

KLiP Interactive Voice over IP

Subscription Agreement & E911 Lifeline Acknowledgement

This Subscription Agreement ("Agreement") constitutes the entire agreement between KLiP Interactive, LLC ("we," "us," "our," or "Reseller") and the Customer ("you," "your," "user," or "customer") of our enhanced communications services, electronic messaging services, and any related products or services (in whole and in part, the "Service"). This Agreement governs both the Service and any EMTA Devices used to provide the Service, including but not limited to Internet protocol phones, multimedia telephone adapters, analog telephone adapters, and any other Internet protocol connection EMTA Devices (individually and collectively, a "EMTA Device" or "Equipment"). This Agreement shall be effective as of the date it is signed by Reseller (the "Effective Date").

By activating the Service, you acknowledge, represent and agree that you have read, understand, and agree to the terms and conditions set forth in this Agreement, and that you are of legal age in the jurisdictions in which you reside and in which you are consenting to this Agreement to be bound by its terms.

1. SERVICE

- a. Monthly Term; Automatic Renewal. Service is offered on a monthly basis. The initial monthly term will begin on the date that you receive an EMTA Device from Reseller and Service is established, and will terminate at 12:01 a.m. on the same date the following month. Thereafter, this Agreement and your Service will automatically renew for successive terms of one (1) month each, without the necessity of further action by either you or Reseller.
- b. Termination. Either you or Reseller may terminate this Agreement at any time by providing the other party with notice of termination. Termination will be effective within 72 business hours following notice of termination.
- c. Use of Service and Equipment. The Service and Equipment are provided to you for your personal use. You may not:
 - i. Use the Service for autodialing, continuous or extensive call forwarding, fax broadcast, fax blasting or any other activity that would be inconsistent with normal residential or home business usage patterns.
 - ii. Resell or transfer the Service or the Equipment to any other person for any purpose, or charge others to use the Service, without first obtaining the express written permission of Reseller, which Reseller may give or withhold in its sole and absolute discretion.
 - iii. Use the Service to transmit or receive any verbal or electronic communications or material if the transmission or receipt of such communication or material would constitute or encourage a criminal offense, give rise to a civil liability, or otherwise be illegal

or unlawful under the laws of any country, state, province, territory, or locality having jurisdiction over such communication. If, in its sole judgment, Reseller believes that the Service or Equipment has been used to transmit or receive such communications or material, Reseller may forward copies of such communications and objectionable material, if available, as well as any records related thereto, any of your communications with Reseller, and your personal information to the appropriate authorities, and you hereby consent to such forwarding.

- d. Right to Modify; Terminate. You agree that your use of the Service and the Equipment is subject to your compliance with the terms of the Agreement. Reseller reserves the right to immediately modify (including but not limited to restricting your use of the Service) or terminate your use of the Service if Reseller determines, in its sole discretion, that your use of the Service does not comply with the terms of this Agreement. If, under such circumstances, Reseller elects to modify your Service, you will not be entitled to a reduction in the fees charged for such modified Services. If Reseller elects to terminate your Service, you will remain responsible for all unbilled charges. You are liable for any and all use of the Service, EMTA Devices, and Equipment, and you agree to indemnify and hold Reseller harmless from and against any and all liability for any such use.
- e. Use of Service and EMTA Device Outside the United States. Although your individual Service plan may permit you to use the Service to call other countries, Reseller does not offer the Service outside of the United States, or support the Service for calls originating from outside of the United States. Accordingly, you may not move the EMTA Device to another country, or use the Service from another country. You are liable for any and all such use of the Service and/or EMTA Device by yourself or any person making use of the Service or EMTA Device, and you agree to indemnify and hold Reseller harmless from and against any and all liability for any such use. Should removal of the EMTA Device from the United States violate any export control law or regulation, you will be solely liable for such violation and agree to indemnify and hold Reseller harmless against any and all liability for such violation. Reseller reserves the right to terminate your Service immediately and without advance notice if it determines that you are using the Service at a location other than your Registered Address (as defined in Section 2.b. below).
- f. Power Failure; Internet Service Outage or Termination; Suspension or Termination by Reseller. You acknowledge and understand that the Service does not function in the event of power failure, or if your Internet service is suspended, terminated, or otherwise fails. You also acknowledge and understand that the Service requires a fully functional broadband connection to the Internet and in the event of an outage of, or termination of service with or by, your Internet service provider ("ISP") and/or broadband provider, the Service will not function, and you will continue to

be billed for the Service unless and until you or Reseller terminate the Service in accordance with this Agreement. Should there be an interruption in the power supply or an ISP outage, the Service will not function until power is restored or the Internet outage is cured. The Arris EMTA Device provided by Reseller has battery backup for a limited amount of time, usually 6 to 8 hours. A power failure or disruption may require the Customer to reset or reconfigure equipment prior to utilizing the Service. Power disruptions or failures or Internet service outages will also prevent dialing to emergency service numbers including the E911 calling feature. Although E911 service will continue uninterrupted in the event your Service is suspended by Reseller due to non-payment of fees when due, if Reseller terminates your Service, the Service will not function until such time as Reseller restores your Service (which may require the payment of all invoices and reconnection fees owed by you or cure of any breach by you of this Agreement).

- g. Copyright; Trademark; Unauthorized Usage of EMTA Device, Firmware or Software. The Service and EMTA Device and any firmware or software used to provide the Service or provided to you in conjunction with providing the Service, or embedded in the EMTA Device, and all Services, information, documents and materials on Reseller's Web site(s) are protected by trademark, copyright or other intellectual property laws and international treaty provisions. All Web sites, corporate names, service marks, trademarks, trade names, logos and domain names (collectively "marks") of Reseller are and shall remain the exclusive property of Reseller and nothing in this Agreement shall grant you the right or license to use any of such marks. You acknowledge that you are not given any license to use the firmware or software used to provide the Service or provided to you in conjunction with providing the Service, or embedded in the EMTA Device, other than a nontransferable, revocable license to use such firmware or software in object code form (without making any modification thereto) strictly in accordance with the terms and conditions of this Agreement. You expressly agree that you may only use the EMTA Device for the sole and limited purpose of using the Service, and that Reseller will not provide any passwords, codes or other information or assistance that would enable you to use the EMTA Device for any other purpose. If you decide to use the Service through an interface EMTA Device not provided by Reseller, which Reseller reserves the right to prohibit in particular cases or generally, you warrant and represent that you possess all required rights, including software and/or firmware licenses, to use that interface EMTA Device with the Service and you will indemnify and hold Reseller harmless against any and all liability arising out of your use of such interface EMTA Device. You shall not reverse compile, disassemble or reverse engineer or otherwise attempt to derive the source code from the binary code of the firmware or software.
- h. Tampering with the EMTA Device or Service. You agree not to change the electronic serial number or equipment identifier of the EMTA Device,

or to perform a factory reset of the EMTA Device, without the express permission of Reseller, which Reseller may deny in its sole discretion. Reseller reserves the right to terminate your Service should you tamper with the EMTA Device, leaving you responsible for all unbilled charges, plus a termination fee, if applicable. You agree not to hack or disrupt the service or to make or attempt to make any use of the Service that is inconsistent with its intended purpose.

- i. Theft of Service. You agree to notify Reseller immediately, in writing or by calling Reseller Customer Support, if the EMTA Device is stolen or if you become aware at any time that your Service is being stolen or fraudulently used. When you notify us, you must provide your account number and a detailed description of the circumstances of the EMTA Device theft or fraudulent use of Service. Failure to do so in a timely manner may result in the termination of your Service and additional charges to you. Until such time as Reseller receives notice of the theft or fraudulent use, you will be liable for all of the use of the Service and/or EMTA Device stolen from you.
- j. Return of EMTA Device. Any Promotional or Leased EMTA (embedded multi-media terminal adapters) Device must be returned to Reseller within fourteen (14) days of the date Service terminates. Otherwise, you will be charged an Equipment fee, as set forth on the then-current fee schedule, for not returning the EMTA Device undamaged and in original condition, reasonable wear and tear excluded.
- k. Number Transfer on Service Termination. Upon termination of the Service, Reseller shall release a telephone number that was ported in from a previous service provider to Reseller by you and used in connection with your Service provisioned by Reseller to your new service provider according to rules and regulations pertaining to Local Number Portability, if such new service provider is able to accept such number, and provided that (i) your account has been terminated; (ii) your Reseller account is completely current including payment for all charges and termination fees, if any; and (iii) you request the transfer upon terminating your account per the regulations concerning Local Number Portability (LPN).
- l. Service Distinctions. You acknowledge and understand that the Service is not a telephone service. Important distinctions (some, but not necessarily all, of which are described in this Agreement) exist between telephone service and the Service. The Service is subject to different regulatory treatment than telephone service. This treatment may limit or otherwise affect your rights of redress before Federal, State or Provincial telecommunications regulatory agencies.
- m. Ownership and Risk of Loss. You shall be deemed the owner of the EMTA Device, and bear all risk of loss of, theft of, casualty to or damage to the EMTA Device, from the time it is shipped to you until the time (if

any) when it is returned by you pursuant to Section 1.11 and has been received by Reseller.

- n. May Not Support all x11 Calling. Reseller's Service may not support 311, 511 and/or other x11 services in one or more (or all) service areas (other than E911 as provided herein). 411 calls are supported.
- o. Home Security Systems. The Service may not be compatible with all home security systems. Every effort has been made to provide compatibility, however during a power failure or extended power outage service will only be available during the time battery backup is operating. You may be required to maintain a telephone connection through your local exchange carrier in order to use any alarm monitoring functions for any security system installed in your home. You are responsible for contacting the alarm monitoring company to test the compatibility of any alarm monitoring or security system with the Service.
- p. Right to Monitor. Reseller has no obligation to monitor the use of the Service, but reserves the right to do so from time-to-time, and may disclose information regarding use of the Service if it believes, in its sole discretion, that it is reasonably necessary or appropriate to do so, including, without limitation, in order for its to satisfy any legal requirements or requests, to operate the Service properly, or to protect itself and its customers.
- q. Acceptable Use.
 - i. Your use of the Service is governed by applicable local, provincial, national and international laws and regulations, including without limitation laws relating to copyright, trademark, obscenity, defamation, the right of privacy, false advertising and fraud. In addition to complying with such laws and regulations, you are expected to use your best judgment and be respectful of others. You must also use your best efforts to avoid interfering with the use of the Service by others, and to ensure that you are following rules of proper conduct.
 - ii. Although Reseller does not exercise editorial control or review over the content of any communication made with use of the Service, it may monitor, block, filter, or restrict by any other means, any communications that, in Reseller's sole discretion, may be illegal, may subject Reseller to liability, or may violate this Acceptable Use Policy. Reseller may cooperate with legal authorities, third parties, or both in the investigation of any suspected or alleged crime or civil wrong committed using the Service, Equipment, or both.
 - iii. The following activities are considered illustrative (but not exhaustive) violations of this Acceptable Use Policy. Reseller is the sole and final arbiter of what is an acceptable use of the

Service. Without limitation, you will be in breach of this Acceptable Use Policy and this Agreement if you use the Service:

1. to transmit any material (by speaking, saving, email, voicemail or otherwise) that intentionally or unintentionally violates any applicable local, provincial, national or international law or any rules or regulations thereunder, including without limitation material that is threatening, abusive, tortuous, harassing, defamatory, libelous, obscene, invasive of another's privacy or hateful;
2. to harm or attempt to harm children in any way;
3. to make fraudulent offers to sell or buy products, items or services or to advance any type of scam, financial or otherwise, such as "pyramid schemes", "Ponzi schemes", unregistered sales of securities, securities frauds and chain letters;
4. to transmit material (by speaking, saving, email, voicemail or otherwise) that you do not have a right to make available to others, whether under any law or any contractual or fiduciary relationships;
5. to transmit any unsolicited commercial email or unsolicited bulk email or uses deliberately misleading headers in emails sent to multiple parties, including without limitation sending email in violation of the CAN-SPAM Act or any other applicable anti-spam law;
6. to transmit any material (by speaking, saving, email, voicemail or otherwise) that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
7. to access or attempt to access the accounts of others, or to penetrate or attempt to penetrate security measures of Reseller's or any other's computer software or hardware, electronic communications system or telecommunications system, whether or not resulting in disruption of service or the corruption or loss of data;
8. in disobedience of any requirements, procedures, policies or regulations of any networks that connect to the Service;
9. to transmit any material (by speaking, saving, email, voicemail or otherwise) that infringes any copyright, trademark, patent, trade secret or other proprietary rights of any other person;

10. to collect or attempt to collect personal information about another person without that person's knowledge or consent;
 11. to attempt to resell the Service to others; or
 12. to use the Service in connection with illegal peer-to-peer file sharing.
- iv. In the event you are aware of a violation of the terms of this Section 1.q., Reseller requests that you contact Reseller and provide as much of the following information as possible:
 1. the IP address, the Reseller username (if applicable) or number used to commit the alleged violation; and
 2. the date and time of the alleged violation, including the time zone and any other evidence of the alleged violation.
 - v. When reporting a matter regarding unsolicited email please provide a copy of the unsolicited email messages with full headers, if possible.
 - vi. Upon becoming aware of an alleged violation; Reseller may take such action as Reseller in its sole discretion may determine, including without limitation:
 1. issuing warnings, written or verbal, suspending or terminating the account of a user who violates the terms of this Section 1.q.;
 2. charging a customer who violates the terms of this Section 1.q. with administrative costs and/or reactivation charges; or
 3. bringing legal action to enjoin violations, collect damages, or both.

2. EMERGENCY SERVICES; 911 DIALING

- a. Non-Availability of Traditional 911 Dialing Service. You acknowledge and understand that the Service does NOT support traditional 911 access to emergency services. Reseller does offer either basic 911 or E911 service available only with Reseller EMTA Devices as described herein, but you acknowledge and understand that the E911 Service differs in a number of ways (some, but not necessarily all, of which are described in this Agreement) from traditional 911 service. Customers in locations where the emergency center is not equipped to receive your telephone number and address have basic 911. With basic 911, the local emergency operator answering the call will not have your call back number or your exact location, so you must be prepared to give them this information. Reseller's E911 Service is only available using Reseller-certified EMTA Devices. You agree to inform any household residents, guests and other third persons who may be present at the physical location where you

utilize the Service of the potential non-availability of traditional 911 dialing from your Reseller Service and EMTA Device(s) and the important differences and limitations of Reseller's E911 Service compared with traditional 911 or E911 dialing.

- B. Description of 911-Type Dialing Capabilities. When you dial 911 using the Service, your call is routed from the Reseller network to the Public Safety Answering Point (PSAP) or local emergency operator designated for the address that you listed at the time of activation (your "Registered Address"). You acknowledge and understand that when you dial 911 from your Reseller EMTA Device, it is intended that you will be routed to the general telephone number for the PSAP or local emergency service provider (which may not be answered outside business hours in some areas), and may not be routed to the 911 dispatcher(s) who are specifically designated to receive incoming 911 calls using traditional 911 dialing.

RESELLER RELIES ON THIRD PARTIES FOR THE FORWARDING OF UNDERLYING ROUTING INFORMATION, AND RESELLER AND ITS THIRD PARTY PROVIDER(S) THEREFORE DISCLAIM ANY AND ALL LIABILITY OR RESPONSIBILITY IN THE EVENT SUCH INFORMATION OR ROUTING IS INCORRECT. AS DESCRIBED HEREIN, THIS E911 DIALING CURRENTLY IS NOT THE SAME AS TRADITIONAL 911 DIALING, AND AT THIS TIME, DOES NOT NECESSARILY INCLUDE ALL OF THE CAPABILITIES OF TRADITIONAL 911 DIALING. NEITHER RESELLER NOR ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS MAY BE HELD LIABLE FOR ANY CLAIM, DAMAGE, OR LOSS, AND YOU HEREBY WAIVE ANY AND ALL SUCH CLAIMS OR CAUSES OF ACTION, ARISING FROM OR RELATING TO 911 DIALING UNLESS IT IS PROVEN THAT THE ACT OR OMISSION PROXIMATELY CAUSING THE CLAIM, DAMAGE, OR LOSS CONSTITUTES GROSS NEGLIGENCE, RECKLESSNESS, OR INTENTIONAL MISCONDUCT ON THE PART OF RESELLER. YOU AGREE TO INDEMNIFY AND HOLD HARMLESS RESELLER AND ITS THIRD PARTY PROVIDER FROM ANY CLAIM OR ACTION ARISING OUT OF MISROUTED 911 CALLS, INCLUDING BUT NOT LIMITED TO YOUR FAILURE TO FOLLOW CORRECT PROCEDURES FOR 911 CALLING OR YOUR PROVISION TO RESELLER OF THE INCORRECT REGISTERED ADDRESS.

- c. Service Outage.
- i. Power Failure or Disruption. You acknowledge and understand that E911 dialing does not function in the event of a power failure or disruption. Should there be an interruption in the power supply, the Service and E911 will not function until power is restored. A power failure or disruption may require the Customer to reset or

reconfigure equipment prior to utilizing the Service, including E911. The Arris EMTA Device is equipped with battery backup capability and will usually operate for 6 to 8 hours or until power is restored if less than 6 to 8 hours.

- ii. Broadband Service; ISP Outage or Termination; Termination by Reseller. You acknowledge and understand that service outages or termination of broadband service will prevent ALL Service including E911 dialing.
 - iii. Service Outage Due to Suspension of Your Account. You acknowledge and understand that service outages due to suspension of your account as a result of billing issues will interfere with or prevent ALL Service, other than E911.
 - iv. Other Service Outages. You acknowledge and understand that if there is a service outage for any reason other than suspension of service, such outage will prevent ALL Service, including E911 and Home Security Systems. Such outages may occur for a variety of reasons including, but not limited to reasons described elsewhere in this Agreement.
 - v. Limitation of Liability and Indemnification. You acknowledge and understand that Reseller's liability is limited for any Service outage and/or inability to dial 911 from your line or to access emergency service personnel, as set forth in this Agreement. You agree to defend, indemnify, and hold harmless Reseller, its officers, directors, employees, affiliates and agents and any other service provider who furnishes services to you in connection with this Agreement, from any and all claims, losses, damages, fines, penalties, cost and expenses (including, without limitation, reasonable attorneys fees) by, or on behalf of, Customer or any third party or user of Customer's Service relating to the absence, failure or outage of the Service, including E911, Home Security Systems and/or inability of Customer or any third party user of your Service to dial 911 or to access emergency service personnel.
- d. Notification of Change of Location. YOU ACKNOWLEDGE AND UNDERSTAND THAT E911 DOES NOT FUNCTION IF YOU MOVE YOUR RESELLER EMTA DEVICE TO A DIFFERENT STREET ADDRESS, UNLESS AND UNTIL YOU HAVE NOTIFIED RESELLER OF ANY SUCH CHANGE IN YOUR REGISTERED ADDRESS. YOU ALSO ACKNOWLEDGE THAT IT MAY TAKE UP TO 72 HOURS FOR ANY CHANGE IN ADDRESS TO BE PROCESSED. ACCORDINGLY, YOU SHOULD NOTIFY RESELLER IN ADVANCE OF ANY AND ALL CHANGES TO YOUR REGISTERED ADDRESS. FAILURE TO PROVIDE THE CURRENT AND CORRECT PHYSICAL ADDRESS AND LOCATION OF YOUR RESELLER EMTA 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. USING YOUR RESELLER EMTA DEVICE AT A LOCATION OTHER THAN YOUR REGISTERED ADDRESS IS A VIOLATION OF THIS AGREEMENT AND MAY RESULT IN TERMINATION OF YOUR SERVICE.

- e. Possibility of Network Congestion and/or Reduced Speed for Routing or Answering E911. Due to technical constraints, you acknowledge and understand that there is a greater possibility of network congestion and/or reduced speed in the routing of a 911 call made utilizing you Reseller Equipment as compared to traditional 911 dialing over traditional public telephone networks. You acknowledge and understand that a 911 call from your Reseller Equipment will be routed to the general telephone number for the local emergency service provider (which may not be answered outside business hours in some areas), and will not be routed to the 911 dispatcher(s) who are specifically designated to receive incoming 911 calls at such local provider's facilities where such calls are routed using traditional 911 dialing. You acknowledge and understand that there may be a greater possibility that the general telephone number for the local emergency service provider will produce a busy signal or will take longer to answer, as compared to those 911 calls routed to the 911 dispatcher(s) who are specifically designated to receive incoming 911 calls using traditional 911 dialing. You acknowledge and accept that Reseller relies on third parties for the forwarding of underlying routing information, and accordingly Reseller and its third party provider(s) disclaim any and all liability or responsibility in the event such information or routing is incorrect. Reseller or its officers, directors, employees, affiliates and agents may not be held liable for any claim, damage, or loss, and you hereby waive any and all such claims or causes of action, arising from or relating to E911 unless it is proven that the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct on the part of Reseller.
- f. Automated Number Identification. It may or may not be possible for the Public Safety Answering Point (PSAP) and the local emergency personnel to identify your phone number when you dial 911 using the Service. Reseller's system is configured in most instances to send the automated number identification information; however, one or more telephone companies, not Reseller, route the traffic to the PSAP and the PSAP itself must be able to receive the information and pass it along properly, and PSAPs may not technically capable of doing so on a consistent basis. You acknowledge and understand that PSAP and emergency personnel may or 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, or if you are physically unable to tell them your phone number, and/or if the Service is not operational for any reason other than suspension of Service, including without limitation reasons listed elsewhere in this Agreement.

- g. Automated Location Identification. Unless and until it is technically feasible to automatically transmit the address from which an E911 call originates, you must state the nature of your emergency promptly and clearly, including your location, as PSAP and emergency personnel will NOT have the address information if the call originates from an address other than your Registered Address, or if the PSAP or 3rd party used by Reseller to deliver the information do not support automated location identification. You acknowledge and understand that PSAP and emergency personnel will not be able to find your location if the call cannot be completed, is dropped or disconnected, if you are physically unable to tell them your location, and/or if the Service is not operational for any reason other than suspension of Service, including without limitation reasons listed elsewhere in this Agreement.
- h. Alternative 911 Arrangements. You acknowledge that Reseller does not offer primary line or lifeline services. You should always have an alternative means of accessing emergency response services using traditional 911 or other emergency notification services. You also acknowledge that Reseller does not currently provide TTY or similar services for the hearing-impaired.

3. CHANGES TO THIS AGREEMENT

- a. Reseller may change the terms and conditions of this Agreement from time to time. Notices will be considered given and effective on the date posted to the "Terms and Conditions" section of Reseller's Customer Support Web site. Such changes will become binding on Customer, on the date posted to the Reseller Web site and no further notice by Reseller is required. The agreement as posted supersedes all previously agreed to electronic and written terms of service, including without limitation any terms included with the packaging of the EMTA Device.

4. CHARGES/ PAYMENTS; DEFAULT; TAXES; TERMINATION

- a. Billing. We will bill all charges, applicable taxes and surcharges on a monthly basis, including but not limited to: monthly Service fees, international usage charges, advanced feature charges, Directory Assistance charges, Operator Assistance charges, equipment purchases, applicable termination fees, additional number/line charges and domestic long distance charges not included in package. Any usage charges will be billed in increments that are rounded up to the nearest minute except as otherwise set forth on the current fee on Schedule A herewith.
- b. Billing Disputes. You must notify Reseller within 7 days of your Reseller invoice date if you dispute any Reseller charges on that invoice or such dispute will be deemed waived.
- c. Termination/Discontinuance of Service. Reseller reserves the right to suspend or discontinue providing the Service generally, or to terminate your Service, at any time in its sole discretion. If Reseller discontinues

providing the Service generally or terminates your Service for violation of this Agreement, or because of any improper use of the Service or EMTA Device (such as, but not limited to, your attempts to hack, disrupt, or misuse the Service or your acts or omissions that violate any acceptable use policy of Reseller or of a third party provider to which Reseller is subject, or your use of the EMTA Device at a location other than your Registered Address), or for any other reason, you will be responsible for all unbilled charges, plus the termination fee set forth in Section 4.e., if applicable. You may not receive your final bill for up to 60 days following effective termination due to the nature of the billing process.

- d. Taxes. You are responsible for, and shall pay, any applicable federal, state, provincial, municipal, local or other governmental sales, use, excise, value-added, personal property, public utility or other taxes, fees or charges now in force or enacted in the future, that arise from or as a result of your subscription or use or payment for the Service or a EMTA Device. Such amounts are in addition to payment for the Service or EMTA Devices and will be billed as set forth in this Agreement. If you are exempt from payment of such taxes, you shall provide Reseller with an original certificate that satisfies applicable legal requirements for attesting to tax-exempt status. Tax exemption will only apply from and after the date Reseller receives such certificate.
- e. Charges for Directory Calls. You will be billed for each call made to Reseller directory assistance in the amount set forth on the current fee schedule posted on Reseller's Web site and Schedule A herewith.

5. WARRANTY and LIABILITY LIMITATIONS; INDEMNIFICATION

A. LIMITATION OF LIABILITY. RESELLER SHALL NOT BE LIABLE FOR ANY DELAY OR FAILURE TO PROVIDE THE SERVICE, INCLUDING E911, AT ANY TIME OR FROM TIME TO TIME, OR ANY INTERRUPTION OR DEGRADATION OF VOICE QUALITY THAT IS CAUSED BY ANY OF THE FOLLOWING:

- I. ACT OR OMISSION OF AN UNDERLYING CARRIER, SERVICE PROVIDER, RESELLER OR OTHER THIRD PARTY;**
- II. EQUIPMENT, NETWORK OR FACILITY FAILURE;**
- III. EQUIPMENT, NETWORK OR FACILITY UPGRADE OR MODIFICATION;**
- IV. FORCE MAJEURE EVENTS SUCH AS (BUT NOT LIMITED TO) ACTS OF GOD; STRIKES; FIRE; WAR; RIOT; GOVERNMENT ACTIONS**
- V. EQUIPMENT, NETWORK OR FACILITY SHORTAGE;**
- VI. EQUIPMENT OR FACILITY RELOCATION;**

- VII. SERVICE, EQUIPMENT, NETWORK OR FACILITY FAILURE CAUSED BY THE LOSS OF POWER TO CUSTOMER;**
 - VIII. OUTAGE OR TERMINATION OF SERVICE BY CUSTOMER'S ISP OR BROADBAND SERVICE PROVIDER;**
 - IX. ACT OR OMISSION OF CUSTOMER OR ANY PERSON USING THE SERVICE OR EMTA DEVICE PROVIDED TO CUSTOMER, INCLUDING WITHOUT LIMITATION IMPROPER INSTALLATION OF THE EMTA DEVICE OR USING THE EMTA DEVICE AT A LOCATION OTHER THAN THE CUSTOMER'S REGISTERED ADDRESS; OR**
 - X. ANY OTHER CAUSE THAT IS BEYOND RESELLER'S CONTROL, INCLUDING WITHOUT LIMITATION A FAILURE OF OR DEFECT IN ANY EMTA DEVICE, THE FAILURE OF AN INCOMING OR OUTGOING COMMUNICATION, THE INABILITY OF COMMUNICATIONS (INCLUDING WITHOUT LIMITATION E911 SERVICE) TO BE CONNECTED OR COMPLETED, OR DEGRADATION OF VOICE QUALITY.**
- B. RESELLER'S AGGREGATE LIABILITY FOR (I) ANY FAILURE OR MISTAKE; (II) ANY CLAIM WITH RESPECT TO RESELLER'S PERFORMANCE OR NONPERFORMANCE HEREUNDER; OR (III) ANY RESELLER ACT OR OMISSION IN CONNECTION WITH THE SUBJECT MATTER HEREOF SHALL IN NO EVENT EXCEED SERVICE CHARGES WITH RESPECT TO THE AFFECTED TIME PERIOD.**
- c. Disclaimer of Damages. IN NO EVENT SHALL RESELLER, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS OR ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICES IN CONNECTION WITH THIS AGREEMENT OR THE SERVICE BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY DIRECT, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER DAMAGES, INCLUDING BUT NOT LIMITED TO 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 BE ABLE TO DIAL 911 OR TO ACCESS EMERGENCY SERVICE PERSONNEL THROUGH THE SERVICE. 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 RESELLER WAS INFORMED OF THE LIKELIHOOD OF ANY PARTICULAR TYPE OF DAMAGES.

- d. Indemnification. Customer agrees to defend, indemnify, and hold harmless Reseller, its officers, directors, employees, affiliates and agents and any other service provider who furnishes services to Customer in connection with this Agreement or the Service, from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without limitation, reasonable attorneys' fees) by, or on behalf of, Customer or any third party or user of Customer's Service, relating to this Agreement, the Services, including E911, or the EMTA Device. This paragraph shall survive termination of this Agreement.
- e. **No Warranties on Service. RESELLER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE OR ANY WARRANTY THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS. WITHOUT LIMITING THE FOREGOING, RESELLER DOES NOT WARRANT THAT THE SERVICE WILL BE WITHOUT FAILURE, DELAY, INTERRUPTION, ERROR, DEGRADATION OF VOICE QUALITY OR LOSS OF CONTENT, DATA OR INFORMATION. NEITHER RESELLER NOR ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS OR ANY OTHER SERVICE PROVIDER OR RESELLER WHO FURNISHES SERVICES OR PRODUCTS TO CUSTOMER IN CONNECTION WITH THIS AGREEMENT OR THE SERVICE WILL BE LIABLE FOR UNAUTHORIZED ACCESS TO RESELLER'S OR CUSTOMER'S TRANSMISSION FACILITIES OR PREMISES OR EQUIPMENT OR FOR UNAUTHORIZED ACCESS TO, OR ALTERATION, THEFT OR DESTRUCTION OF, CUSTOMER'S DATA FILES, PROGRAMS, PROCEDURES OR INFORMATION THROUGH ACCIDENT, FRAUDULENT MEANS OR EMTA DEVICES OR ANY OTHER METHOD, REGARDLESS OF WHETHER SUCH DAMAGE OCCURS AS A RESULT OF RESELLER'S OR ITS SERVICE PROVIDER'S OR RESELLER'S NEGLIGENCE. STATEMENTS AND DESCRIPTIONS CONCERNING THE SERVICE OR EMTA DEVICE, IF ANY, BY RESELLER OR BY RESELLER'S AGENTS OR INSTALLERS ARE INFORMATIONAL AND ARE NOT GIVEN AS A WARRANTY OF ANY KIND.**
- f. No Warranties, or Limited Warranties, for EMTA Devices. If Customer received the EMTA Device new from Reseller and the EMTA Device

included a limited warranty at the time of receipt, Customer must refer to the separate limited warranty document provided with the EMTA Device for information on the limitation and disclaimer of certain warranties. Remedies for breach of any such warranties will be limited to those expressly set forth in such documentation. If Customer's EMTA Device did not include a limited warranty from Reseller at the time of receipt, Customer agrees that it accepts its EMTA Device "as is" and that Customer is not entitled to replacement or refund in the event of any defect, except that Reseller will provide a limited warranty on the EMTA Device as to manufacturing defects only for a period of one (1) year from the date of purchase. This limited warranty shall not apply to any defect or failure other than a manufacturing defect, and, without limiting the generality of the foregoing, shall not apply to any defect caused by damage in transit, retailer handling, improper installation or customer handling. Your sole remedy for any breach of this limited warranty is to obtain a repaired or replacement EMTA Device, by following the return procedures set forth in Section 1.11, even if such remedy fails of its essential purpose. You must include with the returned EMTA Device a letter stating that you are returning the EMTA Device for warranty repair or replacement and stating the nature of the defect. This limited warranty shall also apply in lieu of the limited warranty included with the EMTA Device if such included limited warranty is less favorable to you than the warranty contained herein. **OTHER THAN WARRANTIES AS TO THE EMTA DEVICE EXPRESSLY SET FORTH IN DOCUMENTATION PROVIDED WITH THE EMTA DEVICE AND THE LIMITED WARRANTY EXPRESSLY SET FORTH HEREIN, RESELLER MAKES NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE OR ANY WARRANTY THAT THE EMTA DEVICE OR ANY FIRMWARE OR SOFTWARE IS "ERROR FREE" OR WILL MEET CUSTOMER'S REQUIREMENTS. THE FOREGOING WILL NOT BE DEEMED TO LIMIT ANY DISCLAIMER OR LIMITATION OF WARRANTY SET FORTH IN THE DOCUMENTATION PROVIDED WITH THE EMTA DEVICE.**

- g. No Third Party Beneficiaries. 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.
- h. Content. You are liable for any and all liability that may arise out of the content transmitted by or to you or other Users using the Services. You shall assure that use of the Service by you and any other User of the EMTA Device and content will at all times comply with all applicable

laws, regulations and written and electronic instructions for use. Reseller reserves the right to terminate or suspend affected Services, and/or remove your or Users' content, if Reseller determines that such use or content does not conform with the requirements set forth in this Agreement or interferes with Reseller's ability to provide Services to you or others or receives notice from anyone that your or Users' use or Content may violate any laws or regulations. Reseller's actions or inaction under this Section shall not constitute review or approval of your or Users' use or Content. You will indemnify and hold Reseller against any and all liability arising from the content transmitted by or to you or to Users using the Services. A "User" means any person, whether authorized or unauthorized, using the Service and/or EMTA Device provided to you.

6. GOVERNING LAW / RESOLUTION OF DISPUTES

- a. **Mandatory Arbitration.** Any dispute or claim arising out of or relating to the Service or EMTA Device provided in connection with this Agreement shall be resolved by arbitration before a single arbitrator administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules. The arbitration shall take place in Eatonton, Georgia. The arbitrator's decision shall follow the plain meaning of the relevant documents, and shall be final and binding. Without limiting the foregoing, the parties agree that no arbitrator has the authority to: (i) award relief in excess of what this Agreement provides; or (ii) award punitive or exemplary damages. Judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. All claims shall be arbitrated individually and Customer will not bring, or join any class action of any kind in court or in arbitration or seek to consolidate or bring previously consolidated claims in arbitration. **CUSTOMER ACKNOWLEDGES THAT THIS ARBITRATION PROVISION CONSTITUTES A WAIVER OF ANY RIGHT TO A JURY TRIAL.**
- b. **Governing Law.** The Agreement and the relationship between you and Reseller shall be governed by the laws of the State of Georgia without regard to its conflict of law provisions. To the extent court action is initiated to enforce an arbitration award or for any other reason consistent with Section 6.a., you and Reseller agree to submit to the personal and exclusive jurisdiction of the courts located within the state of Georgia and waive any objection as to venue or inconvenient forum. The failure of Reseller to exercise or enforce any right or provision of the Agreement shall 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 the other provisions of the Agreement remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service or the Agreement must

be filed within one (1) year after such claim or cause of action arose or be forever barred.

7. MISCELLANEOUS

- a. Entire Agreement. This Agreement and the fee schedule for Services included herewith constitute the entire agreement between you and Reseller and govern your use of the Service, superseding any prior agreements between you and Reseller and any and all prior or contemporaneous statements, understandings, writings, commitments, or representations concerning its subject matter. No amendment to this Agreement shall be binding upon Reseller unless and until posted in accordance with Section 3 hereof.
- b. Severability. If any part of this Agreement is legally declared invalid or unenforceable, all other parts of this Agreement are still valid and enforceable. Such invalidity or non-enforceability will not invalidate or render unenforceable any other portion of this Agreement.
- c. Privacy. Reseller's Service utilizes, in whole or in part, the public Internet and third party networks to transmit voice and other communications. Reseller is not liable for any lack of privacy, which may be experienced with regard to the Service.
- d. Acceptance. Reseller and Customer intend to execute this Agreement electronically. By requesting Service or by activating Service, you acknowledge that your electronic acceptance of this Agreement binds you as the equivalent of your hand-written signature on this Agreement.
- e. Subcontractors. You understand, acknowledge, and agree that from time-to-time during the term of this Agreement Reseller may, in its sole and absolute discretion, delegate performance of some or all of its rights and obligations hereunder to third parties selected by Reseller. You hereby consent to such subcontracting activity, provided that Reseller shall remain accountable to you for the performance of any such obligations.

Reseller

KLiP Interactive, LLC

By:

Title:

Attest: _____

Customer

(Name)

Attest: _____

be filed within one (1) year after such claim or cause of action arose or be forever barred.

7. MISCELLANEOUS

- a. Entire Agreement. This Agreement and the fee schedule for Services included herewith constitute the entire agreement between you and Reseller and govern your use of the Service, superseding any prior agreements between you and Reseller and any and all prior or contemporaneous statements, understandings, writings, commitments, or representations concerning its subject matter. No amendment to this Agreement shall be binding upon Reseller unless and until posted in accordance with Section 3 hereof.
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Reseller

KLiP Interactive, LLC

By: **Tracey Barthelemy**

Title: Call Center Manager

Attest: _____

Customer

(Name)

Attest: _____

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