

The following EarthLink Complete™ Voice Hosted Voice Supplemental Terms and Conditions (“**Hosted Voice T&C’s**”), are in addition to and supplement the terms and conditions set forth in the Agreement for Service or Master Service Agreement and applicable Customer Experience Guide between EarthLink (“**EarthLink**”) and Customer dated concurrently herewith (“**Agreement**”). By its use of the Services, Customer agrees to amend and/or supplement the Agreement as set forth herein. For purposes of this Hosted Voice T&C’s, “EarthLink” means EarthLink Business, LLC and its related entities that is/are certified to provide the Service(s) in the applicable state(s). Except to the extent set forth herein, or in any other agreement mutually agreed to between the parties, all of the terms and conditions set forth in the Agreement shall remain in full force and effect. Capitalized terms used herein but not otherwise defined shall have the same meaning assigned to such terms in the Agreement. In the event of any conflict between the terms set forth in this Hosted Voice T&Cs, the Agreement, and any other agreement executed between the parties, the terms of this Hosted Voice T&Cs shall prevail.

1. **Complete Hosted Voice Service.** The EarthLink Complete Hosted Voice solution (“**Service**”) is a network- based voice service offering that allows Customers to replace system, including but not limited to, Key, PBX or other hosted systems with voice and other integrated system services. The Service shall be supported under customer premise equipment owned and maintained by EarthLink, which may including routers, IAD’s, switches and/or universal power supply (the “**Equipment**”). EarthLink will provide the underlying Hosted Voice services during the Service Term including configuration, installation, testing, initial customer training and maintenance. EarthLink will review support of other equipment on an individual case basis. In the event that Customer desires to retain control over its switching device(s) currently deployed within its network, Customer may “bring your own switch” upon the prior approval by EarthLink and execution of the Bring Your Own Switch Disclosure and Notice. In no event shall EarthLink be responsible for managing any Equipment longer than the time period for which the manufacturer of that device supports the hardware and software on that device. Customer shall reimburse EarthLink, on a time and materials basis, for the entire cost to repair and/or replace Equipment in the event of (a) misuse, (b) failure to exercise reasonable care, (c) altering original configuration, (d) damage, (e) theft, (f) disaster and (g) Customer caused service impairments.
2. **IP Phones.** Only Phones provided by EarthLink will be permitted to connect to the underlying Service. Customer may order IP Phones from EarthLink under the Purchase Option Plan or Managed Phone Option Plan (collectively, “**Option Plan**”).
  - (i) **Purchase Option Plan.** Customers may purchase IP Phones from EarthLink and will be charged (i) an NRC, (ii) a monthly maintenance fee per IP Phone during the Service Term for hardware and software maintenance, upgrades, and IP Phone support. Upon termination of the Service, Customer shall own and retain title to the IP Phones.
  - (ii) **Managed Phone Option Plan.** EarthLink will charge Customer (i) a monthly recurring charge per IP Phone during the Service Term, and (ii) a monthly maintenance fee per IP Phone during the Service Term for hardware and software maintenance, upgrades and IP Phone support. At the expiration of the Service Term, Customer may, at its option (a) renew on a month-to-month basis until either Party terminates the Service(s) as set forth in the Agreement, (b) purchase the IP Phones at Fair Market Value, or (c) terminate the Service and return the phones to EarthLink. “**Fair Market Value**” shall be based on the Service Term agreed to between the parties and calculated as follows: IP Phone Sale Price x Residual %. A Listing of the Fair Market Value can be viewed at the following link [www.earthlinkbusiness.com/legal/IPPhoneFMV.pdf](http://www.earthlinkbusiness.com/legal/IPPhoneFMV.pdf).
- a. EarthLink shall provide testing and upgrading of the firmware on devices during the Service Term or Warranty Period, as defined below, whichever is greater. EarthLink reserves the right to discontinue support of any IP Phone should the manufacturer render the device “End of Life” or “End of Sale” or discontinued. Customer acknowledges and understands that Service performance may vary based on the infrastructure of the Customer’s LAN. EarthLink may change the service delivery method and Equipment to improve the quality of the service(s) provided.
- b. **Warranty Replacement Policy.** EarthLink warrants that, during the Service Term, or such period as the Service is provided by EarthLink (“Warranty Period”), the IP Phone(s) will be free from defects in materials and workmanship, software or firmware failure, under normal use and, and will substantially conform to the Documentation. During the Warranty Period, EarthLink, at its sole option and expense, (i) may make reasonable efforts to correct defects in the IP Phone(s), or (ii) may replace the defective IP Phone(s) and provide a replacement device to Customer. EarthLink’s liability hereunder shall be to replace or make reasonable efforts to take corrective action with regard to the defective IP Phone(s). The remedy stated in this section shall be EarthLink’s entire obligation and Customer’s sole and exclusive remedy with respect to any defects of the IP Phone(s) and shall be in lieu of any other remedy available to Customer. Replacement covers both hardware and software support, and

any power supplies that are external to the device. Customer shall not receive replacement of any IP Phone if the IP Phone has been (a) altered, modified or enhanced, (b) subjected to misuse or negligence, improper storage, exposure to moisture, (c) unusual physical, mechanical or defects in appearance or structural items, or (d) used, adjusted, installed or operated other than in accordance with the Hosted Voice T&C's, the Agreement and the Documentation. Customer shall reimburse EarthLink, on a time and materials basis, for the entire cost to repair and/or replace the IP Phone(s) in the event of misuse, failure to exercise reasonable care, altering original configuration, damage, theft or disaster.

- c. **Replacement Options.** Customer may obtain a replacement device for IP Phones not covered under the Replacement Warranty Policy as follows:
- (i) Managed Option Plan: Customer shall return the defective device to EarthLink and will be charged, in addition to the MRC, a fee equal to seventy five percent (75%) MRC multiplied by number of months remaining in the Service Term ("Replacement Fee").
  - (ii) Purchase Option Plan: Customer will be required to purchase a new phone to replace the defective device.
- d. **Upgrade.** Customer may upgrade IP Phone(s) at any time during the Service Term by contacting Customer Care at 855-EL-Care-1.
- (i) Managed Option Plan: Customer shall return the device to EarthLink and will be charged, in addition to the Replacement Fee, a new MRC based on the upgraded device. Customer may purchase the device that is being upgraded by contacting Customer Care at 855-EL-Care-1 and will be charged a fee in an amount equal to the MRC for the purchased device multiplied by the number of months remaining in the Service Term.
  - (ii) Purchase Option Plan: Customer will be required to purchase a new phone at EarthLink's current price.
- e. **Downgrade:** Customer may downgrade IP Phone(s) at any time during the Service Term by contacting Customer Care at 855-EL-Care-1.
- (i) Managed Option Plan: Customer will be charged, in addition to the MRC for the device downgrade, an amount equal to the MRC for the device originally deployed multiplied by the number of months remaining in the Service Term. For downgrades only, Customer may either keep the existing device, or return it EarthLink.
  - (ii) Purchase Option Plan: Customer will be required to purchase a new phone at EarthLink's current price.

If Customer is outside of the Service Term, then Customer is required to purchase a new phone, and the terms above are void.

IP Phones, or parts, returned to EarthLink must be delivered, prepaid and packaged appropriately for safe shipment, to EarthLink Warehouse, 1801 Hillyer Robinson Parkway, Suite C, Anniston, AL 36207. Customer shall bear responsibility for loss or damage during the shipping process. Replacement phones or parts may be new or reconditioned and will be delivered to Customer within twenty four (24) business hours of receipt of the required payment.

3. **Termination.** Notwithstanding anything contained in the Agreement to the contrary, EarthLink reserves the right to terminate the Service by providing Customer not less than one hundred and twenty (120) days prior written notice thereof in the event of a determination by EarthLink that the rules, regulations or policies of the Federal Communications Commission, state public utility commission or similar regulatory body, or any applicable federal, state or local governmental agency or entity render the Service to be unlawful, unprofitable, impractical or undesirable. In the event that Customer cancels the Service following its execution of the Agreement by Customer but prior to the Service Commencement Date, or terminates the Service prior to the end of the Service Term (or if EarthLink terminates the Agreement as a result of a material default by the Customer), Customer shall be charged an Early Termination Fee as provided in the Agreement.

4. **911 and E911 Disclosure and Notice.** The EarthLink Complete Hosted Voice solution is configured by EarthLink to support a static environment. As with any telephone and/or data technology, there are certain circumstances under which 911 or E911 emergency services may not function properly. THE FCC REQUIRES THAT EARTHLINK INFORM THE CUSTOMER OF POTENTIAL LIMITATIONS TO 911 OR E911 EMERGENCY SERVICES. 911 AND/OR E911 SERVICES WILL NOT BE AVAILABLE OR FUNCTION IF (i) THE TELEPHONE DEVICE TO WHICH A PARTICULAR TELEPHONE NUMBER HAS BEEN ASSIGNED IS MOVED TO A LOCATION OUTSIDE THE PREMISES WHERE THE TELEPHONE DEVICE WAS ORIGINALLY INSTALLED; (ii) THERE IS A LOSS OF ELECTRICAL POWER TO THE TELEPHONE AND/OR TO EQUIPMENT NECESSARY TO MAINTAIN YOUR BROADBAND CONNECTION. Customer acknowledges that it has received, has read and understands the 911 and E911 Disclosure and Notice attached hereto as Schedule A, and has provided an executed copy of same to EarthLink. Services will not be delivered unless and until EarthLink receives an executed copy of the 911 and E911 Disclosure and Notice. If the IP Phone is relocated outside of the location that it was originally installed, or used in conjunction with the Remote Worker package, Customer shall immediately update its location within the myLink portal. Customer will also notify anyone that may use the IP Phone of the possibility that they may be unable to access 911/E911 service. For your convenience, we have included stickers to be affixed on or near the IP Phone to alert users of any possible service limitations. “**Remote Worker**” is defined as a static user that may register its phone at a location that is not serviced by an EarthLink circuit or access methodology. Customer further acknowledges that use of the services as a Remote Worker will be in compliance with the guidelines established in the Remote Worker Configuration Guide [www.earthlinkbusiness.com/RemoteWorkerConfigGuide.pdf](http://www.earthlinkbusiness.com/RemoteWorkerConfigGuide.pdf).
5. **Bring Your Own Broadband Disclosure and Notice.** In the event that Customer shall use the IP Phones (i) in combination with any service not provided by EarthLink but provided by the Customer or the Customer’s vendor, (ii) with any other software and/or services provided by the Customer, or any other source other than by EarthLink, which may be installed to integrate with the Service, including but not limited to broadband access, voice services (local, long distance, toll free, etc.) or any IP Solution (Internet access, VoIP telephone systems and services, call distribution and recording services, (iii) with any other service platform that is not connected to an EarthLink provided access facility, or (iv) any EarthLink provided equipment used in combination with any broadband Internet connection not provided by EarthLink, Customer agrees that it has read, understands and will abide by the terms and conditions set forth in the Bring Your Own Broadband Disclosure and Notice attached hereto as Schedule B.
6. Customer shall use the Service in compliance with, and subject to, all applicable government codes, ordinances, laws, rules and regulations, applicable tariff, and the Acceptable Use Policy, and any additional documentation corresponding to the Service, which can be found on [www.earthlinkbusiness.com](http://www.earthlinkbusiness.com) and shall secure, prior to the delivery of the Service, and maintain in full force and effect during the applicable Service Term, any and all necessary approvals, consents, licenses, permits, franchises, or similar approvals which are necessary or required to be obtained by the Customer in connection with the Customer Equipment.
7. EarthLink reserves the right to terminate the Service(s) in accordance with the terms and conditions of the Agreement immediately and without advance notice if EarthLink, in its sole discretion, believes that the above restrictions on use have been violated.
8. Customer acknowledges that it has received, has read and understands the 911 and E911 Disclosure and Notice and has provided an executed copy of same to EarthLink.
9. Customer acknowledges that it has received, has read and understands the BYOB Disclosure and Notice and has provided an executed copy of same to EarthLink.

**Important 911 and E911 Disclosure and Notice**

The Federal Communications Commission ("FCC") requires that EarthLink, like all Voice Over Internet Protocol ("VoIP") service providers, inform its customers of any differences between the 911 and E911 access capabilities available with EarthLink VoIP Services (the " **VoIP 911 and E911 Service**") as compared to the 911 and E911 access capability available with traditional wireline non-VoIP telephone service. A copy of the FCC order containing the disclosure rules is available at [www.fcc.gov/cgb/voip911order.pdf](http://www.fcc.gov/cgb/voip911order.pdf). It is important that you understand how these differences affect your ability to access 911 and E911 services. For purposes of this Notice, "EarthLink" means the subsidiary or subsidiaries of EarthLink, LLC that provide(s) VoIP Services in the applicable state(s). If you have any questions or concerns about the information contained in this Notice, please contact a Customer Care Representative at (855) EL-Care-1.

The FCC's rules also require us to obtain and keep a record on file showing that you have received and that you understand this 911 and E911 Notice. **If we do not receive your reply promptly, we may be required by FCC rules to suspend your service until we do receive your reply.**

**By executing this Notice, you are affirmatively acknowledging that (i) you have read and understood this 911 and E911 Notice, (ii) you understand that you may not be able to contact emergency services by dialing 9-1-1 using the VoIP 911 and E911 Service, and (iii) you understand that you must inform users of the VoIP Services that they may not be able to contact emergency services by dialing 9-1-1 using the VoIP 911 and E911 Service.**

- **EARTHLINK VOIP 911 AND E911 SERVICES MAY NOT OPERATE DURING A POWER OUTAGE.** You understand and acknowledge that the VoIP 911 and E911 Service will not function in the event of a power failure or disruption. Should there be an interruption in the power, the VoIP Services, including the VoIP 911 and E911 Service, will not function until power is restored and your equipment may need to be reset.
- **EARTHLINK VOIP 911 AND E911 SERVICES WILL NOT OPERATE IF YOUR BROADBAND CONNECTION IS DISRUPTED.** You understand and acknowledge that service outages, interruptions or degradation, or termination or suspension for any reason, of service by your broadband provider and/or ISP or by EarthLink will prevent you from using the VoIP Services, including the VoIP 911 and E911 Service.
- **EARTHLINK VOIP 911 AND E911 SERVICE CALLS MAY NOT COMPLETE OR MAY BE ROUTED TO EMERGENCY PERSONNEL WHO WILL NOT BE ABLE TO ASSIST IF YOU DISABLE, DAMAGE OR MOVE THE EQUIPMENT TO A LOCATION OTHER THAN THE REGISTERED ADDRESS YOU PROVIDED TO EARTHLINK WHEN SERVICE WAS INITIATED.** You understand and acknowledge that VoIP 911 and E911 Service will not function if you move your device to a different street address or location other than your Registered Address. You also acknowledge that it may take several days for any change in address to be processed. Accordingly, you should notify EarthLink in advance of any and all changes to your Registered Address by contacting a Customer Care Representative at (855) EL-Care-1. Failure to provide the current and correct physical address and location of your device may result in any 911 call you make being routed to the incorrect local emergency service provider and emergency personnel being dispatched to the incorrect location.
- **EMERGENCY PERSONNEL MAY NOT BE ABLE TO IDENTIFY YOUR PHONE NUMBER IN ORDER TO CALL YOU BACK.** You understand and acknowledge that public safety answering point ("PSAP") and emergency personnel may not be able to identify your phone number in order to call you back if the call cannot be completed, is dropped or disconnected and/or if your VoIP 911 or E911 Service is not operational for any reason.
- **EARTHLINK VOIP 911 AND E911 SERVICE CALLS MAY BE DELAYED OR DROPPED DUE TO NETWORK ARCHITECTURE.** You understand and acknowledge that, due to technical constraints, there is a greater possibility of network congestion and/or reduced speed in the routing of a 911 call made utilizing your equipment as compared to 911 dialing over traditional non-VoIP public switched telephone networks.
- **IN ADDITION, YOU SHOULD MAINTAIN ALTERNATE MEANS OF CONTACTING 911 AND E911 SERVICES AND YOU MUST INFORM USERS OF EARTHLINK VOIP 911 AND E911 SERVICE OF THESE ALTERNATE MEANS.** You will receive a set of stickers explaining 911 and E911 service limitations and these stickers should be placed on or near the equipment you use to access the VoIP 911 and E911 Service. If you require additional stickers, please contact a Customer Service Representative at (855) EL-Care-1.



**EARTHLINK COMPLETE™ VOICE  
HOSTED VOICE SUPPLEMENTAL  
TERMS & CONDITIONS**

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IN NO EVENT SHALL EARTHLINK, ITS PARENT COMPANY, OR ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS OR ANY OTHER THIRD-PARTY PROVIDER OR VENDOR WHO MAY FURNISH SERVICES OR PRODUCTS TO YOU IN CONNECTION WITH THE VOIP SERVICES OR THE EQUIPMENT BE HELD LIABLE FOR ANY CLAIM, DAMAGE, OR LOSS WHATSOEVER ARISING FROM OR RELATING TO 911 DIALING AND YOU HEREBY WAIVE ANY AND ALL SUCH CLAIMS OR CAUSES OF ACTION ARISING FROM OR RELATING TO 911 DIALING.

EARTHLINK DOES NOT HAVE ANY CONTROL OVER WHETHER, OR THE MANNER IN WHICH, 911 CALLS USING THE VOIP SERVICES ARE ANSWERED OR ADDRESSED BY ANY LOCAL EMERGENCY RESPONSE CENTER. EARTHLINK DISCLAIMS ALL RESPONSIBILITY FOR THE CONDUCT OF LOCAL EMERGENCY RESPONSE CENTERS AND THE NATIONAL EMERGENCY CALLING CENTER. EARTHLINK RELIES ON THIRD PARTIES TO ASSIST EARTHLINK TO ROUTE 911 CALLS TO LOCAL EMERGENCY RESPONSE CENTERS. EARTHLINK DISCLAIMS ANY AND ALL LIABILITY OR RESPONSIBILITY IN THE EVENT SUCH THIRD PARTY DATA USED TO ROUTE CALLS IS INCORRECT OR YIELDS AN ERRONEOUS RESULT.

I acknowledge that I have received, read and understand this 911 and E911 Disclosure and Notice. I represent that I am an authorized representative of the company identified below to execute this Notice on behalf of such company.

Entity Name: \_\_\_\_\_

Signed: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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



**EARTHLINK COMPLETE™ VOICE  
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SCHEDULE B

On or prior to the date of this Bring Your Own Broadband Disclosure and Notice (“**BYOB Notice**”), effective as of the date last set forth below, EarthLink (“**EarthLink**”) and the Customer identified below, have entered into an Agreement for Service or Master Service Agreement relating to Customer’s purchase of voice, data and/or Internet services from EarthLink (“**Agreement**”). The parties agree to amend and/or supplement the Agreement as set forth herein. For purposes of this BYOB Notice, “EarthLink” means one or more subsidiaries of EarthLink, LLC that is/are certified to provide the Service(s) in the applicable state(s). Except to the extent set forth herein, or in any other agreement mutually agreed to between the parties, all of the terms and conditions set forth in the Agreement shall remain in full force and effect. Capitalized terms used herein but not otherwise defined shall have the same meaning assigned to such terms in the Agreement. In the event of any conflict between the terms set forth in this BYOB Notice, the Agreement, and any other agreement executed between the parties, the terms of this BYOB Notice shall prevail.

The EarthLink Bring Your Own Broadband feature (“**BYOB**”) allows business customers to use their cable modem, DSL modem, or other broadband Internet connection to make and receive Voice over IP (VoIP) phone calls. In the event that Customer shall use any services provided by EarthLink (“**Service**”) (i) in combination with any service not provided by EarthLink but provided by the Customer or the Customer’s vendor, (ii) with any other software and/or services provided by the Customer, or any other source other than by EarthLink, which may be installed to integrate with the Service, including but not limited to broadband access, voice services (local, long distance, toll free, etc.) or any IP Solution (Internet access, VoIP telephone systems and services, call distribution and recording services (collectively referred to as “**Customer Equipment**”), (iii) with any other service platform that is not connected to an EarthLink provided access facility, or (iv) any EarthLink provided equipment used in combination with any broadband Internet connection not provided by EarthLink, Customer agrees as follows:

1. EarthLink will not be liable or responsible for any integration, installation, testing, troubleshooting, repair, support or maintenance regarding any Customer Equipment used in connection with the Service.
2. Customer understands that it may experience quality of service issues or degradation in Service resulting from the Customer Equipment. The Service Level Agreement will not be applicable to any Service provided to Customer used in combination with the Customer Equipment.
3. Customer shall use the Service in compliance with, and subject to, all applicable government codes, ordinances, laws, rules and regulations, applicable tariff, and the Acceptable Use Policy, and any additional documentation corresponding to the Service, which can be found on [www.earthlinkbusiness.com](http://www.earthlinkbusiness.com) and shall secure, prior to the delivery of the Service, and maintain in full force and effect during the applicable Service Term, any and all necessary approvals, consents, licenses, permits, franchises, or similar approvals which are necessary or required to be obtained by the Customer in connection with the Customer Equipment.
4. EarthLink reserves the right to terminate the Service(s) in accordance with the terms and conditions of the Agreement immediately and without advance notice if EarthLink, in its sole discretion, believes that the above restrictions on use have been violated.
5. Customer acknowledges that it has received, has read and understands the 911 and E911 Disclosure and Notice and has provided an executed copy of same to EarthLink.

**I acknowledge that I have received, read and understand this Bring Your Own Broadband Disclosure and Notice. I represent that I am an authorized representative of the company identified below to execute this Notice on behalf of such company.**

Entity Name: \_\_\_\_\_

Signed: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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