue, or block access to any or all of the features of the Plan Services if:

- (i) Valley Electric/Valley Communications determines or reasonably suspects that You have committed a material breach of these TOS;
- (ii) Valley Electric/Valley Communications determines that You have created, or caused to be created, multiple free accounts;
- (iii) Valley Electric/Valley Communications establishes that You have used a fraudulent credit card to pay for Service charges on Your Account;
- (iv) Valley Electric/Valley Communications deems that You have verbally insulted, harassed, or abused any of its employees, agents, contractors, or other representatives;
- (v) You did not or will not reasonably cooperate or comply with any applicable Law or regulation, or Valley Electric/Valley Communications is made aware of allegations of the same.
- (vi) Valley Electric/Valley Communications is ordered by law enforcement or other government agencies to terminate or suspend Service to Your Account;
- (vii) You bring any legal action or proceeding, including without limitation in any court, regulatory, or administrative body, arbitral body, or mediator, against Valley Electric/Valley Communications, or participate in any class action lawsuit against Valley Electric/Valley Communications;
- (viii) You file a petition in bankruptcy, or if a petition is filed against You and if such petition is not dismissed within thirty (30) days after the effective filing date thereof, or if any of Your relevant property is placed under a trustee or receiver;
- (ix) Valley Electric/Valley Communications determines that such action is necessary to maintain, protect, or improve the Services; to prevent misrepresentation or fraud by affirmative acts and/or omissions; to protect Valley Electric/Valley Communications, its customers, or other third parties affiliated with Valley Electric/Valley Communications; or for any other good cause;
- (x) You violate applicable Law; or
- (xi) As otherwise contemplated by these TOS.

Upon any suspension or termination of Your Account, Valley Electric/Valley Communications may immediately delete or deactivate Your Account and all related information and files in Your Account and/or may restrict any further access to such information, files, or the Plan Services.

Valley Electric/Valley Communications shall not be liable to You or any third party for any reason for suspending or terminating Your use or access to the Plan Services. If You or Valley Electric/Valley Communications suspend or terminate Your right to use the Services, You shall not be entitled to any refund or pro-ration of any pre-paid amounts, international calling credits, Plan Credits, or other amounts paid to Valley Electric/Valley Communications prior to the termination or suspension date.



22. WARRANTY DISCLAIMER

TO THE EXTENT PERMITTED BY LAW, THE PLAN SERVICES ARE RENDERED "AS IS" AND "AS AVAILABLE," AND VALLEY ELECTRIC/VALLEY COMMUNICATIONS MAKES NO WARRANTIES, EXPRESS OR IMPLICIT, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF INFRINGEMENT, TITLE, MERCHANTABILITY, QUIET ENJOYMENT, AND FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTIES ARISING FROM USAGE IN TRADE OR A COURSE OF DEALING, TOGETHER WITH SIMILAR WARRANTIES, WHETHER COMMENCING UNDER ANY LAW OR OTHERWISE.

SPECIFICALLY, AND WITHOUT LIMITING THE ABOVE MENTIONED IN ANY WAY, VALLEY ELECTRIC/VALLEY COMMUNICATIONS COMMUNICATIONS SPECIFICALLY DISCLAIMS ANY WARRANTY:

- (i) THAT ANY PRODUCT WILL MEET ANY SPECIFIC REQUIREMENTS;
- (ii) THAT ANY PRODUCT WILL BE TIMELY, SECURE, ERRORFREE, UNINTERRUPTED, OR THAT ANY DEFECTS IN ANY PRODUCT SHALL BE CORRECTED; OR
- (iii) WITH RESPECT TO THE ACCURACY OR RELIABILITY OF ANY RESULTS OBTAINED THROUGH USE OF ANY ACCOUNT, YOUR OFFICE PLAN, OR ANY PRODUCT OR ANY CUSTOMER COMMUNICATIONS, INFORMATION, CONTENT, OR DATA DOWNLOADED OR OTHERWISE OBTAINED OR ACQUIRED THROUGH THE USE OF ANY OF THE PRECEDING.

THE PARTIES AGREE, AND IT IS THEIR INTENTION, THAT IN NO EVENT SHALL ANY WARRANTY PROVIDED BY LAW

APPLY UNLESS REQUIRED BY APPLICABLE STATUTE NOTWITHSTANDING THEIR EXCLUSION BY CONTRACT. TO THE EXTENT THAT VALLEY ELECTRIC/VALLEY COMMUNICATIONS CANNOT DISCLAIM ANY SUCH WARRANTY AS A MATTER OF APPLICABLE LAW, THE SCOPE AND LENGTH OF SUCH WARRANTY SHALL BE LIMITED TO THE FULLEST EXTENT PERMITTED BY LAW.

SOME JURISDICTIONS DO NOT PERMIT THE DISCLAIMER OF CERTAIN IMPLIED WARRANTIES, SO CERTAIN OF THE FOREGOING DISCLAIMERS MAY NOT APPLY TO YOU. TO THE EXTENT THAT VALLEY ELECTRIC/VALLEY COMMUNICATIONS CANNOT DISCLAIM ANY SUCH WARRANTY AS A MATTER OF APPLICABLE LAW, THE SCOPE AND DURATION OF SUCH WARRANTY WILL BE THE MINIMUM PERMITTED UNDER SUCH LAW.

23. LIMITATION OF LIABILITY

A. Consequential Damages

IN NO EVENT SHALL VALLEY ELECTRIC/VALLEY COMMUNICATIONS BE LIABLE TO YOU OR ANY THIRD PARTY FOR COSTS OF PROCUREMENT, COVER, OR SUBSTITUTION GOODS OR SERVICES; LOSS OF USE, DATA, EQUIPMENT, PRODUCTS, BUSINESS OPPORTUNITIES, OR PROFITS; INTERRUPTION OF BUSINESS; TRANSACTIONS ENTERED INTO OR NOT ENTERED INTO; OR SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL, CONSEQUENTIAL, REPUTATIONAL, OR PUNITIVE DAMAGES OF ANY KIND, HOWEVER CAUSED AND WHETHER ARISING UNDER CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR ANY OTHER THEORY OF LIABILITY, EVEN IF Valley Electric/Valley Communications HAS BEEN INFORMED IN ADVANCE OF THE POSSIBILITY OF-OR COULD HAVE FORESEEN-SUCH COSTS, LOSSES, OR DAMAGES.

B. Direct Damages Cap

EXCEPT AS SET FORTH BELOW, VALLEY ELECTRIC/VALLEY COMMUNICATIONS 'S TOTAL AGGREGATE LIABILITY SHALL NOT EXCEED THE PLAN SERVICES FEES PAYABLE HEREUNDER DURING THE ONE (1) MONTH IMMEDIATELY PRIOR TO THE DATE OF THE EVENT(S) GIVING RISE TO THE LIABILITY. THE LIMITATION OF LIABILITY SET FORTH IN THIS SUB-SECTION DOES NOT APPLY TO:

- (i) YOUR LIABILITY FOR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; OR
- (ii) YOUR LIABILITY ARISING FROM YOUR ACTUAL OR ALLEGED BREACH OF SECTIONS 1 (911 POLICY), 6 (ACCEPTABLE USE POLICY), 11 (NUMBER POLICIES), OR 4 (CUSTOMER SECURITY POLICY) OF THESE TOS.

C. Scope and Exceptions

THE LIMITATIONS AND EXCLUSIONS SET FORTH IN THIS SECTION ENTITLED (LIMITATION OF LIABILITY):

- (i) SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW,
- (ii) SHALL NOT DISCLAIM, LIMIT, OR CAP CUSTOMER'S OBLIGATION TO PAY ANY FEES OR CHARGES OR OTHER AMOUNT OWED TO VALLEY ELECTRIC/VALLEY COMMUNICATIONS OR ANY DAMAGES TO WHICH VALLEY ELECTRIC/VALLEY COMMUNICATIONS IS ENTITLED UNDER APPLICABLE LAW FOR INFRINGEMENT OF IP RIGHTS,
- (iii) REFLECT THE ALLOCATION OF RISK BETWEEN THE PARTIES, AND
- (iv) SHALL SURVIVE TERMINATION OR EXPIRATION OF THE PLAN SERVICES AND APPLY IN ANY AND ALL CIRCUMSTANCES, INCLUDING WITHOUT LIMITATION IN THE EVENT OF ANY FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED WARRANTY PROVIDED HEREIN.

SOME JURISDICTIONS DO NOT ALLOW CERTAIN LIMITATIONS OF LIABILITY, SO CERTAIN OF THE FOREGOING LIMITATIONS MAY NOT APPLY TO YOU.



24. GENERAL TERMS

A. Relationship of the Parties

The Parties' relationship under these TOS is that of independent contractors. Nothing in these TOS shall constitute or create any employment, partnership, association, joint venture, agency, or fiduciary relationship between the Parties. Neither Party shall have the authority to bind or obligate the other Party in any way.

B. Notices

Notices to You shall be effective on the date sent to Your registered electronic mail address when sent by email or, at Valley Electric/Valley Communications Communication's option, three (3) days following the date deposited in regular United States Mail, postage prepaid, and addressed to Your current address on Your Account. You are responsible for notifying Valley Electric/Valley Communications of any changes in Your contact information or address through Your Account settings page or by contacting customer service at (775) 727-5312.

Written notice to Valley Electric/Valley Communications shall be effective when directed to Valley Electric/Valley Communications' Legal Department and received at Valley Electric/Valley Communications' then-current address as posted on Valley Electric/Valley Communications Website, available here. Your notice must specify Your name, Account information, and security verification question and answer.

All notices from You to Valley Electric/Valley Communications must be made in writing.

C. Force Majeure

Excluding either Party's payment obligations under the Agreement, neither Party shall be responsible or liable for any failure to perform or delay in performing to the extent resulting from any event or circumstance that is beyond that Party's reasonable control, including without limitation any act of God; national emergency; riot; war; terrorism; governmental act or direction; Laws; breach, delay, act, or omission of any supplier, carrier, contractor, subcontractor, or business partner; failure, outage, or unavailability of third party network(s) or system(s); fiber, cable, or wire cut; power outage or reduction; rebellion; revolution; insurrection; criminal acts of third parties, earthquake; storm; hurricane; flood, fire, or other natural disaster; or strike or labor disturbance (each a "Force Majeure"). In the event that a Force Majeure prevents a Party's performance for more than forty-five (45) consecutive days, either Party may terminate the particular agreement document(s) impacted.

D. Third Party Beneficiaries

Nothing in these TOS, express or implied, is intended to or shall confer upon any person or entity other than the Parties themselves any right, benefit, claim, or remedy as a third party beneficiary or by any other nature whatsoever under or by reason of these TOS.

E. Choice of Law

These TOS and Your use of the Plan Services shall be governed by and construed under the laws of the State of California and the United States without regard to its conflict of law rules. The United Nations Convention on Contracts for the International Sale of Goods does not apply to these TOS or Your sign up or use of the Plan Services.

F. Dispute Resolution and Optional Arbitration

In the event of any dispute, claim, question, or disagreement between You and Valley Electric/Valley Communications ("Dispute"), You and Valley Electric/Valley Communications shall first use reasonable best efforts to settle the dispute, claim, question, or disagreement. To this end, You and an authorized member of Valley Electric/Valley Communications' legal department (or other representative of Valley Electric/Valley Communications designated by the legal department) shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. Neither You nor Valley Electric/Valley Communications shall file or pursue any Disputes in any court, administrative, arbitral, or other adjudicative body prior to engaging in such consultations and negotiations.

Notwithstanding the adjudication requirement above, for any Disputes involving ten thousand dollars (\$10,000) or less, either party may choose to resolve such Dispute through binding, non-appearance-based arbitration (i.e., arbitration conducted online, through written filings, and/or via teleconference). Such arbitration shall be conducted through an established alternative dispute resolution provider mutually agreed upon by the parties, and any judgment rendered by the arbitrator may be entered in any court having jurisdiction. The arbitrator's decision shall be final and legally binding.

In the event of any litigation (including arbitration) between You and Valley Electric/Valley Communications, the non-prevailing party shall reimburse the prevailing party for all reasonable and documented attorneys' fees, costs, and expenses relating to the Dispute.

Some jurisdictions may place limits on governing law, venue, and/or dispute resolution provisions, so certain of the foregoing requirements in this section may not apply to You.

G. Venue

You agree that any Disputes shall be adjudicated in the state and federal courts of the State of Nevada, United States. Venue for any Disputes shall be the court of proper jurisdiction in the City Las Vegas and the County of Clark. You agree to submit to the exclusive jurisdiction of such courts with respect to any Disputes and agree not to bring any Disputes in any other court or adjudicative body. You hereby consent to venue and personal jurisdiction in such courts with respect to such Disputes and irrevocably waive any right that You may have to assert that such forum is not convenient or that any such court lacks jurisdiction.



H. Equitable Relief

You agree that any breach of Valley Electric/Valley Communications' IP Rights will cause Valley Electric/Valley Communications irreparable harm for which monetary damages will be inadequate and Valley Electric/Valley Communications may, in addition to other remedies available at Law or in equity, obtain injunctive relief without the necessity of posting a bond or other security, proof of damages, or similar requirement.

I. Class Action Waiver

Any actions, lawsuits, or shall be conducted solely on an individual basis and the Parties expressly waive any right to bring any action, lawsuit, or proceeding as a class or collective action, private attorney general action, or in any other proceeding in which any party acts or proposes to act in a representative capacity.

J. Consumer Notice

The Division of Consumer Complaint Resolution (NRS 703.025, 704.210) is a division within the Commission to receive and investigate complaints made against any public utility, to conduct appropriate investigations of practices of utility company services and to perform such other functions as are required by law or as the Commission deems appropriate. If you reside in Northern Nevada, the Division can be reached by mail at 1150 E. William St., Carson City, NV, by telephone at (775)684-6100 or by email at: puccompliance@puc.nv.gov. If you reside in Southern Nevada, the Division can be reached by mail at 9075 W. Diablo Drive, Ste. 250, Las Vegas, NV. 89148, by telephone at (702)486-2600 or by email at: puccompliance@puc.nv.gov.

K. No Waiver

In no event shall any failure or delay by Valley Electric/Valley Communications to:

- (i) assert or exercise any right;
- (ii) demand fulfillment or performance of any obligation; or
- (iii) avail itself of any remedy under these TOS, in whole or in part, be deemed a waiver of any right or remedy under these TOS on such occasion or any other occasion. Except as otherwise expressly stated in these TOS or an agreement document duly executed by both Valley Electric/Valley Communications and You, all rights and remedies stated in these TOS are cumulative and in addition to any other rights and remedies available under these TOS, any agreement document, at Law, or in equity.

L. Interpretation

These TOS, including the documents incorporated herein, constitutes the entire agreement between You and Valley Electric/Valley Communications with respect to the Plan Services and supersedes all prior or contemporaneous understandings regarding such subject matter. If any part of these TOS is held invalid or unenforceable, that portion shall be construed to reflect the parties' original intent, and the remaining portions shall remain in full force and effect.

The failure of Valley Electric/Valley Communications to exercise or enforce any right or provision of these TOS shall not constitute a waiver of such right or any other provision. The section titles in these TOS are for convenience only and have no legal or contractual effect. This electronic document and any other electronic documents, policies, and guidelines incorporated herein will be:

- (i) deemed for all purposes to be a "writing" or "in writing," and to comply with all statutory, contractual, and other legal requirements for a writing;
- (ii) legally enforceable as a signed writing as against the parties subject to the electronic documents; and
- (iii) deemed an "original" when printed from electronic records established and maintained in the ordinary course of business.

Electronic documents introduced as evidence in any judicial, arbitration, mediation, or administrative proceeding will, if established and maintained in the ordinary course of business, be admissible to the same extent as business records in written form that are similarly established and maintained.

M. Assignment

Either party may assign these TOS and any of its rights and obligations hereunder with the other party's prior written consent (which such consent shall not be unreasonably withheld), except that Valley Electric/Valley Communications may, without notice, assign the TOS and all of Valley Electric/Valley Communications' rights and obligations hereunder to:

- (i) an affiliate; or
- (ii) Valley Electric/Valley Communications' successor or surviving entity in connection with a merger, acquisition, consolidation, sale of all or substantially all of its assets, or the transfer or disposition of more than fifty percent (50%) of a Valley Electric/Valley Communications' voting control or assets.

Any purported transfer or assignment in violation of this section is void. Subject to the foregoing, these TOS shall be binding on and inure to the benefit of the parties, their successors, permitted assigns, and legal representatives.

N. Severability

If any provision or portion of the Agreement is determined to be invalid, unlawful, illegal, void, or unenforceable, in whole or in part, then (i) that provision or portion shall be construed in such a manner as to render the provision or portion enforceable and, to the extent possible, to reflect the Parties' original intent and (ii) the remaining provisions and portions of the Agreement shall remain in full force and effect.



O. Survival

The following provisions of these TOS will survive termination or expiration of these TOS for the maximum term allowed by Law:

- (i) Your payment obligations;
- (ii) terms relating to intellectual property ownership, customer representations, confidentiality, storage of user information, publicity rights, non-disparagement, indemnification, warranty disclaimers, limitations of liability, dispute resolution and arbitration, and choice of law; and
- (iii) all provisions that are intended by their nature to survive termination of this agreement.

25. FUTURE CHANGES TO THESE TOS

We may change the terms of these TOS from time to time upon delivery of electronic or written notices to You. Valley Electric/Valley Communications generally provides written notice of changes to Your account, including these TOS and any other legal agreements, via email, electronic notice on the Valley Electric/Valley Communications' Website or Your Account Page, or on Your billing statements, or as otherwise required by applicable Law.

You agree to carefully read and review each such e-mail notice, electronic notice, and billing statement from Valley Electric/Valley Communications fully regarding any such notices of changes to Your Account. Subject to applicable Law, the modified terms shall replace and supersede all previously agreed to electronic and written terms, as well as any prior versions of these TOS and become binding on You on the later of the date they are posted on the Valley Electric/Valley Communications website (www.valleycom.com) or as otherwise indicated in the notice to You.

You agree that You are solely responsible for:

- (i) making sure that Your registered email account is current and functional;
- (ii) checking Your registered email account regularly;
- (iii) checking the Valley Electric/Valley Communications Website and Your Account page regularly; and
- (iv) making sure that Valley Electric/Valley Communications are not blocked or rendered undeliverable by You, Your computer, any software installed on Your computer, Your Internet service provider, or for any other reason.

Continued use of the Plan Services will constitute Your acceptance of the modified terms. If the terms of these TOS are amended and You do not wish to accept the modified terms, You may terminate these TOS as provided for in Section 21 entitled "Termination".

26. DEFINITIONS

All capitalized terms used in these TOS shall be defined in accordance with the following definitions or as otherwise defined herein.

- A. **"911-Enabled Softphone"** means a Softphone for which the Valley Electric/Valley Communications' 911 Service is supported.
- B. **"Account"** means the numbered account established with Valley Electric/Valley Communications that contains any of the following information: Your true, accurate, current, and complete personal name or business name, administrator name, billing address, shipping address, the address where the Plan Services will primarily be used, the records of Your Digital Lines, subscriptions, and any Plan Services that You have purchased from Valley Electric/Valley Communications. Multiple services, Digital Lines, or End Users may be included in a single account.
- C. **"Account Data"** means Registration Information, and the Valley Electric/Valley Communications -generated logs of calling activity stored within that Account.
- D. **"Account Security Incident"** means any actual or suspected unauthorized activity, erroneous billing, or breach or compromise of any Password Information or the security or privacy Your Office Plan, an Account, or any Account Data.
- E. **"Admin Portal"** or "Customer Portal" means the website through which the Customer enters Registration Information, may purchase and register additional IP Desk Phones or Softphones devices, purchase additional products or services, or make modifications to or control Customer's Valley Electric/Valley Communications Account in any other way.
- F. **"Customer Communications"** means the content of calls, facsimiles, SMS messages, voicemails, voice recordings, conferences or other communications transmitted or stored through the Plan Services.
- G. **"Digital Line"** means a digital voice line allowing the placement of external outbound calls and receipt of external direct inbound calls.
- H. **"Embancgoed Area"** means a country or region that is subject to a Canadian, United States, United Nations, or European Union embancgoed or economic sanctions, including without limitations destinations designated by Foreign Affairs, Trade and Development Canada, the United States Government in Country Group E or Part 746 of the Export Administration Regulations (15 CFR Part 730-774), or otherwise subject to territorial sanctions under regulations administered by the Foreign Affairs, Trade and Development Canada, the United States Department of the Treasury, Office of Foreign Assets Control, or other governmental authorities with jurisdiction.
- I. **"End Point"** means a point through which any End User might access and/or use the Plan Services, including without limitation all IP Desk Phones and all Softphones, instances of the Valley Electric/Valley Communications Mobile or Desktop Applications, and all devices or VoIP infrastructure on which any Softphone or such instance is installed or through which the Plan Services may be accessed or used.
- J. **"End User"** means the user of a virtual extension or individual digital line set up within an Account or an individual assigned thereto by You or by Valley Electric/Valley Communications at Your direction or request.
- K. **"Export Control List"** means any list maintained by the government of Canada, the United States or any other country of entities or individuals that are subject to export controls or economic sanctions, including without limitation the Foreign Affairs, Trade and Development Canada Export Control List, the United States Commerce Department's Denied Parties List, Entity List, or Unverified List; the United States Department of the Treasury's or the United States Office of Foreign Assets Control's Specially Designated National List; Sectoral Sanctions List; Foreign Sanctions Evaders List; and similar lists of entities, organizations, or individuals subject to export control restrictions or economic



sanctions that are maintained by other agencies of the Canadian Government, the United States Government, the United Nations, the European Union, or any other governmental authority with jurisdiction.

L. **"Intellectual Property"** means mean all common law and statutory rights (whether registered or unregistered, or recorded or unrecorded, regardless of method) arising out of or associated with: (i) patents and patent applications, inventions, industrial designs, discoveries, business methods, and processes; (ii) copyrights and copyright registrations, and "moral" rights; (iii) the protection of trade and industrial secrets and confidential information; (iv) other proprietary rights relating to intangible property; (v) trademarks, trade names and service marks; (vi) a person's name, likeness, voice, photograph or signature, including without limitation rights of personality, privacy, and publicity; (vii) analogous rights to those set forth above; and (viii) divisions, continuations, continuations-in-part, renewals, reissuances and extensions of the foregoing (as applicable).

M. **"IP Desk Phone"** means a telephony hardware device that uses VoIP to place and transmit telephone calls over an IP network.

N. **"IP Rights"** means any and all patents, copyrights, trademarks, service marks, trade secrets, and other Intellectual Property rights in the Plan Services or in any technology used in the provision thereof.

O. **"Law"** means any federal, national, municipal, local, state, or international law, statute, regulation, code, ordinance, or restriction; treaty or convention; or court or administrative ruling.

P. **"Legal Process"** means any court or administrative order, subpoena, civil investigation demand, warrant, or other official request, order, or process.

Q. **"Marketing Communications"** means occasional non-bulk sales-related communications, and any other communications solely or primarily designed to market products.

R. **"Office Services"** means the voice, online meeting, video conferencing, and related services, applications, and product integrations, together referred to as Valley Electric/Valley Communications Office.

S. **"Office Plan"** means the subscription You are purchasing for Valley Electric/Valley Communications Office services.

T. **"Password Information"** means any and all passwords, PINs, IVR PIN codes, security questions or answers, and other access-related credentials related to Your Plan Services or an Account.

U. **"Plan Services"** means the services purchased under these TOS or any contract between Customer and Valley Electric/Valley Communications, including but not limited to Office Services, Contact Center Services, Valley Electric/Valley Communications Fax services or Valley Electric/Valley Communications Professional services, and any software or hardware used in conjunction with the subject services.

V. **"Registered Address"** means the address of the physical location where You will use the Valley Electric/Valley Communications Office service, including each IP Desk Phone and each 911-Enabled Softphone.

W. **"Registration Information"** means any information You or Your End Users may be required to provide in order to begin using or to update the Plan Services, activate features, or add or modify an individual line or extension (e.g., activating an Account or End User or provisioning a device).

X. **"Valley Electric/Valley Communications Mark"** means a United States and foreign trademark, service mark, copyright, or logo of Valley Electric/Valley Communications.

Y. **"Valley Electric/Valley Communications Mobile Application"** the Valley Electric/Valley Communications Office application for mobile devices.

Z. **"Service Communications"** means any communications related in whole or in part to the administration, support, use, Usage, development, or improvement of its services (including without limitation communications related to billing, payment, Usage, purchases and other transactions, Customer Communications, upgrades, updates, installations, new products, security issues, support cases, and/or customer satisfaction).

AA. **"Softphone"** means an instance of the Valley Electric/Valley Communications Softphone desktop software application used to access the Plan Services.

BB. **"Taxes"** means all federal, state, local, and municipal sales, international excise, value-added, transactional, regulatory, and other taxes and assessments and other governmental fees, surcharges, levies or amounts (including without limitation charges related to the recovery of amounts contributed to any contribution, universal service or other governmental fund or entity, whether or not such recovery is mandated by any Law).

CC. **"Text-to-911"** means the ability to send SMS messages to 911.

DD. **"Third Party Mark"** means a United States and foreign trademark, service mark, copyright, or logo of a third party.

EE. **"Toll-Free Minute"** means minutes of usage incurred on toll-free numbers assigned to an Account.

FF. **"Usage"** means Toll-Free usage, Local usage, Long-Distance usage, International Usage, and any other usage of an Account that could result in charges for calling, messaging, or other activity.

GG. **"Voice/Text Feature"** means any functionality or feature of the Plan Services that converts voice content to text content or vice versa.