

## PARTNER COMMUNICATIONS COOPERATIVE

### TERMS AND CONDITIONS

This Terms and Conditions Agreement for High Speed Internet Service and voice services (“**Service Agreement**”), consisting of these terms and conditions and all other documents referenced herein by and between Partner Communications Cooperative (“**Partner Communications**,” “we,” “us,” and “our”) and the individual or entity (“**Customer**,” “you,” or “your”) named on the Confirmation of Sale (“**COS**”) to which this Agreement is attached, sets forth the terms and conditions under which Partner Communications will make available its High Speed Internet Access Service, voice service and related services and components (collectively, the “**Service**”). This Service Agreement governs both residential and commercial Customers. “**Affiliate**” means an entity that controls, is controlled by or is under common control with Partners Communications.

By using the Service, Customers agree to be bound by the terms of this Service Agreement and all documents incorporated by reference herein, including without limitation Partner Communications’ Privacy Policy, Open Internet Policy, DMCA Copyright Infringement Notification Policy, COS (applicable only for internet access service), and Additional Terms (terms and conditions that will govern a new service offering) as each may be amended from time to time. If there is a conflict between this Service Agreement and any Additional Terms, the Additional Terms shall govern.

PLEASE READ THIS AGREEMENT CAREFULLY TO ENSURE THAT CUSTOMER UNDERSTANDS EACH PROVISION.

THIS SERVICE AGREEMENT INCLUDES MANY IMPORTANT TERMS, INCLUDING WARNINGS THAT YOU MAY BE UNABLE TO USE VOICE SERVICE FOR 911 OR OTHER EMERGENCY CALLS UNDER CERTAIN CIRCUMSTANCES, AND LIMITS AND DISCLAIMERS REGARDING PARTNER COMMUNICATIONS’ LIABILITY. IF YOU DO NOT AGREE TO THESE TERMS, DO NOT USE THE SERVICE.

Partner Communications regularly updates and amends this Service Agreement, the Privacy Policy, the Open Internet Policy, DMCA Copyright Infringement Notification Policy, and other documents incorporated by reference in this Service Agreement. Partner Communications will communicate any such updates or amendments to Customer in accordance with Section 20(g). Customer may obtain, at no charge, a copy of the current Service Agreement or any documents incorporated by reference herein by visiting Partner Communications’ website or by contacting Partner Communications.

**1. GENERAL OVERVIEW.** This Service Agreement governs the following components and Services defined under Partner Communications’ Service. Customer may select from a menu of standard residential or commercial service(s) based on Customer’s needs. Details about the following can be found on Partner Communications’ website, unless noted otherwise: <https://www.pcctel.net/>.

- (a) High Speed Broadband Internet Access Service for Residential and Commercial Customers
- (b) Voice Service
- (c) Electronic mail
- (d) Customer technical/repair support, including support technicians

**2. EQUIPMENT AND REQUIREMENTS FOR PROVISION OF THE SERVICE.** Specific terms and conditions that govern a Customer's use of their own equipment or Partner Communications Equipment are set forth in the COS. This section only governs internet access service Customers:

(a) Customer Equipment. Although Partner Communications is under no obligation to do so, Partner Communications may, and Customer authorizes Partner Communications to perform any updates and/or changes to Customer's equipment, on-site or remotely, from time to time as Partner Communications deems necessary, in Partner Communications' sole discretion. Customer will direct any questions concerning third-party hardware or software to the manufacturer. Partner Communications has no responsibility for the operation or support, maintenance or repair of any equipment, software or services that Customer elects to use in connection with the Services. As set forth below and in the Open Internet Policy, Customer is not permitted to connect any harmful equipment to the Partner Communications Equipment (as defined below). Customer understands that failure to comply with this restriction may cause damage to the Partner Communications Network and subject Customer to liability for damages and/or other liability. Customer understands, acknowledges and agrees to not alter, modify or tamper with the Partner Communications Equipment or the Service, or to permit, encourage or solicit any other person to do the same, unless such person has been authorized to do so by Partner Communications.

(b) Partner Communications Equipment. Customer acknowledges that at the time of installation of the Service, the equipment owned and operated by Partner Communications listed on the COS was installed (the "**Partner Communications Equipment**") at a location and in a manner authorized by Customer. Customer further acknowledges that the Partner Communications Equipment may, at Partner Communications' sole discretion, be refurbished or otherwise used equipment. Customer agrees that the Partner Communications Equipment was installed at a location and in a manner authorized by Customer. The Partner Communications Equipment is and shall remain the property of Partner Communications, and will be provided to the Customer under the terms set forth in the COS. At such time as Customer or Partner Communications terminate the Service, Customer will return the Partner Communications Equipment to Partner Communications within ten (10) calendar days, during regular business hours, Monday through Friday (except holidays) or in accordance with Partner Communications' current return procedures. **DO NOT RETURN EQUIPMENT BY MAIL OR DELIVERY SERVICE.** Pick up may be requested for an additional fee.

In the event Customer does not return the Partner Communications Equipment as set forth herein, or in the event that the Partner Communications Equipment is destroyed or otherwise inoperable, damaged (ordinary wear and tear excepted), lost, or stolen, Customer will be liable for the cost of repair or replacement of the equipment.

(c) Voice Service Requirements and Availability. Customer must supply certain facilities, such as a phone handset or equivalent, installed phone wiring and jacks, and a powered electrical outlet. Customer is responsible for supplying and ensuring that the facilities Customer supplies are compatible with the Service and meet federal and other applicable standards. Customer represents that Customer either owns Customer's facilities or has the right to use the facilities in connection with the Voice Service. Partner Communications shall have no obligation to provide, maintain, support, or service Customer's facilities.

- i. For Voice Customers requesting that Partner Communications port an existing phone number from a prior carrier, a signed Letter of Authorization ("LOA") must be on file before Service will be provided. The LOA gives legal authorization to Partner Communications to act as Customer's agent, to make any and all inquiries necessary for the purpose of obtaining customer service record information and to act as the Customer's agent for the purpose of taking any and all actions required (including the removal of any account protection/freezes) to become Customer's local service provider and to implement other services described herein for all of the Customer's physical service and billing locations including changing Customer's long distance carrier(s).
- ii. The Customer gives Partner Communications authorization to notify all appropriate parties, including the Customer's local and long distance carrier, of the Customer's choice of carriers and to make the necessary changes for the Customer's current and future services without further permission. It is the customer's responsibility to terminate service from prior local and long distance carriers *after* activation of Partner Communications Voice Service.
- iii. The Customer also agrees to indemnify Partner Communications, its employees, and agents from any liability resulting from any credit injury, or client privacy issue, or liability to any third party for pre-existing obligations, the Customer may have regarding local and/or long distance services.

(d) Customer's Obligation to Maintain Power to Partner Communications Equipment. Customer understands and agrees that: (i) Customer must provide electrical power and a continuous connection to the power grid to Partner Communications Equipment at all times (including, without limitation, when Customer is not using the Service), and (ii) Customer's failure to provide such power and continuous connection may result in damage to the Partner Communications Equipment or to Customer's computer, equipment, property or premises, for which damage Customer will be solely responsible.

(e) Partner Communications provides Customer an option to purchase the following standby backup power: (1) a minimum of eight hours, or (2) a minimum of twenty-four hours. These units do not guarantee the Partner Communications Network will remain available during a power outage or other causes of network interruption. They also do

not guarantee that phones purchased or used by the Customer with this service will remain operational, particularly if such devices require commercial power.

(f) Replacement and Upgrade of Partner Communications Equipment.

- i. For a one-year period after the date of installation, Partner Communications provides a limited warranty against any defect in materials or workmanship in the Partner Communications Equipment that is warranted by the manufacturer of such Partner Communications Equipment. During this one-year period, in the event there is a problem with the Partner Communications Equipment that is, as determined by Partner Communications in its sole discretion, not a result of action or inaction on the part of Customer (see below for details), and that cannot be corrected either over the telephone or on-site, Partner Communications will, as its sole obligation and Customer's sole remedy for such problem, repair or replace such Partner Communications Equipment at Partner Communications' expense.
- ii. Partner Communications shall have no obligation to repair, replace or otherwise upgrade, any Partner Communications Equipment that has been, in Partner Communications' sole discretion, damaged or otherwise requires repair, replacement or upgrade as a result of damage or disruption caused by misuse or neglect or otherwise caused by Customer, including, without limitation, damage or disruption caused by Customer's failure to comply with Section 2(f) herein or by Customer's failure to comply with the last sentence of Section (a) herein. Customer understands, acknowledges and agrees that this warranty expressly excludes defects in the Partner Communications Equipment caused by acts of nature (such as, but not limited to, lightening damage), damage from misuse or neglect, water damage, damage caused by Customer's failure to comply with Section (e) herein or damage or other disruption caused by Customer's failure to comply with the last sentence of Section (a) herein. After the one-year warranty period, Customer will be solely liable for any and all damage to any Partner Communications Equipment.
- iii. Customer understands, acknowledges and agrees that Partner Communications may from time to time require upgrades or replacement of the Partner Communications Equipment to provide continued quality or service, and Customer will be obligated to pay the then-applicable "Equipment Upgrade Fee" as established by Partner Communications.

(g) Customer understands, acknowledges and agrees that prior to Partner Communications servicing any Customer equipment or Partner Communications Equipment, it is Customer's responsibility to (i) back-up the data, software, information or other files stored on Customer's computer or other device including but not limited to disk drives, peripherals, MP3 player, DVD player, camcorder, digital camera and/or on any other electronic storage device; and (ii) remove all videotapes, compact disks, floppy disks, laser disks, cassettes, DVDs, film or other media from Customer's equipment. Under

no circumstances shall Partner Communications and/or its Operational Service Provider, be liable under any circumstances for any loss, disclosure, alteration or corruption of any data, software, information, files, videotapes, compact disks, floppy disks, laser disks, cassettes, DVDs, film or other media. An Operational Service Provider is a third party-owned company that provides or performs services on Partner Communications' behalf, to help serve Customers better, or to perform internal functions that support Partner Communications' Service and operations.

**3. ACCESS TO CUSTOMER'S PREMISES.** Customer hereby grants Partner Communications and its Affiliates, and each of their respective employees, contractors, representatives, agents, and Operational Service Providers the right to enter Customer's property and premises at any time for the purpose of operating or maintaining the Partner Communications Equipment or the Partner Communications Networks, retrieving Partner Communications Equipment or fulfilling its obligations or exercising its rights under this Agreement. Partner Communications shall provide Customer with reasonable advance notice of any such planned access, except when, in the reasonable opinion of Partner Communications, an emergency or other exigent circumstance exists that would require Partner Communications to immediately enter Customer's property and premises.

**4. CUSTOMER'S REPRESENTATIONS, RESPONSIBILITIES AND WARRANTIES.** If Customer is an individual, Customer represents and warrants that he or she is at least 18 years of age and has legal authority to execute this Agreement. If Customer is a commercial entity, the individual executing this Agreement represents and warrants he or she has legal authority to execute this Service Agreement on behalf of Customer.

(a) This Service is personal to Customer and Customer represents and warrants that it will not assign, transfer, resell or sublicense Customer's rights under this Agreement unless specifically permitted by the terms of this Agreement.

- i. For Residential Customers: Customer represents and warrants that the Service and the Partner Communications Equipment shall be used only by Customer and by members of Customer's immediate household living with Customer at the same address, and Customer will not redistribute or share the Service with any others or transmit the Service over a wireless or other network that is not secured.
- ii. For Commercial Customers: Customer represents and warrants that the Service and the Partner Communications Equipment shall be used only by Customer and by authorized members of Customer's business located at the same address, and Customer will not redistribute or share the Service with any others or transmit the Service over a wireless or other network that is not secured.

(b) Customer represents and warrants that Customer is solely responsible and liable for any and all breaches of the terms and conditions of this Agreement and any other documents incorporated by reference in this Service Agreement, whether such breach

results from Customer's use of the Service or by another person using the Service via Customer's equipment or Partner Communications Equipment.

(c) Customer represents and warrants that Customer will not use the Service in a manner that:

- i. infringes or violates the intellectual property rights or proprietary rights, rights of publicity or privacy, or other rights of any third party;
- ii. violates any local, state or federal statute, ordinance or regulation, or this MSA;
- iii. is harmful, fraudulent, deceptive, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, or otherwise objectionable;
- iv. impersonates any person or entity, including without limitation any officer, employee, agent, representative or Operational Service Provider of Partner Communications or its Affiliates; or
- v. transmits any virus, Trojan horse, worm, time bomb, or other harmful computer code, file, or program.

(d) Customer represents and warrants that the personally identifiable information ("**Personal Information**") Customer provided and will provide to Partner Communications during the term of this Service Agreement, including without limitation Customer's legal name, email address for communications with Partner Communications (such email address, as the same may be modified from time to time by Customer upon notice to Partner Communications, the "**Account Email Address**"), service address, billing address, telephone number(s), and payment data (including without limitation information provided when authorizing Automated Clearing House ("**ACH**") payments or other recurring payments) and Non-Personal Information, such as but not limited to the number of computers on which the Service is being accessed (all such information, collectively, the "**Customer Information**" for purposes of this Service Agreement) is accurate, complete and current.

(e) Customer represents and warrants that there are no legal, contractual or similar restrictions on the installation of the Partner Communications Equipment in the location(s) and in the manner authorized by Customer and that Customer is responsible for ensuring compliance with all regulations, applicable building codes, zoning ordinances, homeowners' association rules, covenants, conditions or other restrictions related to the installation of the Partner Communications Equipment and Service, for paying any fees or other charges and obtaining any permits or authorizations necessary for the installation of the Partner Communications Equipment and/or provision of the Service (collectively, "**Legal Requirements**") and the payment of any fines or similar charges for violation of any applicable Legal Requirements.

(f) Customer represents and warrants that when Customer transmits, uploads, posts, or submits any "**Customer Material**" (as defined herein) using the Service, Customer has

the legal right to do so and that Customer's use of such Customer Material does not violate any copyright or trademark laws or any other third party rights. Customer Material collectively includes, without limitation, (i) any lawful or unlawful software, (ii) computer programs, (iii) applications, (iv) data, (v) photographs, (vi) video and/or audio content, (vii) text, (viii) files, and (ix) other information, including emails, address book and web storage content - anything installed by Customer on Partner Communications' servers not provided by Partner Communications.

**5. THE SERVICE AND PRIVACY.** Partner Communications has established a Privacy Policy ("**Privacy Policy**"), which governs Partner Communications' collection, use, disclosure, management and security related to Customer's personally identifiable information ("**Personal Information**").

(a) Customer agrees that Customer received a copy of the then-in-effect Privacy Policy at the time Customer executed this Service Agreement. Subject to Section 20(g) herein, Partner Communications may update or amend the Privacy Policy at any time without Customer's prior consent, unless such consent is required by law. Partner Communications will, however, provide notice of any such changes or amendments as stated in Partner Communications' Privacy Policy. Customer understands, acknowledges and agrees that Customer's continued use of the Service after notice of any changes or amendments have been provided will indicate Customer's acceptance of such changes, except where further steps are required by applicable law. All such updates or amendments shall be deemed to be incorporated by reference into this Service Agreement.

(b) Partner Communications does not routinely monitor a Customer's activity for violation of this Service Agreement and Partner Communications has no obligation to monitor content transmitted by use of, or other information related in any way to the provision or receipt of, the Service. However, Customer agrees that Partner Communications has the right to monitor the Service, any and all information or Customer Material transmitted through the Service or by use of the Partner Communications Equipment, and information available to Partner Communications regarding Customer's computer and other equipment in accordance with this Service Agreement. Partner Communications has the right at all times and without notice to remove, restrict access to or make unavailable any information or content residing on Partner Communications', its Affiliates' or Operational Service Providers' servers. Partner Communications has the right to monitor, review, retain or disclose any content or other information in Partner Communications' possession about or related to Customer (including, without limitation, Customer Information), Customer's use of the Service, or otherwise, as necessary to satisfy any applicable law, or otherwise as Partner Communications deems necessary or appropriate in Partner Communications' sole discretion.

(c) Partner Communications may request prior authorization from Customer to access Customer's credit report. With Customer's consent, Customer authorizes Partner Communications to make inquiries and to receive information about Customer's credit

history from others and to utilize such information in its decision regarding its provision of the Service to Customer.

(d) Partner Communications may require that Customer use a username and password combination or other reasonable procedures to confirm Customer's identity when requesting or otherwise accessing account information, making changes to the Service or performing other functions related to the Service through Partner Communications' authorized Customer Service channels. Only Commercial Customers may also choose to designate an authorized user of Customer's account (an "**Authorized User**"), who will be permitted to access the Commercial Customer's account information and make certain changes to Commercial Customer's account. Commercial Customers will be solely liable for any and all action or inaction by any Authorized User.

## 6. PASSWORDS.

(a) Residential accounts are for individual use only. Commercial accounts are for authorized personnel only.

(b) Residential Customers shall not share passwords or accounts with others. Commercial Customers shall only provide passwords to authorized personnel.

(c) Partner Communications shall provide or obtain passwords to protect Customer's account and Services. In the event that the security of a Customer's account or Service is compromised, Partner Communications shall provide Customer with a new password.

(d) Partner Communications may monitor the security of Customer's passwords at any time. A Customer with an insecure password may be directed to change the password to one which complies with the above rules. Customers who repeatedly choose insecure passwords may be assigned a password by Partner Communications; continued failure to maintain password security may be grounds for account termination.

## 7. SYSTEM SECURITY.

(a) Customer is solely responsible for maintaining the security of Customer's computer(s)/device(s) and data and protection of Customer's User ID, password and Personal Information and other data.

(b) Customer is prohibited from utilizing the Service to compromise the security or tamper with Partner Communications' system resources or accounts on any of Partner Communications' computers, routers, switches, servers, radios, modems, or any other equipment at Partner Communications or at any other website. Use or distribution of tools designed for compromising security is prohibited. Examples of the tools include but are not limited to password guessing programs, cracking tools, and network probing tools. Any attempt to access any of Partner Communications' corporate assets is strictly prohibited.



(c) Partner Communications reserves the right to release the login names of Customers involved in violating system security to system administrators at other websites, in order to assist them in resolving security incidents. Partner Communications will also fully cooperate with law enforcement authorities in investigating suspected lawbreakers, subject to Partner Communications' Privacy Policy and applicable law.

**8. USE OF SERVICE.** Partner Communications' Acceptable Use Policy is incorporated into this Agreement by reference and governs the type of acceptable activities associated with the use of the Internet and voice service, including but not limited to usage of Partner Communications' systems and the Partner Communications Networks for accessing the World Wide Web, Internet Relay Chat, USENET Newsgroups, Email, and other Internet features. The Acceptable Use Policy also identifies the activities specifically prohibited by Partner Communications. Partner Communications has the right to terminate or suspend all or any service as otherwise set forth in this Service Agreement and the Acceptable Use Policy.

**9. DIGITAL MILLENNIUM COPYRIGHT ACT.** Under the Digital Millennium Copyright Act ("DMCA"), copyright owners have the right to notify Partner Communications' registered designated agent if they believe that a Customer has infringed on their work(s). When Partner Communications receives a complaint notice from a copyright owner, Partner Communications will notify the Customer of the alleged infringement by providing Customer a copy of the submitted DMCA notice, to the extent permissible by law. As required by law, Partner Communications enforces a graduated response policy to complaints that may lead to suspension or termination of service. Partner Communications' policy is to terminate the internet services for any Customer receiving **four (4)** DMCA Notices of Infringement over a period of twelve (12) months. To contact Partner Communications' Designated Agent, please see Partner Communications' DMCA Copyright Infringement Notification Policy, available [here](#).

**10. PENALTIES FOR VIOLATION OF THIS SERVICE AGREEMENT.** Violation of this Agreement may subject Customer to immediate termination of Customer's account in addition to any and all criminal and civil penalties available under the law. Typically, Customer will receive a warning on the first offense. However, if the offense is severe, Partner Communications reserves the right to disable and terminate the account immediately. Accounts which have been disabled for abuse will not be re-opened.

(a) Partner Communications also reserves the right to modify and/or disable Service at any such time the Customer violates this Service Agreement.

(b) Partner Communications will not reimburse Customer when Service has been suspended or disabled due to violations of this Service Agreement.

(c) If Service is disconnected for non-payment, Partner Communications is not obligated to re-connect Customer's Service. However, if Customer desires re-connection, and Partner Communications agrees to do so, Customer agrees to pay a Re-installment Fee plus any amount past due under Customer's COS. The amount of the re-installment fee is set forth on Partner Communications' website.

## 11. SOFTWARE LICENSES AND THIRD PARTY SERVICES.

(a) Partner Communications may provide software for use in connection with the Service which is owned by Partner Communications or its third party licensors, third party suppliers, and Operational Service Providers (“**Software**”). Such Software may be subject to an additional fee. Partner Communications reserves the right periodically to update, upgrade, or change the Software remotely or otherwise and to make related changes to the settings and software on Customer’s computer(s)/device(s) or Equipment, and Customer agrees to permit such changes and access to Customer’s computer(s)/device(s) and Equipment. Customer may use the Software only in connection with the Service and for no other purpose.

(b) Certain Software may be accompanied by an end user license agreement (“**EULA**”) from Partner Communications or a third party. Partner Communications’ use of the Software is governed by the terms of that EULA and by this Agreement, where applicable. Customer may not install or use any Software that is accompanied by or includes a EULA unless Customer first agrees to the terms of the EULA.

(c) For Software not accompanied by a EULA, Customer is hereby granted a revocable, non-exclusive, non-transferable license by Partner Communications or its applicable third party licensor(s) or Operational Service Provider to use the Software (and any corrections, updates and upgrades thereto). Customer understands, acknowledges and agrees that the Software is confidential information of Partner Communications or its third party licensors/Operational Service Providers and that Customer will not disclose or use the Software except as expressly permitted herein. The Software contains copyrighted material, trade secrets, patents, and proprietary information owned by Partner Communications or its third party licensors/Operational Service Providers. Customer may not copy, de-compile, reverse engineer, disassemble, attempt to discover any source code or underlying ideas or algorithms of the Software, otherwise reduce the Software to a human readable form, modify, rent, lease, loan, use for timesharing or service bureau purposes, reproduce, sublicense or distribute copies of the Software, or otherwise transfer the Software to any third party, or allow, encourage or solicit others to do the same. Customer may not remove or alter any trademark, trade name, copyright or other proprietary notices, legends, symbols, or labels appearing on or in copies of the Software. Customer is not granted any title or rights of ownership in the Software. Customer acknowledges that this license is not a sale of intellectual property and that Partner Communications or its third party licensors/Operational Service Providers continue to own all right, title and interest, including but not limited to all copyright, patent, trademark, trade secret, and moral rights, to the Software and related documentation, as well as any corrections, updates and upgrades to it. The Software may be used in the United States only, and any export of the Software is strictly prohibited.

**12. CUSTOMER’S PAYMENT OBLIGATIONS FOR INTERNET ACCESS SERVICE.** Customer understands, acknowledges and agrees to pay Partner Communications through the end of the Initial Term or any Renewal Term in accordance with Partner Communications’ current billing

policies. Failure to fulfill any payment obligations in a timely manner as provided herein will be considered to be a violation of this Service Agreement and Customer's COS. A \$100 security deposit for internet-only and a \$150 security deposit for phone and internet are required for Customers with a credit score below 680. The security deposit plus interest will be returned to Customer following one (1) year of consecutive on-time payments. Payment is due upon receipt of the monthly invoice. Customer's account is in default if payment is not received by the due date stated on the invoice. Service may be disconnected if Customer's account is unpaid ten (10) days after the due date.

**13. VOICE SERVICE FEES, TAXES AND OTHER CHARGES.** State and Federal taxes and fees are applied to all Services types. Voice Service fees, taxes, and other charges may change from time to time. Partner Communications blocks international phone calls from the United States except those made to Canada. Should a Customer require the ability to place international calls to countries other than Canada, Partner Communications may open the lines for those specific countries at their discretion. If Customer makes calls to locations outside the United States and Canada, international rates will apply. International calling rates can be found on Partner Communications' website <https://www.pcctel.net/phone-2/>.

**14. VOIP SERVICE 911 EMERGENCY SERVICES.** By acceptance, and use, of the Voice Service, Customer acknowledges and accepts any limitations of 911/E911 service, and Customer agrees to convey these limitations to all persons who may have occasion to place calls over the Voice Service. If Customer has any questions about 911/E911, call Partner Communications at 877-433-7701.

**15. DISCLAIMER OF WARRANTIES.**

(a) CUSTOMER EXPRESSLY AGREES THAT CUSTOMER USES THE SERVICE AND THE PARTNER COMMUNICATIONS EQUIPMENT AT CUSTOMER'S SOLE RISK. THE SERVICE AND PARTNER COMMUNICATIONS EQUIPMENT ARE PROVIDED ON AN "AS-IS" AND "AS AVAILABLE" BASIS AND EXCEPT TO THE LIMITED WARRANTIES SPECIFICALLY SET FORTH IN SECTION 2(e) HEREIN, IF APPLICABLE, WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF TITLE, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, OR MERCHANTABILITY. NEITHER PARTNER COMMUNICATIONS NOR ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, REPRESENTATIVES, AGENTS, OPERATIONAL SERVICE PROVIDERS, THIRD PARTY SUPPLIERS OR SOFTWARE LICENSORS WARRANTS: (I) TO UNINTERRUPTED, TIMELY OR SECURE USE OF SERVICE; (II) THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS; (III) THAT THE SERVICE WILL BE ERROR-FREE OR FREE OF ANY VIRUSES, WORMS, SPAM, POP-UP ADVERTISING, SPYWARE, ADWARE OR OTHER HARMFUL COMPONENTS, EVEN IF COUNTERMEASURES HAVE BEEN DEPLOYED; OR (IV) THAT ANY PERSONAL INFORMATION, NON PERSONAL INFORMATION, DATA OR FILES CUSTOMER SENDS OR RECEIVES VIA THE SERVICE WILL BE TRANSMITTED IN UNCORRUPTED FORM, WITHIN A REASONABLE TIME, OR FREE FROM UNAUTHORIZED ACCESS BY OTHERS OR THAT OTHER USERS WILL BE UNABLE TO GAIN ACCESS TO CUSTOMER'S COMPUTER OR DEVICE. THIS INCLUDES, BUT IS NOT LIMITED TO, INCIDENTS OF FILE SHARING, PRINT

SHARING OR USE OF OTHER MEANS THAT ENABLE INTERNET USERS TO GAIN ACCESS TO CUSTOMER'S COMPUTER, DEVICE, OR NETWORK OR PARTNER COMMUNICATIONS EQUIPMENT, OR TO MONITOR CUSTOMER'S ACTIVITY AND CONDUCT WHILE USING THE SERVICE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY CUSTOMER FROM PARTNER COMMUNICATIONS SHALL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN. SOME STATES DO NOT ALLOW LIMITATIONS ON THE SCOPE OF A LIMITATION OF WARRANTY OR HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO CUSTOMER.

(b) In addition, Partner Communications may, in its sole discretion, make available to Customer security software, such as anti-virus software, firewall software, "pop-up" advertising blocking software, parental control software, anti-spyware or anti-adware software for Customer's use on Customer's computer system(s) in conjunction with the Service. Any such security software provided by Partner Communications to Customer is intended to provide only a minimal level of protection to Customer's computer system(s). CUSTOMER UNDERSTANDS, ACKNOWLEDGES AND AGREES THAT PARTNER COMMUNICATIONS AND ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, REPRESENTATIVES, AGENTS, THIRD-PARTY SUPPLIERS AND LICENSORS OF ANY SUCH SECURITY SOFTWARE, DO NOT GUARANTEE ITS ACCURACY, EFFICACY OR PERFORMANCE. CUSTOMER UNDERSTANDS AND AGREES THAT PARTNER COMMUNICATIONS AND ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, REPRESENTATIVES, AGENTS, THIRD PARTY SUPPLIERS AND LICENSORS ARE NOT RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER'S COMPUTER SYSTEM(S) (OR THE INFORMATION STORED THEREIN) THAT MAY RESULT FROM USE OF THE SECURITY SOFTWARE OR FROM ITS NONPERFORMANCE.

(c) EXCEPT AS SPECIFICALLY SET FORTH IN THE COS, CUSTOMER UNDERSTANDS AND AGREES THAT NEITHER PARTNER COMMUNICATIONS NOR ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, REPRESENTATIVES, AGENTS, OPERATIONAL SERVICE PROVIDERS OR THIRD PARTY SUPPLIERS AND LICENSORS GUARANTEE THAT ANY PARTICULAR AMOUNT OF BANDWIDTH ON THE PARTNER COMMUNICATIONS NETWORKS OR THAT ANY SPEED OR THROUGHPUT OF CUSTOMER'S CONNECTION TO THE PARTNER COMMUNICATIONS NETWORKS WILL BE AVAILABLE TO CUSTOMER. Customer understands, acknowledges and agrees that the availability and speed of the Service provided at Customer's premises may vary depending upon a number of factors, including Customer's computer system(s), associated equipment and other devices accessing the Service, the terrain and location of Customer's premises, foliage between Partner Communications Equipment and other components of the Partner Communications Networks, Internet traffic, and other factors such as system capacity limitations, governmental actions, events beyond Partner Communications' control and system failures, modifications, upgrades and repairs.

(d) THIS SERVICE AGREEMENT GIVES CUSTOMER SPECIFIC LEGAL RIGHTS, AND CUSTOMER MAY HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE.

## 16. LIMITATION OF LIABILITY.

(a) STATUTE OF LIMITATIONS: CUSTOMER MUST BRING ANY CLAIM OR LAWSUIT WITHIN ONE (1) YEAR THE CLAIM OR SUIT ARISES.

(b) TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, IN NO EVENT SHALL PARTNER COMMUNICATIONS OR ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, REPRESENTATIVES, AGENTS, OPERATIONAL SERVICE PROVIDERS, THIRD PARTY LICENSORS OR THIRD PARTY SUPPLIERS, OR EACH OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, OR AGENTS, AND ANY OF THEIR SUCCESSORS AND ASSIGNS BE LIABLE WITH RESPECT TO THE SERVICE OR THE SUBJECT MATTER OF THIS SERVICE AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE LIMITATIONS AND EXCLUSIONS HEREIN MAY NOT APPLY TO CUSTOMER. IF ANY PART OF THIS LIMITATION ON LIABILITY IS FOUND TO BE INVALID OR UNENFORCEABLE FOR ANY REASON, THEN THE AGGREGATE LIABILITY OF PARTNER COMMUNICATIONS UNDER SUCH CIRCUMSTANCES FOR LIABILITIES THAT OTHERWISE WOULD HAVE BEEN LIMITED SHALL NOT EXCEED ONE HUNDRED DOLLARS (\$100 US).

(c) ADDITIONALLY, PARTNER COMMUNICATIONS WILL HAVE NO LIABILITY FOR THE FOLLOWING:

- i. FOR ANY AMOUNT IN THE IN EXCESS OF ONE HUNDRED DOLLARS (\$100 US);
- ii. FOR ANY THIRD-PARTY FEES OR CHARGES, INCLUDING BUT NOT LIMITED TO, BANKING FEES, OVERDRAFT FEES, MOBILE PHONE OR OTHER WIRE LINE CHARGES, TECHNICIAN CHARGES, OR OTHER SIMILAR CHARGES;
- iii. FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER;
- iv. FOR DATA LOSS OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES;
- v. FOR ANY DAMAGES OR LOSS DUE TO CUSTOMER'S FAILURE TO BACK UP ANY EQUIPMENT AS REQUIRED IN SECTION 2(f) HEREIN;
- vi. ANY LACK OR BREACH OF SECURITY CUSTOMER OR ANY OTHER PARTY MAY EXPERIENCE OR BE EXPOSED TO WHILE USING THE SERVICE;
- vii. FOR ANY MATTER BEYOND PARTNER COMMUNICATIONS' REASONABLE CONTROL;
- viii. FOR ANY INTERFERENCE OR INCOMPATIBILITY WITH OR DISRUPTION OF ANY NON-VOICE SYSTEMS, WHETHER CAUSED BY THE VOICE SERVICE, INTERNET SERVICE, VOICE SERVICE, EQUIPMENT, OR OTHERWISE; OR
- ix. CUSTOMER'S USE OF THE SERVICE FOR OR IN CONNECTION WITH ANY HIGH-RISK OR UNLAWFUL USES, OR ANY USE THAT VIOLATES THIS SERVICE

## AGREEMENT.

**17. GOVERNING LAW.** CUSTOMER AND PARTNER COMMUNICATIONS AGREE TO RESOLVE ALL DISPUTES AND CLAIMS BETWEEN CUSTOMER AND PARTNER COMMUNICATIONS IN ACCORDANCE WITH THE SUBSTANTIVE LAWS OF THE STATE OF IOWA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. This agreement between Customer and Partner Communications is intended to be broadly interpreted. It includes, but is not limited to:

- (a) Claims arising out of or relating to any aspect of the relationship between Customer and Partner Communications, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory, claims that arose before this or any prior Agreement (including, but not limited to, claims relating to advertising);
- (b) Claims that are currently the subject of purported class action litigation in which Customer is not a member of a certified class and claims that may arise after the termination of this Agreement.

For the purposes of this Section 17, references to Customer include Customer's subsidiaries, affiliates, agents, employees, predecessors-in-interest, successors, and assigns, as well as all Authorized Users or unauthorized users or beneficiaries of the Service.

**CUSTOMER AGREES THAT, BY ENTERING INTO THIS AGREEMENT, CUSTOMER AND PARTNER COMMUNICATIONS ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION.**

**18. INDEMNIFICATION.** Customer agrees to indemnify, defend and hold harmless Partner Communications, its Affiliates, officers, directors, employees, shareholders, representatives, agents, Operational Service Providers, third party licensors and suppliers and their respective members, officers, directors, employees, agents, representatives and contractors, and each of their successors and assigns (collectively, the "**Partner Communications Indemnitees**") from any and all losses, expenses, damages and costs, (including reasonable attorneys' fees) and other claims brought against any Partner Communications Indemnatee(s) related to Customer's use of the Service or any violation of this Service Agreement and all other documents incorporated herein by reference, including, but not limited to, claims that Customer's use of the Service infringed on the patent, copyright, trademark or other intellectual property right of any third party, Customer's violation of any law or the rights of another and claims resulting from Customer's negligence. Customer agrees to pay any attorneys' fees incurred by Partner Communications and/or any other Partner Communications Indemnatee in connection with the defense of any such third-party claims. Partner Communications reserves the right to assume the defense and control of any matter subject to indemnification by Customer, in which event Customer will cooperate with Partner Communications in asserting any available defenses.

**19. TERMINATION OF THE SERVICE.**

- (a) IF CUSTOMER CANCELS THE SERVICE OR ANY ASPECT THEREOF FOR ANY REASON, PARTNER COMMUNICATIONS SHALL NOT BE REQUIRED TO REFUND CUSTOMER ANY

PORTION OF THE MONTHLY FEES PAID BY CUSTOMER FOR THE MONTH IN WHICH CANCELLATION OCCURS, UNLESS OTHERWISE REQUIRED BY STATE LAW.

(b) Customer may terminate the Service by calling 641-498-7701 during regular business hours at least ten (10) calendar days prior to desired termination date. Partner Communications may take reasonable steps to verify Customer's identity and authority before effecting such termination. The full Monthly Payment is due for any part of a month in which Service is provided. Upon termination, Customer agrees to pay any account balance, a "Cancellation Fee" as defined in the COS, and to return any Partner Communications Equipment or pay the Equipment Non-Return Fee as set forth in Section 2(b) herein.

(c) The Service and all Service features are subject to availability on an ongoing basis. Customer understands that Partner Communications may cease to offer the Service or any Service feature at any time, for any reason or no reason, and without notice to Customer. Without limiting the generality of the foregoing, Partner Communications may suspend, disconnect or terminate the Service at any time without prior notice if Partner Communications believes in its sole discretion that Customer has (i) failed to pay Customer's bill when due, (ii) threatened or harassed any Partner Communications employee, agent or contractor or (iii) violated any other provision of this Service Agreement.

(d) If the Service to Customer is disconnected for any reason or Service is suspended in accordance with this Agreement, Partner Communications may charge Customer: (i) for Service during the period of disconnection or suspension in accordance with applicable federal and state law; and (ii) reasonable disconnection and reconnection fees.

(e) In the event that Customer's account is suspended, disconnected or terminated, no refund, including fees paid by Customer to Partner Communications, shall be granted. Moreover, Partner Communications shall not be responsible for the return of data stored on Partner Communications' servers, including web and email servers. Customer agrees that Partner Communications has no obligation to visit Customer's home upon termination to reconfigure Customer's computer(s) or for any other reason.

(f) Sections 1 through 20 herein shall survive any termination or expiration of this Agreement.

## **20. GENERAL PROVISIONS.**

(a) This Service Agreement (including all documents incorporated herein by reference) constitutes the entire agreement with respect to the Service. This Service Agreement supersedes and nullifies all prior understandings, promises and undertakings made orally or in writing by or on behalf of the parties with respect to the subject matter of this Agreement.

(b) The Parties agree that any Affiliates, Operational Service Providers, agents, third party suppliers and licensors of Partner Communications are intended beneficiaries of this Service Agreement. Except as set forth in the previous sentence, this Agreement is not intended to give and does not give any rights or remedies to any person other than Customer and Partner Communications.

(c) No agency, partnership, joint venture, or employment relationship is created as a result of this Service Agreement and neither party has any authority of any kind to bind the other in any respect.

(d) Partner Communications shall not be liable for any failure to perform its obligations hereunder where such failure results from any cause beyond Partner Communications' reasonable control, including, without limitation, mechanical, electronic or communications failure or degradation (including "line-noise" interference).

(e) This Service Agreement and all matters arising out of or related to this Service Agreement shall be governed by the laws of the State of Iowa without regard to the principles of conflicts of law. Customer agrees that the federal and state courts of Iowa alone shall have jurisdiction over all disputes arising under this Service Agreement and Customer consents to the personal jurisdiction of those courts.

(f) Partner Communications' failure to exercise or enforce any right or provision of this Service Agreement shall not constitute a waiver of such right or provision. If any term, covenant, condition or provision of this Service Agreement shall, to any extent, be held invalid, illegal or unenforceable, the remainder of this Service Agreement shall not be affected and each remaining term, covenant, condition and provision shall be valid and enforceable to the fullest extent permitted by law or construed as nearly as possible to reflect the original intentions of the parties.

(g) Partner Communications may change, amend, alter, or modify this Service Agreement at any time. Partner Communications may notify Customer of any change either by posting that change on Partner Communications' website (<https://www.pcctel.net/internet/>) and/or by sending Customer an email or by U.S. mail. If Customer continues to use the Service after such notice has been made, Customer agrees that such continued use shall be deemed to be Customer's acceptance of those changes. The current version of this Service Agreement, as the same may be modified by Partner Communications from time to time, shall supersede any prior version of this Service Agreement that may have been provided to Customer at any time.

(h) Except as specifically set forth in this Service Agreement, any Notices under this Agreement shall be effective as follows:

- i. If to Customer: Notice shall be made by: (i) email to Customer; (ii) by first-class mail to Customer at Customer's billing address on file with Partner Communications; or (iii) when posted to the Announcements page of Partner Communications' website.



If by email, such notice shall be deemed effective when transmitted by Partner Communications.

If by first-class mail, such notice shall be deemed effective upon the earlier of (A) three business days after dispatch or (B) at such time as actually received by Customer.

- ii. If to Partner Communications: Notice shall be made exclusively by first-class mail to: Partner Communications 101 E Church Street, Gilman, Iowa 50106, or such other address as Partner Communications may from time to time publish to Customer, and such notice shall be deemed effective upon receipt.

(i) Customer may not assign this Agreement, or Customer's rights or obligations under this Service Agreement, without Partner Communications' prior written consent, and any purported assignment by Customer without such consent shall be void. Partner Communications may transfer or assign any portion or all of this Service Agreement at any time without notice to Customer, and Customer waives any notice that may be required by law.

(j) Customer and Partner Communications have executed this Service Agreement by their signatures (or, in the case of Partner Communications, the signature of Partner Communications' authorized person) on the COS.

Partner Communications and Customer understand, acknowledge and agree that this Service Agreement is entered into as of the date set forth on the COS.