EXECUTECH VOICE OVER INTERNET PROTOCOL (VoIP) TERMS AND CONDITIONS

The Terms and Conditions described herein, hereafter "Terms and Conditions," apply to all Executech Utah LLC, hereafter referred to as "Executech," including all optional features and related Services, hereafter referred to as "Services," as provided to a Customer of Executech, hereafter referred to as "Customer."

SECTION 1: PAYMENTS

The Customer's Initial Payment for the Service will be due upon the processing of the Customer's order. The "Service Start Date" is the date Services have been provisioned and are available for the Customer's use. After the Service Start Date, the Customer will be charged monthly rates per signed agreement. Any additional Services will increase the monthly rate with a separate signed agreement. The first month's monthly Service fee shall be prorated based off Service start date.

SECTION 1.1: UNLIMITED MINUTES

Included in the calling plans are unlimited calls to the Continental U.S., AK, CA and HI.

SECTION 1.2: INTERNATIONAL CHARGES

Calls to an international phone number or a phone number that is outside of the Continental U.S., AK, CA and HI States will be charged per minute international usage fees associated with the Executech International Rate Plan.

SECTION 1.3: FRAUD

Customer agrees to notify Executech immediately if they become aware of any fraudulent or unauthorized use of its account. Executech shall not be liable for any damages whatsoever resulting from fraudulent use of Customer's account or Services.

SECTION 2: REFUND POLICY

Following disconnection of Services with Executech, including cancellation of Services prior to Service activation, any amount due to the Customer will be determined after the final billing cycle has completed and charges have posted to the account. All refunds will be processed by check, within 30 calendar days from the time of the final billing cycle completion. For further information on Executech's Refund Policy, please contact us at 928-255-5545

SECTION 2.1: TAXES AND REGULATORY FEES

Customer shall be responsible for all sales, use or other taxes or duties relating to the Services ordered. In addition to any taxes imposed by governments or regulatory agencies, Executech reserves the right to charge other regulatory fees, including, E911 Service fees, universal Service fees, and regulatory recovery fees ("Fees"). Any modification or increases in fees by a government or regulatory agency shall become effective without notice.

SECTION 3: HARDWARE AS A SERVICE

Any hardware or software provided to the Customer at no cost remains the property of Executech until the end of the Service Term. If Customer maintains Service to the end of the initial term, equipment will transfer to Customer. Any hardware or Software provided at no cost or discounted 100% remains the property of Executech until released in writing to Customer.

SECTION 4: ACCOUNT BALANCE

Monthly Service fees are payable in advance of each month's Service; any other applicable charges are billed after the end of each month's Service.

The Customer is responsible for immediate payment of all invoices. We accept payment by check, ACH and credit card. Returned checks will result in a $35 fee applied to the Customer's account balance. Any Customer disputes of the amounts invoiced must be submitted in writing to Executech within sixty (60) days of the date of the disputed charges. After sixty (60) days, the Customer waives any further recourse with respect to such charges. A late fee of $10 or 2.5% of the account balance, whichever is greater, will be applied to any unpaid invoice. We reserve the right to immediately disconnect the Service without notice due to non-payment or unlawful or inappropriate use of the Service. All charges owed at the time of disconnection will be immediately payable. If not paid, Customer agrees to pay costs of collection, including reasonable attorney fees, in addition to account balance owed. Reinstating any Service deactivated for non-payment shall result in a reinstatement fee up to $25 per line. Customer grants Executech access to premises to acquire any equipment provided for the delivery of Services, in the event of non-payment.

SECTION 5: e911 SOFTPHONES

e911 calls made through Executech Service from a softphone may not be transferred to an emergency center near the Customer. e911 calls made through softphones will be transferred to an emergency center near the Customer's last registered address. If you are not comfortable with limitations of the e911 dialing Service, you should have alternate means to dial traditional 911 when using softphone.

SECTION 6: SCOPE OF SUPPORT

Executech will assist the Customer in identifying a problem's source. Issues relating to LAN, wiring, power, firewall, CPE, and ISP, are beyond the scope of Executech's responsibility to effect repairs. Executech can resolve issues outside the scope of our support; subject to standard Executech hourly rates. WAN issues, such as internet provider trouble, are not the responsibility of Executech.

SECTION 6.1: CUSTOMER NETWORK REQUIREMENTS

Customer acknowledges and agrees that Executech Services require a properly-configured, enterprise-grade broadband IP network and connection. Use of Executech Services with any lesser network may result in unavailability, interruption, or poor quality of Services. Any unavailability of Executech Services due to insufficient network will not be counted towards SLA relief.

SECTION 7: DATA STORAGE

Executech is not obligated to store Customer's communication logs, voicemails, call recordings, faxes, e-mails, or other messages.

SECTION 8: CALL RECORDING

Executech Services provide a call recording function that allows Customer to record individual telephone conversations. Customer is solely responsible for complying with all federal, state, and local laws when using this feature and indemnifies Executech from any and all liability relating to use of this Service.

SECTION 9: VOICEMAIL TRANSCRIPTION

Customer acknowledges that voicemail to text is provided as a convenience and may not accurately transcribe voice content.

SECTION 10: LAWFUL AND APPROPRIATE USE

The Customer agrees to use the Service solely for lawful and appropriate purposes and the Customer hereby agrees to indemnify and hold Executech harmless from any and all claims, damages, losses or liabilities of any nature whatsoever arising out of or concerning the Customer's use in any manner of the Service provided herein. Executech reserves the right to immediately discontinue, disconnect, limit, or revoke the Service without warning to the Customer should the Customer, at the sole discretion and determination of Executech, cause any type of activity or load which is incompatible with Executech's network, causes quality of Service issues, or otherwise impairs the ability of Executech to maintain or provide Service to other Customers. In the case that the Service is suspected of being misused by the Customer, including for fraudulent activity, Executech reserves the right at its sole

discretion to immediately terminate the Service. Executech shall not be liable for any direct or indirect damages resulting from a decision to discontinue, disconnect, limit, or revoke the Service with or without warning or for informing the public about the possibility of inappropriate business activities.

SECTION 11: WARRANTY

For equipment purchased through Executech by the Customer, Executech will honor a lifetime warranty on equipment so long as Service is provided by Executech. For warranty repairs contact Executech Customer Service at (928) 255-5545

SECTION 12: LIMITATION OF LIABILITY

The Service, although reliable, is not guaranteed. Liability for interruption of the Service and/or a lack of quality of the Service, shall be limited to a maximum of the sum of one month's charges for the Service. SLA is detailed in Section 12.1 SLA.

Executech reserves the right to interrupt the Service for maintenance. Executech shall not be liable for any delay in the Service or performance directly or indirectly caused by or resulting from acts of God, fire, flood, accident, riot, war, government intervention, embargoes, strikes, labor difficulties, power failure, equipment failure, interruption of broadband or high-speed internet access, late delivery by suppliers, or other causes beyond the reasonable control of Executech.

IN NO EVENT SHALL Executech BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF DATA, LOSS OF REVENUE OR LOSS OF PROExecutechS, ARISING OUT OF OR IN CONNECTION WITH THE USE OR INABILITY TO USE THE SERVICE PROVIDED HEREUNDER, WHETHER DUE TO A BREACH OF CONTRACT, BREACH OF WARRANTY, THE NEGLIGENCE OF Executech OR OTHERWISE, EVEN IF Executech IS ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES.

SECTION 12.1: SERVICE LEVEL AGREEMENT

Platform Reliability – Executech guarantees 99.99% uptime on the Executech VoIP Platform.

1: Service Availability **–** Executech shall make voice Service available for access and use by Customer 24 hours per day, 7 days per week, excluding any Scheduled Downtime or downtime due to a Force Majeure Event, each as defined below. "Service Availability" is calculated by subtracting from 100% the result of the number of minutes of Unscheduled Downtime in a 30-day month divided by the total number of minutes in such 30-day month. If the monthly Service Availability is less than 99.99%, Service Level Credits are provided below.

2: Downtime – Downtime is defined as the inability for Executech to receive and process inbound telephone calls for thirty (30) continuous minutes or longer due to platform, data center infrastructure or data center failure.

3: Scheduled Downtime – Scheduled Downtime is Downtime for which is planned and documented as such. Executech shall endeavor to provide seventy-two (72) hours notice to Customer for all Scheduled Downtime; however, Executech may schedule maintenance with no notice if deemed necessary by Executech at its sole discretion to ensure the safe, continued operation of the Service. Planned maintenance does not count towards Downtime and shall take place during off peak business hours. The duration of Scheduled Downtime is measured in minutes and equals the amount of elapsed time from when the Service is not accessible to when the Service is accessible. Any single event that exceeds the scheduled duration will result in an outage and the amount of time that the outage exceeded the scheduled time will be counted toward the Service Availability level in the month in which the event occurred.

4: Force Majeure Events **–** Force Majeure Events" means any event or condition that directly or indirectly prevents Executech from performing the Services hereunder, is beyond the reasonable control of Executech, and could not, by the exercise of due diligence, have been avoided in whole or in part by Executech, and shall include, subject to the foregoing and without limitation: any act of God, natural disaster, earthquake, war, riot, civil war, blockade, insurrection, terrorism, sabotage, acts of public enemies, civil disturbances or general restraint or arrest of government and people, boycott, strike (including a general strike), lockout or other similar industrial disturbance, Service interruption by a telecommunications services provider, or connectivity delays with internet providers outside of Executech's reasonable control.

Environmental & 3rd Party Events **–** Executech will not be responsible for the following circumstances leading to downtime:

-Loss of power at the Customer site

-Inclement weather at the Customer site

-Natural Disaster affecting the Customer site

-Fiber Cut or Internet outage at the Customer site or affecting the Customer's facilities

-Upstream provider outage causing both the primary and secondary connections to experience a disruption

-Data Circuit outage at Customer site

-Onsite (Customer premise) infrastructure, equipment or cabling issues

-Any onsite condition rendering the Customer location inadequate for the Executech Service

-Any hardware or system introduced to the Customer site that performs packet inspection or augmentation of packets. This may include, but is not limited to, security appliances, firewalls, 3rd party intrusion detection or other similar Services or devices.

* Executech guarantees that in the event of an unforeseen/uncontrollable <u>onsite</u> issue, our Data Centers will still handle incoming call traffic regardless of the situation onsite.
* Executech guarantees that in the event of an unforeseen/uncontrollable <u>onsite</u> issue, calls can be re-routed to other locations on the platform with instruction to do so from the Customer.

5: Service Level Credit **–** If downtime as defined in section 12.1.2 causes the monthly Service Availability to be less than 99.99% due to circumstances laid out in section 12.1.1, and Customer requests a credit in writing within thirty (30) calendar days of Customer's access to such report, Executech shall credit Customer the applicable amount indicated below as a Service Level Credit, and not as a penalty.

Executech shall award Customer a Service Level Credit in an amount equal to 5% of the monthly Service fee for 60 minutes of downtime as a result of platform failure and an additional five percent 5% for every 60 minutes thereafter within the same calendar month. A maximum of 100% of one-month Service fee of Executech Services is the max allowable Service Level Credit allowed without explicit written notice of such Service Level Credit form Executech.

6: Termination **–** If the Executech Service violates the Service Level Agreement and it is determined that the Executech platform(s), Data Center Infrastructure or actual Data Center(s) caused the Service Level to drop to 99.95% or below based on 24 hour per day availability and a 30-day calendar month, Executech will immediately correct such Service Level deficiency. If the Service level is 99.95% or below based on 24 hour per day availability and a 30-day calendar month in two consecutive months or 3 non-consecutive months within a 6-month timeframe, then Customer may terminate the Agreement between Executech and Customer, without penalty on the Executech Services only, by providing Executech with written notice of termination. In the event of such termination, Customer will be responsible for payment up until disconnection of Service for the Executech Services and usage if applicable. The Customer will not be responsible for any Executech Licensing fees or payments following the termination date. Any hardware delivered to Customer that was not paid for by Customer must be returned to Executech within ten (10) days if Customer elects to Terminate Agreement under this section.

SECTION 13: CHANGES to TERMS AND CONDITIONS

Executech reserves the right to make changes to these Terms and Conditions or the Service as a result of changes in applicable regulations or for other reasons in Executech's reasonable discretion. In the event of such changes the Customer will be notified in writing on the monthly invoice sent to Customer. Customer's continued use of the Service following notice of the changes will constitute the Customer's consent to such changes.

SECTION 14: RIGHT TO IDENTIFY CUSTOMER

It is specifically agreed that Executech may identify the Customer as a Customer of Executech and include the Customer's name and any applicable logo in Executech's marketing materials that identify Executech's Customers. Customer may request at any time that Executech not use the Customer's identity in marketing material at any time.

SECTION 15: CONTRACT TERM AND CANCELLATION

Customer is entering into a "Term" agreement to maintain the Services for the period of time indicated on the Order Confirmation that was signed to establish the Service. If Customer cancel the Services without replacing or upgrading Services of an equal or greater value, Customer will be charged an Early Termination Fee (ETF). The ETF for each Service terminated by Customer before the end of its then-current Service Term will be an amount equal to the one (1) month's MRC for the Service being terminated multiplied by the number of months remaining in the Service Term.

The Term shall begin on the Service Start Date. Customer may cancel the hosted Services of this agreement within the first ninety (90) days of the Service Start Date without incurring Early Termination Fees except for any expenses incurred by Executech as defined in Section 15.1, if and where applicable, to discontinue any third party Services or circuits used in providing the Service, if and where applicable, and any NRC waived by Executech to establish such Service(s) regardless of the date of cancellation if cancellation date falls before the end of the original contract term.

If Customer experiences Service interruptions or Service related problems as defined in Section 12.1 SLA, that Executech is unable to correct within thirty (30) days of written notice by Customer, the Customer can seek remedy under the terms in Section 12.1.5 SLA. However, any third-party Services purchased through Executech will incur early termination charges regardless of the date of cancellation if cancellation date falls before the end of the original contract term. All Executech Equipment must be returned to us or to our designee in working order, normal wear and tear excepted within ten (10) days of the date on which Service(s) are disconnected. Otherwise, Customer will be charged up to the retail price for a new replacement for such Executech equipment. Hardware and other one-time charges will

not be refunded or credited if Services are canceled once such hardware is delivered to Customer site.

SECTION 15.1 HARDWARE INSTALLATION CHARGES

If Services are terminated per Section 15, any Non-Recurring Charges (NRC) that were waived or discounted in lieu of term agreement will be added to the ETF. These charges will include, but not be limited to, any previously provided promotional credits, travel and related per diem expenses associated with delivery of Services, the cost of any hardware installed and not charged for to deliver Services, and a standard one-time setup and installation fee of $125.00 per line. If any third-party Services were provisioned to deliver Services, additional amounts of ETF may be charged and passed on to Customer terminating Services. Because damages resulting from early termination would be difficult to determine, the parties agree that the foregoing is a reasonable approximation of such damage and shall be considered a liquidated damage and not a penalty.

SECTION 15.2: AUTO RENEWAL Executech SERVICES

A written notice of intent not to renew Agreement for any Executech provided Service, is required thirty (30) days prior to the Term expiration. If written notice is not provided, the Term shall automatically renew for subsequent periods of the same length as the Initial Term

SECTION 16: GOVERNING LAW AND VENUE

These Terms and Conditions shall be governed by the laws of the State of Arizona and any disputes or controversy arising hereunder shall be arbitrated or adjudicated in Coconino County, State of Arizona. The Customer hereby consents to personal jurisdiction for all claims of any nature concerning the Customer and Executech in Flagstaff, Arizona and specifically consents to Service of process being effectuated by certified mail at the Customer's address. In the event that any action is brought to enforce or construe any of these Terms and Conditions, or for the breach of these Terms and Conditions, or concerning the indemnification clause contained herein, the prevailing party shall be entitled to recover, in addition to all other damages, reasonable attorney's costs and fees.

SECTION 16.1: ASSIGNMENT

Executech may assign any Agreement for the Services with any Customer and the Customer's obligation to maintain the Services for the Term (including, but not limited to, month-to-month Term) to any third party at Executech's sole and absolute discretion and Customer agrees to be bound by these Terms and Conditions (including as amended in accordance with Section 13 above) and the Customer's continued use of the Service following such assignment will constitute the Customer's consent to such assignment.

SECTION 17: ENTIRE AGREEMENT

These Terms and Conditions contain the entire understanding and agreement of the parties with respect to its subject matter and supersede all prior understandings or agreements regarding such subject matter. In the event of any conflict between these Terms and Conditions and the terms of any purchase order or acknowledgment, these Terms and Conditions shall control.

SECTION 18: 911 DISCLAIMER

The Federal Communications Commission ("FCC") requires Executech, like all Voice Over Internet Protocol ("VoIP") Service providers, inform its Customers of any differences between the E911 access capability available with Hosted VoIP as compared to the E911 access capability available with traditional telephone Service. (A copy of this FCC order is available at http://www.fcc.gov/cgb/voip911order.pdf.) We ask that Customer carefully read this E911 Disclosure Addendum and understand how these differences affect Customer ability to access E911 Services. If Customer has any questions or concerns about the information contained in this notice, or if Customer does not understand anything discussed in this notice, please contact our Customer Service representatives at 928-255-5545 during the hours of 8 a.m. to 5 p.m. Arizona time, Monday – Friday.

The FCC's E911 VoIP decision also requires Executech to obtain and keep a record on file showing that Customer company has received and understood this E911 Disclosure Addendum. Please respond IMMEDIATELY to this Addendum.

If Customer fail to acknowledge to the 911 disclaimer, we may be required by the FCC Order to suspend Customer Service until we do receive Customer acknowledgment.

By using Executech VoIP Services Customer agrees to the terms of this 911 Disclaimer in the Executech Quote and Order, Customer are affirmatively acknowledging that (1) Customer has read and understood this E911 Disclosure Addendum, (2) Customer understands that Customer may not be able to contact emergency Services by dialing 9-1-1 using Hosted VoIP, and (3) Customer understands that Customer must inform users of Hosted VoIP that they may not be able to contact emergency Services by dialing 9-1-1 using Hosted VoIP.

Customer may obtain a copy of the FCC regulation and accompanying E911 VoIP decision in Docket No. 05-196 at the following link: http://www.fcc.gov/cgb/voip911order.pdf.

HOSTED VOIP E911 SERVICES MAY NOT OPERATE DURING A POWER OUTAGE.

Although the Integrated Access Device ("IAD") Executech placed on Customer premises may be equipped with back-up battery power, in the event of a commercial power outage lasting longer than the IAD battery life, the IAD will lose power causing a loss of voice and

data Service, including access to E911 Services. Once power Service is restored, Customer may be required to reset or reconfigure Customer equipment before Customer will be able to use Hosted VoIP to contact E911 Services. Customer are responsible for providing an uninterruptible backup power supply if Customer wish to ensure continued operation of electrical equipment in the event of a power outage.

HOSTED VOIP E911 SERVICES WILL NOT OPERATE IF CUSTOMER BROADBAND CONNECTION IS DISRUPTED OR Hosted VoIP HAS BEEN SUSPENDED FOR ANY REASON, INCLUDING, FOR EXAMPLE, NON-PAYMENT.

Once Customer broadband connection and Hosted VoIP have been restored, Customer may be required to reset or reconfigure Customer equipment before Customer will be able to use Hosted VoIP Service to contact E911 Services.

CUSTOMER MUST PROVIDE Executech WITH CUSTOMER CORRECT SERVICE ADDRESS OR Hosted VoIP E911 SERVICES CALLS MAY BE ROUTED TO EMERGENCY PERSONNEL WHO WILL NOT BE ABLE TO ASSIST CUSTOMER.

If Customer notices that the Service address information identified in Customer contract or bill is inaccurate, Customer can make corrections by calling our Customer Service representatives at 928-255-5545 during the hours of 8 a.m. to 5 p.m. Arizona time, Monday – Friday.

HOSTED VOIP E911 SERVICES CALLS MAY NOT COMPLETE OR MAY BE ROUTED TO EMERGENCY PERSONNEL WHO WILL NOT BE ABLE TO ASSIST CUSTOMER IF CUSTOMER DISABLE, DAMAGE OR MOVE THE IAD TO A LOCATION OTHER THAN THE SERVICE ADDRESS CUSTOMER PROVIDED TO Executech WHEN SERVICE WAS INITIATED.

If Customer wishes to move to a new Service address, please call Executech Customer Service at 928-255-5545 during the hours of 8 a.m. to 5 p.m. Arizona time, Monday – Friday.

HOSTED VOIP E911 SERVICES CALLS MAY BE DELAYED OR DROPPED DUE TO NETWORK ARCHITECTURE.

Due to network congestion or problems, calls to E911 Services made using Hosted VoIP may be dropped, in which case Customer will not be connected to emergency Services, or Customer E911 calls may take longer to connect than E911 calls made using traditional telephone Service.

IN ADDITION, CUSTOMER SHOULD MAINTAIN ALTERNATE MEANS OF CONTACTING 911 SERVICES AND CUSTOMER MUST INFORM CUSTOMER Hosted VoIP USERS OF THESE ALTERNATE MEANS.