

# WYOPHONE TERMS AND CONDITIONS OF SERVICE AGREEMENT

## 1.0 AUTHORIZATIONS, ACKNOWLEDGEMENT AND ACCEPTANCE OF SERVICE AGREEMENT

1.1 The WyoPhone Service, offered or provided by Wyoming.com ("Company"), is offered or provided to the Customer ("Customer" or "you") under the terms and conditions of this Service Agreement ("Agreement"). The following Terms and Conditions constitute the Agreement between the Company and the Customer in connection with the Customer's purchase of the Company's residential, small business, and/or any other voice communications services offered by the Company, along with related products or other services provided by the Company (collectively, the "Service").

1.2 The term "Customer" includes you and also each member of your household or business and any other individual who uses the Service, whether or not the individual is named on the account or owns, rents, or uses the premises or Service Location on which the telephone that is used to access the Service is located. The Customer is responsible for all individuals using the Service and for ensuring that they understand and comply with the terms and conditions of this Agreement. The Customer will be responsible for any and all breaches of the terms and conditions of this Agreement by anyone accessing the Service from the Customer's premises or Service Location.

1.3 YOU REPRESENT AND WARRANT THAT YOU ARE 18 YEARS OF AGE OR OLDER, THAT YOU AGREE TO PROVIDE TRUE AND ACCURATE INFORMATION AS PROMPTED BY THE ONLINE INQUIRY FORM AND/OR THE COMPANY, AND THAT YOU AGREE TO BE BOUND BY THIS AGREEMENT UPON THE EARLIER OF: (i) CLICKING ON THE "I AGREE TO THE WYOPHONE TERMS AND CONDITIONS OF SERVICE AGREEMENT" BUTTON DURING THE ONLINE INQUIRY FORM SUBMISSION OR OTHER SIGN UP PROCESS; OR (ii) BY USING THE SERVICE. THE CUSTOMER IS ENCOURAGED TO READ THIS AGREEMENT VERY CAREFULLY, BECAUSE BY ACCEPTING, ACTIVATING, USING OR PAYING FOR THE SERVICE, THE CUSTOMER AGREES TO ALL OF THESE TERMS, INCLUDING, WITHOUT LIMITATION, TO THE PRICES, CHARGES AND TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT AND/OR CURRENTLY POSTED, OR POSTED IN THE FUTURE, ON THE WEB SITES REFERRED TO IN THIS AGREEMENT, ALL OF WHICH ARE INCORPORATED IN THIS AGREEMENT BY REFERENCE. THE CUSTOMER IS NOT AUTHORIZED TO USE THE SERVICE WITHOUT AGREEING TO BE BOUND BY THIS TERMS AND CONDITIONS OF SERVICE AGREEMENT.

1.4 The Company reserves the right, in its sole discretion, to change, modify, add or remove all or part of the Agreement, the Service Plan information (as described below) and/or its fees and charges at any time with or without notice. The Customer is strongly encouraged to refer back to this Agreement often.

1.5 If the Customer is not utilizing a new telephone number for the Service and does not order a new telephone number from the Company when ordering the Service, but rather is transferring an existing telephone number from a carrier other than the Company for local, local toll, and/or long distance telecommunications services, to the Service, Customer hereby authorizes the Company to process Customer's order for the Service and to notify the Customer's current telephone company of the Customer's decision to switch the Customer's local, local toll, and long distance services to the Service, and represents that the Customer

us authorized to take this action. The estimated local number portability effective date, following completion of the Service ordering process, is three (3) to fifteen (15) days and is dependent upon the cooperation of the present carrier that is not the Company.

## **2.0 DESCRIPTION OF WYOPHONE SERVICE, FEATURES, SERVICE PLANS, ACCEPTABLE USE, AND MAINTENANCE**

2.1 The Service is a voice communications service that uses Voice over Internet Protocol (“VoIP”) technology to transmit voice communications traffic. The Service is used for traffic that either originates or terminates at the Customer’s premise in IP format and is thus deemed information traffic. The Service is only available to the Customer using a wireless or wireline Internet service connection. The Company offers or provides the Service only in conjunction with the Company’s Wireless or wireline Internet services. The Company is the provider of the Service using the Company’s Wireless Internet service. Contact Communications, Inc. is the provider of the Service using the Company’s wireline Internet service. The Company is authorized to offer Contact Communications, Inc.’s VoIP service over wireline Internet services by, and for, Contact Communications, Inc. Wireline Internet services include, but are not limited to, DSL, EtherLink, DS1/T1, DS3/T3, Optical, or Private Line connections wired to the Customer’s premise Service Location.

2.2 The Service includes unlimited local calls, in-state calls, and long-distance calls throughout the United States and Canada with a number of calling features (e.g. Call Waiting, Call Forwarding, Caller ID, Voice Mail, etc. – see WyoPhone Service Guide at <http://www.wyoming.com/WyoPhone.htm> or contact the Company directly at 1-800-996-4638) all for one flat monthly fee. Residential Service includes unlimited in-state calls and unlimited long distance calls, whereas Business Service includes in-state and long-distance calls pursuant to the specific Business Service Package chosen by the Customer. The Customer is responsible for providing telephones, telephone systems, computers, fax machines, and/or analog telephone adapter for use with the Service.

2.3 The Service is an enhancement to the Customer's Internet service. The Company uses commercially reasonable efforts to provide the Service. Since the Service uses Voice over Internet Protocol (“VoIP”) technology to transmit the communications traffic, it may be subject to certain regulatory provisions which may limit or reduce the Customer's remedies.

2.4 Residential Service Plans are provided for the Customer's residential use. Residential Service Plans may not be used for commercial or other non-residential purposes. If the Company determines that a Residential Service is being used by the Customer for any commercial or other non-residential use, then the Company may, in its sole discretion: (i) terminate the Service; (ii) adjust the Customer’s existing service plan to an appropriate service plan based on the Customer's use and retroactively adjust the amounts the Customer was charged or invoiced to reflect the revised service plan; and/or (iii) maintain the Residential Service Plan but additionally charge for Customer's excessive usage based on then current rates charged by the Company. The Company may make such determination based on the Customer's usage patterns and other criteria determined by the Company to differentiate between residential use and commercial or other non-residential use, and the Customer shall pay the charges for the applicable business service plan as determined by the Company, even if the Customer did not have access to the full feature set of said service plan. Without limiting the foregoing, any monthly usage that is more than five (5) times the average monthly usage of the Company’s Service customers using a Residential Service Plan, shall be considered to be commercial or other non-residential use subject to the terms of the Business Service Plans and this Agreement.

2.5 Business Service is provided to business users who use the Service for commercial purposes or in the operation of a business entity. Business users include, but are not limited to, commercial or for-profit companies, not-for-profit organizations or companies, municipalities and other government, and scholastic concerns. Any service invoiced to a business name, business address or used for a business as defined herein, will be charged as Business Service.

2.6 If the Customer desires to adjust Services or features, then the Customer may do so by going to the Company's website <http://www.wyoming.com> or by contacting the Company at 1-800-996-4638.

2.7 Listed below are the Prohibited Uses. The use of Service as described below in this Section is strictly prohibited ("Prohibited Uses"). The Customer hereby authorizes the Company to terminate or modify the Service at any time and without notice, if the Company determines in its sole discretion that the Service is, or was at any time, used for a Prohibited Use. The Customer is solely responsible for any Prohibited Use of the Service by the Customer or by anyone other than the Customer using the Service, whether authorized by the Customer or not. The Prohibited Uses are as follows:

2.7.1 The Customer's use of the Service for any illegal act;

2.7.2 The Customer's use of the Service for auto-dialing, continuous or extensive call forwarding, telemarketing (including, without limitation, charitable or political solicitation or polling), fax or voicemail broadcasting or any other automated dialing;

2.7.3 Fraudulent use of the Service or where it is otherwise deemed by the Company, in its sole discretion, that use of the Service by the Customer has or will create the imposition of large indebtedness to the Company;

2.7.4 The Customer's use of obscene or profane language over the Service;

2.7.5 The Customer's use of the Service for party line conversations or other similar infractions which are affecting the quality of voice service;

2.8 The Customer shall not attempt to hack, break-in, circumvent the Company's billing, tracking or other systems, or otherwise disrupt the Service or make any use of the Service that is inconsistent with its intended purpose. The Company may immediately terminate the Service without notice if the Company believes, in its sole and absolute discretion, that the Customer has tampered with the Service or otherwise breached the terms of this paragraph. In the event of such termination, the Customer will remain responsible for all charges incurred while the Service was active in accordance with Section 3 of this Agreement.

2.9 The Service is intended only for use within the continental United States and Canada. The Customer's use of the Service outside the continental United States is not permitted.

2.10 It is the Customer's duty to determine whether or not the Service is interoperable with any security system, medical alert or other critical systems connected to it. The Company does not recommend use of the Service for security or other critical systems and the Company strongly recommends that the Customer maintain an alternative telephone line for use with any other equipment that is used with security systems because the Service may fail

and cause loss of property or bodily injury when used in connection with a security system. If the Customer should determine that the Service will be used with such systems, then the Customer assumes all risk of loss if the Service should fail to perform at any time, the Customer explicitly accepts the Service in its "as-is" condition, with no representations or warranties by the Company of any kind that the Service is suitable for any particular purpose.

2.11 If the service is not used with the Company's Wireless or wireline Broadband Internet services the Company cannot determine if the Service is compatible with another broadband service provider's service and/or equipment. Even if the Service should work with such broadband systems, the Company cannot guarantee that the Service will continue to be compatible, due to the fact that broadband providers may change or upgrade their equipment from time to time. The Company does not warrant that the Services will be compatible with all or any broadband services other than that provided by the Company and expressly disclaims any expressed or implied warranties regarding the compatibility of the Service with any particular broadband Internet service.

2.12 Unless the Customer purchases or leases a different Internet Phone Adapter from the Company, the Company will provide a basic Internet phone adapter (Linksys Model #SPA112 only) to Customer for Customer's use of the Service. The Internet phone adapter is necessary for use of the Service and is provided to the Customer as a feature. At no time does the ownership of the Internet phone adapter transfer from the Company to the Customer, unless the Customer chooses to purchase either model. The Company will provide a replacement warranty for the Linksys adapters and will immediately replace any adapter if found to be defective through no fault or negligence of the Customer. Defective adapters must be returned, by the Customer, to the Company. Upon deactivation of the Service by either the Customer or Company, and for any reason, the Customer must return the Internet phone adapter to the Company within thirty (30) days of deactivation. If for any reason the Customer does not return the Internet phone adapter to the Company within thirty (30) days, or if the adapter is returned in damaged condition, the Company will invoice the Customer \$59.95 (Linksys Model SPA112) for replacement of the appropriate adapter.

2.13 Subject to applicable law and to the limitations of liability set forth in this Agreement, the Company reserves the right, in its sole discretion and without any obligation to the Customer, to undertake any activities it deems necessary to test, modify, update, manage, inspect, maintain, repair, or monitor the Service and its infrastructure or related infrastructure, carrier network connections, and all of its related components. This may include, but is not limited to, activities relating to administration, system security and intrusion detection, technical performance, and monitoring Customer compliance. These rights are in addition to and do not limit any other rights of the Company and/or affiliated entities.

### **3.0 CHARGES, PAYMENTS, BILLING DISPUTES, TAXES AND REGULATORY FEES**

3.1 The Company's fees and charges are set forth within the Company's website <http://www.wyoming.com> or by contacting the Company at 1-800-996-4638. The Company's fees and charges may be changed by the Company from time to time. The Customer will be invoiced for Services, installation fees, taxes and regulatory fees and other recurring charges, in advance, however usage charges, termination charges and other charges may be billed in arrears, as the Company shall determine. Installation fees include, but are not limited to, Service activation, telephone number transfer fee, directory listing change fee, and caller id change fee. Usage charges include, but are not limited to, directory assistance or 411. The Company will prorate any fees, charges, or credits based on the actual activation or disconnection dates of the Service and any additional Services or features.

3.2 Service calls and/or technician dispatches to repair Service may be charged to Customer by Company in applicable situations such as causes attributed to the Customer. If the Company is called to the Customer's WyoPhone service location and it is determined that the WyoPhone service deficiency or problem is the result of a source other than the Company, the Service, or the Company's Wireless or wireline Internet services and related hardware, a service fee will be charged to the Customer. Service fees include a minimum fee of \$100.00 for the first hour or any fraction thereof, plus \$50.00 for each additional half-hour increment. The stated rates apply during regular business hours. Overtime, weekend and holiday rates will be higher. Travel/mileage and related charges may also apply.

3.3 The Company will invoice all charges, in accordance with this Agreement, to the Customer through US Mail addressed to the Customer's last known address or electronic mail to the Customer's last known e-mail address. It is the Customer's duty and responsibility to review each invoice and to verify that all charges are accurate and correct. The Customer agrees that all charges are due fifteen (15) days from invoice date.

3.4 At the time the Customer orders the Service from the Company, the Customer must provide the Company with full name or business name, mailing address, e-mail address, the Service address, and alternative telephone number(s). The Company reserves the right to request additional information including, but not limited to, financial information, from the Customer for purposes of credit approval to ensure payment of all charges invoiced by the Company to the Customer. By subscribing to the Service, the Customer accepts the terms and conditions of this Agreement and authorizes the Company to make inquiries and to receive information about the Customer's credit experience from others and to enter this information in the Customer's file.

3.5 By accepting this Agreement, the Customer agrees to pay all installation fees and the first month's recurring charges for the Service at the time the Customer orders the Service from the Company.

3.6 Amounts that are posted to the Customer's account will be deemed to be late if not paid within fifteen (15) days from the date of invoice and will bear interest at the greater of the rate of 1.5% per month or the maximum rate allowed by law.

3.7 The Customer will pay all applicable federal, state, provincial, municipal, local or other governmental sales, use, excise, value-added, personal property, public utility or other taxes, tariffs, access fees or other fees or charges now in force or enacted in the future, that arise from or as a result of, the Service (collectively, "Taxes"). Taxes are in addition to charges for Services and Taxes are due for any period of time while the Service is or was in use, even if the Company fails to accurately or correctly bill the Customer. If the Customer claims to be exempt from payment of any Taxes, the Customer must provide the Company with proof of such exemption acceptable to the Company and the Company will continue to collect Taxes from the Customer until such exemption is established to the Company's satisfaction.

3.8 All billing disputes must be reported in writing to the Company no later than sixty (60) days from the later of the date the disputed charge was invoiced to the Customer. Unless disputed within said 60-day period, all charges invoiced to the Customer are deemed to be correct and the Customer waives any claim after said 60-day period. Submission of a written dispute notice by the Customer shall not relieve the Customer of its obligation to timely pay all undisputed amounts. Disputes should be sent to:

**FOR BILLING DISPUTES ONLY:**

Wyoming.com Customer Billing Department  
937 West Main Street  
Riverton, WY 82501  
[billing@Wyoming.com](mailto:billing@Wyoming.com)

3.9 When the Customer's Service is out of service in excess of forty-eight (48) consecutive hours as reported by the Customer to the Company, the Company shall credit to the Customer the prorated portion of that month's charges for the period for which the Service was out of service. By accepting this Agreement, the Customer agrees that no credit is due when the out-of-service circumstance is due to emergency, catastrophe, natural disaster, loss of power at the Customer's Service location, nor shall it apply to extraordinary or abnormal conditions of operation such as those resulting from work stoppage, civil unrest, Customer action or equipment, or force majeure.

3.10 Any amount due to the Customer by the Company over and above the amount due to the Company for Services not rendered shall be refunded to the Customer, less any amount owed by the Customer for any other services provided by the Company.

3.11 If the Service is discontinued after payment in advance thereof, either upon request of the Customer or by the Company in accordance with this Agreement, the Company shall refund to the Customer that portion of the month's charges for the time the Service was not active; subject to Section 3.8 above.

3.12 The Service does not include operator-assisted calling (including, without limitation, collect calls, third party billing calls or calling card calls) or other features that are initiated using the "0" key. These services are available and are provided through a third-party vendor and will require the use of a credit card. In addition, the Service may or may not support 311 or 511 in one or more (or all) service areas. 911 Services are limited, as described in Section 5.

3.13 Telephone numbers assigned to the Customer by the Company will be listed in the local telephone directory. The Customer may choose to not list a telephone number in a local telephone directory and the Company will issue a discount off of the installation fees to the Customer.

3.14 The Company reserves the right to disconnect the Customer's Service for nonpayment if the Customer fails to pay the fees and charges as specified herein and agreed to in this Agreement. The Company will not disconnect the Customer's Service until the Company has given at least seven (7) days written notice to the Customer of such delinquency and of its intention to disconnect Service. Such notice shall be considered to be given when a copy thereof is provided to the customer, delivered to the premises where service is rendered, or posted in the US mail addressed to the customer's last known address.

**4.0 TERM, TERMINATION AND EXPIRATION**

4.1 This Agreement will continue in effect until terminated by either party according to the terms and conditions of this Agreement or until superseded by a revised WyoPhone Terms and Conditions of Service Agreement.

4.2 The Customer may terminate this Agreement for any reason at any time by giving five (5) business days notice to the Company. Upon termination by the Customer, the Customer

will be responsible for any and all applicable fees and charges up to and including the date of termination. Prepaid monthly service fees and charges for Service not received will be refunded pursuant to Section 3.

4.3 The Company may terminate this Agreement immediately at any time for any reason, whether or not the Customer has violated this Agreement. If the Company terminates the Service for any reason, the Customer will be responsible for any and all applicable fees and charges up to and including the date of termination. Prepaid monthly service fees and charges for Service not received will be refunded pursuant to Section 3.

4.4 By accepting this Agreement, the Customer agrees that the Customer has certain obligations upon termination of this Agreement and/or the Service by the Customer or the Company. Upon termination by the Customer or the Company:

4.4.1 The Customer will immediately cease use of the Service on the date of termination of this Agreement or the date on which the Service has been disconnected, whichever is later;

4.4.2 The Customer will pay in full for the Customer's use of the Service up to the effective date of termination of this Agreement or the date on which the Service has been disconnected, whichever is later;

4.4.3 The Customer will pay monthly fees and service charges for use of the Service on a pro-rata basis.

## **5.0 911 EMERGENCY SERVICE; DESCRIPTION, LIMITATIONS, AND CUSTOMER OBLIGATIONS**

5.1 AS REQUIRED BY THE LAWS OF THE STATE OF WYOMING AND THE UNITED STATES, THE COMPANY PROVIDES A MEANS BY WHICH YOU MAY ACCESS LOCAL EMERGENCY SERVICES BY DIALING "911". BY CLICKING ON THE "I AGREE TO THE WYOPHONE TERMS AND CONDITIONS OF SERVICE AGREEMENT" BUTTON DURING THE ONLINE INQUIRY FORM SUBMISSION OR OTHER SIGN UP PROCESS, AND BY CONTINUING TO USE THE SERVICE AND THE 911 SERVICE AFTER ANY CHANGE OR MODIFICATION BY THE COMPANY OF THIS SECTION 5.0, YOU REPRESENT AND WARRANT THAT YOU AGREE TO PROVIDE TRUE AND ACCURATE SERVICE LOCATION INFORMATION AS PROMPTED BY THE ONLINE INQUIRY FORM AND/OR COMPANY, AND THAT YOU AGREE TO BE BOUND BY THIS SECTION 5.0 AND THIS AGREEMENT, THAT YOU HAVE READ THIS SECTION 5.0 "911 EMERGENCY SERVICE" ALONG WITH THIS AGREEMENT (AS IT MAY BE MODIFIED FROM TIME TO TIME) AND YOU HAVE DETERMINED THAT THE SERVICE AND THE 911 SERVICE ARE SUITABLE TO YOUR NEEDS.

5.2 When using the Service to make an emergency call by dialing 911, the Service does not work like traditional landline telephone 911 services, which are physically restricted to the service address. When the Customer makes a 911 call using the Service, the emergency operator has no way of accurately knowing the Customer's exact service location or telephone number from which the call was made. In an attempt to facilitate providing this service location information, the Company has contracted with Contact Communications, Inc. to provide the Company and its Customers with access to the 911 Service ultimately through Intrado, Inc.'s database inquiry and routing services. The enhanced 911 Service ("E911") needs database inquiry capability to match the Customer's telephone number with the

address provided to the Company by the Customer (the "Service Location"). Assuming the Service Location is accurate and kept current by the Customer, if a 911 call is made from a location within the geographic serving area of a Public Safety Answering Point ("PSAP"), the E911 Service attempts to forward the address of the Service Location to the PSAP. If the Customer fails to keep the address of the Service Location current and accurate with the Company, then the PSAP may direct emergency services to the wrong address or location. In addition, not all PSAP's are E911 capable, and thus do not have the means to accept the information regarding the Service Location.

5.3 The Customer understands that the 911 Service is unreliable and may not work if and when needed. The Service should not be the primary means of the customer to make emergency calls using 911, and it is the Customer's sole responsibility to inform all residents, guests, and other third parties who may be present at the Customer's Service Location of the limitations of the 911 Service.

5.4 During the Online Inquiry Form Submission and/or any Sign-Up process, the Customer is asked to provide the Customer's complete "Service Location" address for each telephone number to be included in the Service. The Customer's Service Location is the address where emergency services will be directed (if the applicable PSAP is E911 capable and accepts the Service Location information), regardless of the Customer's physical location when making the 911 call. It is the Customer's sole responsibility to provide full and accurate Service Location information to the Company and the Company bears no responsibility for the accuracy of the Service Location information nor is it the responsibility of the Company to maintain the Service Location information except as provided by the Customer.

5.5 If the Customer moves any equipment needed to use the Service to a location other than the Service Location specified to the Company by the Customer, then it is the duty and obligation of the Customer to update and/or correct the address of the Service Location for each telephone number that is affected. It is the duty and responsibility of the Customer to contact the Company to update and/or correct the address of the Service Location for the Service if the Service, or any Customer equipment, is to be moved to a location other than the Service Location previously provided to the Company by the Customer.

5.6 The Company will not automatically update or verify any addresses provided by the Customer; it is the Customer's responsibility to maintain the accuracy of the registered Service Location. The Company will not verify that the Customer's PSAP is E911 capable or that it will accept the Service Location information. If at any time after the Sign-Up process is completed and the Service has been activated the Customer discovers the Service Location information is inaccurate, or if the Customer moves any Customer equipment needed to use the Service to a location other than the Service Location, then the Customer must contact the Company to correct this information: the Company will not initiate any correction to any Customer's Service Location information.

5.7 The Customer may verify or register a new Service Location for each phone number covered by the Service by several means: (1) The Customer may use the Company's website at <http://www.wyoming.com>. After logging in and going to the Account Information, the Customer should scroll to the section entitled: "911 Address Service Location" and follow the instructions; or, (2) the Customer can contact the Company at 1-800-996-4638. Any updated address information for the Service Location may take up to ninety-six (96) hours to be updated in the relevant 911 databases. Accordingly, any emergency 911 calls made within this estimated time period after updating the Service Location address information may result



in the transmission of inaccurate information to the PSAP. Only one address for the Service Location can be active at any time.

5.8 In order for the Customer to expect emergency services to be available when needed, the Customer's Service Location must be within the geographic calling area of a PSAP. The Company does not provide PSAP's or PSAP information, nor does the Company determine the correct PSAP. The Company will not notify the Customer whether or not the Customer resides within the geographic area of a PSAP and it is the Customer's obligation to verify whether or not a PSAP will be available in the event of an emergency.

5.9 Although the Customer may provide information about the Service Location, it is up to each PSAP to accept and process the Service Location information and the Company has no control over what each PSAP does or doesn't do with the Service Location information. The PSAP may or may not have the ability to know the Service Location information and if the Customer lives in an area where the PSAP does not accept or process this Service Location information, the emergency services personnel will not know the Customer's location and may not be able to dispatch emergency services unless the Customer provides the information verbally.

5.10 If the Customer's Service Location is not within the continental United States, the 911 Service will not operate and the Customer must determine an alternate method for obtaining emergency services in that locale.

5.11 The Company has no means for determining whether or not the 911 Service actually works for the Customer's Service Location. Therefore, it is the obligation of the Customer to (i) verify that the correct PSAP has been determined for the Service Location; (ii) test the 911 Service from time to time; and (iii) re-test the PSAP and that 911 Service is working upon each change of information for the Service Location. The Customer should call the non-emergency telephone number for the Customer's local emergency service provider and request information for means of testing a 911 call to that provider.

5.12 The Company will not be liable for any delay or failure to provide the Service, including emergency 911 service. Emergency 911 service is complex and dependent upon numerous conditions being satisfied. Accordingly, the 911 Service is susceptible to failure, especially if any Service interruption or degradation of voice service quality caused by any of the following conditions occurs:

5.12.1 The electricity at the Customer's Service Location is disrupted or interrupted for any reason;

5.12.2 The Customer's Wireless, DSL or other wireline Internet service that the Service uses is disrupted or interrupted for any reason;

5.12.3 The Service malfunctions or is disabled, terminated or suspended for any reason, whether permitted by this Agreement or not;

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

Equipment, other equipment, network or facility failure directly related to any Broadband Internet Service;

5.12.5 Equipment, other equipment, network or facility upgrade, modification, or relocation directly related to any Broadband Internet Service;

5.12.6 Service, equipment, network or facility failure caused by the loss of electrical power directly related to any Broadband Internet Service;

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

5.12.8 Any impediment to usage of the Service caused by any third party;

5.12.9 Any act or omission by the Customer or any person using the Service; or

5.12.10 Any other cause that is beyond the Company's control, including without limitation, a failure of or defect in any equipment, the failure of an incoming or outgoing communication, the inability of communications (including, without limitation, 911 Service) to be connected or completed, or forwarded or the failure of emergency personnel to provide emergency services in a timely fashion.

5.13 Since the Service is dependent upon the Company's Wireless or wireline Broadband Internet services, if those services are slow or congested for any reason, the Internet services may not work or become unusable. The 911 Service will not work should the Wireless or wireline Broadband Internet services become unusable due to network congestion or overall Internet slowness.

5.14 If the Service does not work for any reason whatsoever, the 911 Service will not work and no emergency calling will be possible using the Service.

5.15 If the PSAP doesn't accept or process data regarding the Service Location, then the emergency personnel may not know the Customer's Service location unless the Customer verbally provides that information. The Company bears no responsibility or liability for the PSAP's ability to process Service Location information or data.

5.16 Upon restoration of the Service after a power outage, Internet service or broadband outage or any number of Service or other interruptions, some of which are described above, it may be necessary for the Customer to reset or reconfigure some or all of the Customer's Equipment, including Customer provided equipment, e.g., router. It is the Customer's responsibility to verify that the Service is functioning after each such interruption or outage.

5.17 The Company will not verify that the Service is functioning at any time at the Customer's Service Location and it is the Customer's obligation to determine whether or not the Service is functioning. If the Service does not function, the 911 Service will not function.

5.18 If there is a change in the telephone number, port, customer equipment or change of any other information upon which is necessary for the Service to function, it is the Customer's obligation to re-activate the Service after each such change. In order to add a new telephone number the Customer must go through a new Sign-Up process and provide the accurate Service Location address for that new telephone number. The Service Location assigned by the Customer to a telephone number will not be automatically assigned to any new telephone number or any other telephone numbers.

5.19 The 911 Service may not automatically provide the PSAP with the Customer's telephone number, name and/or address and the Customer must assume that the 911 operator does not have that information and it must be provided directly to the 911 operator orally by the Customer. The Customer will need to clearly state the nature of Customer's emergency and also provide the Customer's telephone number and the address where the emergency is located. In the event the call is dropped, disconnected or forwarded, the emergency personnel will not be able to find Customer location unless the Customer provides this information.

5.20 If for any reason the Customer is unable to talk or otherwise provide the 911 operator with the Customer's address, phone number or other relevant information, the 911 operator may not be able to direct emergency services to the Customer's location.

5.21 Since the routing and provision of 911 calls throughout the United States is an important function that is extremely complex and based on many standards, protocols and regulations of numerous government agencies, the Company has elected to engage the services of Intrado, Inc., through the Company's contractual relationship with Contact Communications, Inc., to provide the 911 Service to the Customers. All 911 calls and updated information relating to the Service Location is automatically routed to Intrado, Inc., who in turn attempts to route the call and that information to the correct PSAP. The Company does not have any input or control over this information or process.

5.22 Due to the fact that the company has engaged the services of Intrado, Inc. to provide the 911 service, the Company has no control over whether, or the manner in which, calls using the 911 service are answered or addressed by any PSAP or any other party. The Company hereby disclaims any and all responsibility for the conduct, actions, inactions or negligence of Intrado, Inc., any PSAP and/or any local police, fire or other emergency response services. The Company disclaims any and all liability for the accuracy or inaccuracy of any data that is entered or provided by the Customer, that is transmitted to Intrado, Inc., the PSAP or any other party which may result in an error or delay in providing emergency services to the Customer or others. The Customer acknowledges and understands that the Company will not be liable or responsible for any delay, power outage, network outage, or service outage of any kind and/or inability to dial 911 using the 911 service or to access emergency service personnel due to the characteristics and limitation of 911 service set forth in this document or otherwise. The Customer agrees to defend, indemnify, and hold harmless the Company, its officers, directors, employees, affiliates, and agents and any other service provider who furnishes services to the Customer in connection with the Service, from any and all claims, losses, damages, fines, penalties, costs, and expenses (including, without limitation, reasonable attorney fees) by, or on behalf of, the Customer or any third party user of the Service relating to the failure or outage of the Service, including those related to 911 service. The Customer acknowledges that the Company directs the Customer to always have an alternative means of accessing emergency service and that the 911 service should be not be the Customer's only or primary means of accessing emergency service. This disclaimer provision supplements the general disclaimer and indemnification provisions found below and is not in lieu of those provisions.

5.23 The Service Location information is provided by the Customer during the Sign-Up process and may be later updated by the Customer at the Company's website <http://www.wyoming.com> or by contacting the Company at 1-800-996-4638. The Customer is solely responsible for all Service Location information provided to the Company, even if such information was provided by unauthorized persons. The Customer must notify the Company

immediately if the Customer has reason to know or believes that the Customer's Service Location information has been compromised or altered by unauthorized persons.

## **6.0 WARRANTIES AND LIABILITIES**

6.1 The Customer acknowledges that the Company is relying upon the Customer's representations and warranties in order to offer and/or provide the Service to the Customer in accordance with the terms of this Agreement.

6.2 The Service is provided "as is", with no warranties whatsoever; the Company does not, either expressed, implied or statutory, make any warranties, claims or representations with respect to the Service, including, without limitation, there are no warranties of quality, performance, non-infringement, merchantability, or fitness for use or a particular purpose or any other warranties whatsoever. The Company further does not represent or warrant that the Service will always be available, accessible, uninterrupted, timely, secure, accurate, complete and error-free or will operate without loss of quality, nor does the Company warrant any connection to or transmission from the Internet, or any quality of calls made through the Service.

6.3 Under no circumstances shall company's aggregate liability to customer under this agreement exceed the service charges for the twelve (12) months immediately preceding the event giving rise to the customer's claim.

6.4 In no event will the Company, its officers, directors, employees, affiliates or agents or any other service provider who furnishes services to the Customer (or those using the service with or without the permission of customer) in connection with the service be liable for any direct, incidental, indirect, special, punitive, exemplary or consequential damages, or for any other damages, including but not limited to personal injury, wrongful death, property damage, loss of data, loss of revenue or profits, or damages arising out of or in connection with the use or inability to use the service, including inability to access emergency service personnel through the 911 service or to obtain emergency help. The limitations set forth herein apply to claims founded in breach of contract, breach of warranty, product liability, tort and any and all other theories of liability and apply whether or not the Company was informed of the likelihood of any particular type of damages.

6.5 The Customer shall defend, indemnify, and hold the Company harmless, its officers, directors, employees, affiliates and agents and any other service provider who furnishes services to the Customer in connection with the Service, from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without limitation, attorneys fees) by, or on behalf of, you or any third party or user of the Service (with or without permission of the Customer), relating to the Services, including, without limitation, 911 Service, or the Equipment.

6.6 Notwithstanding the expiration or termination of this Agreement, and except for the Customer's obligation to pay charges for the Services, the remainder of this Agreement shall survive the termination or expiration of the Service.

## **7.0 GENERAL AND MISCELLANEOUS**

7.1 This Agreement and the relationship between the Customer and the Company are governed by the laws of the State of Wyoming. The Customer and the Company hereby submit to the personal and exclusive jurisdiction of the District Court of the State of Wyoming

for the County of Fremont or the United States District Court for the District of Wyoming for the resolution of disputes arising from or in connection with this Agreement. The Company's failure to exercise or enforce any right or provision of the Agreement will not constitute a waiver of such right or provision. If any provision of the Agreement is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision and in the Agreement, without statutory presumptions against the drafter, and they agree that all other provisions of the Agreement will remain in full force and effect. The Customer agrees that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to the Service or to the Agreement must be within one (1) calendar year after such claim or cause of action arose or be forever barred.

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

7.3 The Customer may not assign this Agreement or any rights hereunder. The Company may assign this Agreement or any rights hereunder at any time to any party, as the Company shall determine in its sole discretion and without giving prior notice.

7.4 The Company hereby grants the Customer a non-exclusive license to the Software for the sole purpose of the Customer's use of the Service, and for no other purpose (the "License"). "Software" means any software, firmware or other intellectual property that is provided by the Company or used by the Customer in connection with the Service, whether is located on the Company's website for viewing or download, along with all documentation, manuals, guides or other information or materials used in connection with the Services. All Software is the sole and exclusive property of the Company. The License is valid only during the use of active Service and will automatically terminate upon the expiration, termination, or discontinuance of the Service for any reason. The Customer acknowledges and agrees that the Software is the sole and exclusive property of the Company and that nothing herein conveys any interest in the Software to the Customer, except the foregoing grant of the License. This paragraph shall survive expiration or termination of the Agreement.

7.5 The Customer acknowledges and agrees that the Marks are the sole and exclusive property of the Company and that nothing herein conveys any interest in the Marks to the Customer and the Customer may not use or display the Marks. The License does not include the right to use Marks. "Marks" shall mean all or any of the Company's trade name, logo, trademark, trade device, service mark, symbol, code or specification or any abbreviation, contraction, or simulation thereof. This Agreement is not a trademark or service mark license and does not create a franchise. This paragraph shall survive expiration or termination of the Agreement.

7.6 The Customer acknowledges and agrees that the entire risk arising out of the use or performance of the Company Software remains with the Customer, to the maximum extent permitted by law.

7.7 VOIP utilizes, in whole or in part, the public Internet, broadband services third party routers and networks, as well as a number of other parties and equipment. As such, the Company is not able to assure the Customer of any level of privacy when using the Service and the Customer should not have any expectation of privacy when using the Service. The Company is not liable for any lack of privacy which may be experienced with regard to the Service.

7.8 Company will use the US Mail addressed to the Customer's last known address or electronic mail to the Customer's last known e-mail address for notification of billing actions, service requests, support, and relationship messages. Customer is responsible for ensuring the US Mail address and e-mail address with Company is available for receipt of correspondence. Relationship messages (such as newsletters) will be sent either to the email address or US Mail address of Customer. Customer can request to "opt out" of relationship messages. Other notices to the Customer from the Company maybe delivered by positing the notice on the Company website at <http://www.wyoming.com>.

7.9 If the Company believes that the Service is or has been used for an unlawful purpose, the Company may forward the relevant information to the appropriate authorities for investigation and prosecution without notice to the Customer. Such information may include the Customer's identity, address and calling detail records and any other information in the possession of the Company. In addition, the Company will provide information and respond to law enforcement requests, subpoenas, court orders, and the like, for any purpose the Company determines is appropriate in its sole discretion, including to protect the Company, the Company's rights and/or property and in the case where failure to disclose the information may lead to personal injury or loss of property of the Customer or others. The Customer hereby consents to the Company's forwarding of any such communications and information to these authorities.

7.10 Federal law and regulations govern the Customer's privacy interests, including the Customer's ability to limit disclosure of certain information to third parties.

## **8.0 CUSTOMER PROPRIETARY NETWORK INFORMATION COMPLIANCE**

8.1 In accordance with Federal law and regulations, the Company must properly authenticate a Customer prior to disclosing WyoPhone account information or call detail information no matter the method of Customer-initiated contact with the Company. The Company will protect all Customers' privacy, account information, and call detail information as prescribed in the FCC CPNI rules and mandated under federal law: Title 47, Part 64.

8.2 Call Detail Information is anything associated with WyoPhone calling history including telephone numbers dialed, length of calls, or any other WyoPhone usage information.

8.3 Account Information includes Customer's biographical information, primary account password ("Primary Password"), credit card and bank information, address detail, contact information, invoice and payment history, account balance, account number, and WyoPhone service specifications.

8.4 Address of Record is the *primary* e-mail address or the physical address of the Customer's account.

8.5 The Primary Password is the main password the Customer's account. Primary Passwords do not consist of any material portion of the Customer's name, family names, account number, telephone number, street address, zip code, social security number, date of birth, or other biological or account information. Primary Passwords cannot consist of easily-guessed strings of characters, such as consecutive or repeated digits.

8.6 Upon telephone-initiated contact by the Customer, the Company will ask for the Customer's Primary Password before discussing any account information or call detail

information. If the Customer cannot provide the Primary Password to the Company, the Company may (i) send the Primary Password to the Customer's primary e-mail address of record, (ii) call the Customer back at the primary WyoPhone telephone number and discuss the account or leave the Primary Password on that WyoPhone telephone number's voice mail, or (iii) send the requested information by US mail to the Customer's US mail address of record.

8.7 Upon in-person contact by the Customer, the Company will ask for the Customer to present a valid, non-expired government-issued photo identification. The address and name on the id must match the Customer's account information.

## **9.0 ENTIRE AGREEMENT**

9.1 This Agreement constitutes the entire agreement between the Customer and the Company with respect to the Service and supersedes all previous or contemporaneous proposals, both oral and written, representations, writings and all other communications between the Customer and the Company with respect to such subject matter. Any amendments or modifications or waivers to this Agreement must be in writing or will be without any effect.

9.2 The section titles in the Agreement are for convenience only and have no legal or contractual effect.