



VONTEL TERMS AND CONDITIONS

VONtel

TCT WEST, INC. d/b/a VONTEL

TERMS AND CONDITIONS OF USE

I. THE AGREEMENT

These Terms and Conditions constitute the agreement (the "Agreement") between TCT WEST, INC. d/b/a VONtel ("VONtel", us or we) and the user ("you", "your", "user" or "Customer") of VONtel's communications services and any related products or services ("Service"). For purposes of the Agreement, "you" means jointly and severally, the customer, defined as the person identified in VONtel's account records as responsible for payment of all charges and any other person who uses the service(s).

BY ENROLLING IN, USING, OR PAYING FOR THE VONtel SERVICES, YOU AGREE TO THE PRICES, CHARGES, TERMS AND CONDITIONS IN THIS AGREEMENT. IF YOU DO NOT AGREE TO THESE PRICES, CHARGES, TERMS AND CONDITIONS, DO NOT USE THE SERVICES, AND CANCEL THE SERVICES IMMEDIATELY BY CALLING VONtel AT THE TOLL FREE NUMBER ON THE FIRST PAGE OF YOUR INVOICE FOR FURTHER DIRECTIONS.

The Agreement governs the Service and any devices, such as the Analog Telephone Adapter or any other IP connection device ("Device" or "Equipment"), used in conjunction with the Service. By activating the Service, you acknowledge that you have read and understand, and you agree to, the terms and conditions of the Agreement, and you represent that you are of legal age to enter the Agreement and become bound by its terms.

VONtel may change the Terms and Conditions of the Agreement from time to time. Notices will be considered given and effective on the date posted at www.TCTWEST.net. The Agreement posted supercedes all previously agreed to electronic and written Terms and Conditions.

The monthly rates and charges for the Service, which may be found at www.TCTWEST.net, are effective as of today and are subject to change with 10 days notice. For your most current rates and charges, the most current version of the Agreement, or if you have questions about your services, please visit our website at www.TCTWEST.net (see VONtel link) or call us at the toll-free number listed on the first page of your invoice.

II. EMERGENCY CALLING SERVICE

WARNING— TRADITIONAL 911 SERVICE IS NOT AVAILABLE FROM VONTEL. IF YOU NEED OR WANT TO RELY ON TRADITIONAL 911 SERVICE, YOU SHOULD NOT USE VONTEL'S SERVICE.

A. Non-Availability of Traditional 911 or E911 Dialing Service:

You acknowledge and understand that the Service does NOT support traditional 911 or E911 access to emergency services. VONtel offers a limited Emergency Calling Service available only on VONtel Approved Devices as described below, but you acknowledge and understand that such Emergency Calling Service dialing is different in a number of important ways from traditional 911 services, as described herein. VONtel Emergency Calling Service dialing is available only on VONtel-approved devices or equipment. You agree to inform any household residents, guests and other third persons who may be present at the physical location where you use the Service as to the non-availability of traditional 911 or E911 dialing from your VONtelService and Device(s). If you activate VONtel Emergency Calling Service dialing, you agree to inform any household residents, guests and other third persons who may be present at the physical location where you use the Service as to the important differences and limitations of VONtel Emergency Calling Service dialing as compared with traditional 911 or E911 dialing, as set forth in this Agreement.



B. Description of Emergency Calling Service-Type Dialing Capabilities – Activation Required.

VONtel does offer an Emergency Calling Service that is different in a number of important ways from traditional 911 services. When you dial 911, your call is routed from the VONtel network to the Public Safety Answering Point (PSAP) or local emergency service personnel using the address that you provided to VONtel when you signed up for the Service. You acknowledge and understand that **when you dial 911 from your VONtel Equipment you will be routed to the general or administrative telephone number for the PSAP or local emergency service provider, and will not necessarily be routed to the 911 dispatcher(s) who are specifically designated to receive incoming 911 calls using traditional 911 dialing. Additionally, some PSAPs may from time to time refuse to accept calls from VoIP providers such as VONtel.** As described herein, this Emergency Calling Service dialing currently is NOT the same as traditional 911 or E911 dialing, and does not include all of the capabilities of traditional 911 dialing.

C. Service Outage:

1. Power Outage

You acknowledge and understand that Emergency Calling Service dialing does not function without power. Should there be an interruption in the power supply, the Service and Emergency Calling Service dialing will not function until power is restored. A power failure or disruption may require the Customer to reset or reconfigure equipment before using the Service or Emergency Calling Service dialing.

2. Service Outage

You acknowledge and understand that service outages by your provider will prevent, and that network congestion may slow, ALL Service including Emergency Calling Service dialing.

3. 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 prevent ALL Service, including Emergency Calling Service dialing.

4. Other Service Outages

You acknowledge and understand that if there is a service outage for ANY reason, such outage will prevent ALL Service, including Emergency Calling Service dialing. Such outages may occur for a variety of reasons, including, but not limited to those reasons described elsewhere in this Agreement.

5. Limitation of Liability and Indemnification

You acknowledge and understand that VONtel's liability is limited for any Service outage and/or inability to dial Emergency Calling Service from your line or to access emergency service personnel, as set forth in this document. You agree to defend, indemnify, and hold harmless TCT WEST, INC. d/b/a VONtel, its officers, directors, employees, parent company, 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 the absence, failure or outage of the Service, including Emergency Calling Service dialing and/or inability of Customer or any third person or party or user of Customer's Service to be able to dial 911 or to access emergency service personnel.

D. Failure to Designate the Correct Physical Address for Emergency Calling Service Dialing:

The physical address which the Customer provided to VONtel is the address that is applied to your Service for Emergency Calling Service dialing. Should you need to change this address, you must change this by contacting VONtel Customer Service in writing immediately to correct this address. It may take up to ten business days to effectuate a change of address or update of an address. Failure to provide the current and correct physical address and location of your VONtel equipment will result in any Emergency Calling Service communication you may make being routed to the wrong local emergency service provider.



E. Changing Your Primary telephone Number

You acknowledge and understand that if you change your primary VONtel telephone number you will not be able to change your Emergency Calling Service address for seventy-two (72) hours. During that time, any Emergency Calling Service calls that you may make will be routed using the address that was in VONtel's records before you changed your telephone number.

F. Change of Physical Location of VONtel Equipment:

You acknowledge and understand that Emergency Calling Service dialing does not function properly or may not function at all if you take your equipment with you away from the address or physical location that you have designated.

G. Requires Re-Activation if You Move:

You acknowledge and understand that Emergency Calling Service dialing will not function properly or at all if you move or change the physical location of your VONtel equipment to a different street address, unless and until you have successfully changed your Physical Address as outlined in Paragraph III(D) herein. Failure to provide the current and correct physical address and location of your VONtel equipment will result in any Emergency Calling Service dialing you may make being routed to the incorrect local emergency service provider.

H. Possibility of Network Congestion and/or Reduced Speed for Routing Emergency Calling Service:

You acknowledge and understand that there is a greater possibility of network congestion and/or reduced speed in the routing of an Emergency Calling Service communication made using your VONtel Equipment as compared to traditional 911 dialing over traditional public telephone networks. You acknowledge and understand that Emergency Calling Service dialing from your VONtel equipment will be routed to the general or administrative telephone number for the local emergency service provider, 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 when such calls are routed using traditional 911 dialing. You acknowledge and understand that there may be a greater possibility that the general or administrative telephone number for the local emergency service provider will produce a busy signal or will take longer to answer, or not answered at all, 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.

I. Automated Number Identification:

It is not possible for the Public Safety Answering Point (PSAP) and the local emergency personnel to identify your telephone number when you dial 911 to access Emergency Calling Service dialing. VONtel's system is configured in most instances to send the automated number identification information; however, the telephone system routes the traffic to the PSAP and the PSAP itself must be able to receive the information and pass it along properly, and they are not yet always technically capable of doing so. You acknowledge and understand that PSAP and emergency personnel may not be able to identify your telephone number to return your call if the call is unable to be completed, is dropped or disconnected, or if you are unable to speak to tell them your telephone number and/or if the Service is not operational for any reason, including without limitation those listed elsewhere in this Agreement.

J. Automated Location Identification:

It is not possible to transmit identification of the address that you have listed to the Public Safety Answering Point (PSAP) and local emergency personnel for your area when you use Emergency Calling Service dialing. You acknowledge and understand that you will need to state the nature of your emergency promptly and clearly, including your location, as PSAP personnel will NOT have this information. You acknowledge and understand that PSAP and emergency personnel will not be able to find your location if the call is unable to be completed, is dropped or disconnected, if you are unable to speak to tell them your location and/or if the Service is not operational for any reason, including without limitation those listed elsewhere in this Agreement.



K. Alternative Emergency Calling Service Arrangements

You acknowledge that VONtel does not offer primary line or lifeline services. You should always have an alternative means of accessing traditional E911 services.

III. SERVICE

A. Term

Service is offered on a monthly basis for a term that begins on the date that VONtel activates your account (the "Activation Date") and ends on the day before the same date in the following month. The Activation Date will begin three days after you sign-up for the Service. Subsequent terms of this Agreement automatically renew on a monthly basis without further action by you unless you give VONtel written notice of non-renewal at least ten [10] days before the end of the monthly term in which the notice is given. You are purchasing the Service for full monthly terms, meaning that if you terminate Service before the end of a monthly term, you will be responsible for the full month's charges to the end of the then-current term, including without limitation unbilled charges, plus any applicable disconnect fee, all of which immediately become due and payable. Expiration of the term or termination of Service does not excuse the Customer from paying all unpaid, accrued charges due in relation to the Agreement.

B. Disconnect Fee

If Customer cancels the Service for any reason or for convenience within twelve (12) months of the Activation Date, Customer will be charged a disconnect fee of \$29.95 per voice line upon cancellation of Service by Customer. The disconnect fee becomes due and payable immediately upon cancellation and will be billed directly to Customer. If Customer has multiple lines, Customer will be charged a disconnect fee of \$29.95 per line for each line canceled. Customer will not be charged a disconnect fee for changing telephone numbers, while keeping the same number of lines.

C. Use of Service and Device

VONtel's SERVICE IS ONLY FOR RESIDENTIAL USE, UNLESS CUSTOMER SPECIFICALLY SUBSCRIBES TO THE BUSINESS PLAN. If you have subscribed to VONtel's Residential Service, the Service and Devices are provided to you **ONLY AS A RESIDENTIAL USER**, for your personal, residential, non-business and non-professional use. This means that you are not using them for any commercial or governmental activities, profit-making or non-profit, including but not limited to home office, business, sales, tele-commuting, tele-marketing, autodialing, continuous or extensive call forwarding, fax broadcast, fax blasting or any other activity that would be inconsistent with normal residential usage patterns. This also means that you are not to resell or transfer the Service or the Device to any other person for any purpose, or make any charge for the use of the Service, or give away the Service, without express written permission from VONtel in advance. You agree that your use of the Service and/or Device, or the use of the Service and/or Device provided to you by any other person for any commercial or governmental purpose will be grounds for VONtel to immediately terminate your service without notice. VONtel also reserves the right to immediately terminate or modify the Service, if VONtel determines, in its sole discretion, that Customer's Service is being used for non-residential or commercial use, or exceeds normal residential usage patterns.

D. Notice of Rate Changes

VONtel may change the prices and charges for the Services from time to time. We may decrease prices without providing advance notice. Changes to any other rates, charges, or terms or conditions in the Agreement will be published at tctwest.net and will be incorporated by reference into this Agreement.

E. Rounding Policy

For billing purposes, the length of each metered call is rounded as described in each Calling Plan. If the computed charge for a call includes a fraction of a cent, the fraction is rounded up to the nearest whole cent. If the computed charges for taxes and surcharges include a fraction of a cent, the fraction is rounded up to the nearest whole cent.



F. Calls to International Mobile Telephones; International Special Services Calls

VONtel's advertised rates for international calls are generally the rates charged for calls to landline telephones. Some calls to international mobile telephones, or to international telephone numbers considered to be special services calls, are charged a different (usually higher) rate than calls to landline telephones. The rates you will be charged are set forth in the calling plan rate tables and are typically designated by a "MOB", "cellular", "mobile" or "M" notation.

G. Timing of Calls

Generally, timing of metered calls begins when the called party or an automated answering device (such as an answering machine or a facsimile machine) answers the call, and ends when one of the parties disconnects from the call. However, some foreign carriers (with whom VONtel must interconnect in order to terminate calls to foreign countries) designate a call as "answered" when the called party's line rings or after a certain number of rings, and will charge VONtel for a completed call. In these situations, VONtel will charge for the call as if it were answered by the called party.

H. Use of Service and Device by Customers Outside the United States:

While we encourage use of the Service within the United States to other countries, **VONtel does not presently offer or support the Service to customers located in other countries. If you remove the Device to a country other than the United States and use the Service from there, you do so at your own risk, including the risk that such activity violates local laws in the country where you do so.** You are liable for any and all use of the Service and/or Device by any person making use of the Service or Device provided to you unless you have notified us in writing of the theft of your device. You are no longer liable for charges made on the device beginning 10 hours after you have notified us in writing of the theft of the device.

I. Loss of Service Due to Power Failure

The Service does not function without power. Should there be an interruption in the power supply, the Service will not function until power is restored. A power failure or disruption may require you to reset or reconfigure equipment before using the Service. Power disruptions or failures will also prevent dialing to emergency service numbers including the Emergency Calling Service calling feature.

J. Copyright / Trademark / Unauthorized Usage of Device, Firmware or Software

The Service and Device and any firmware or software used to provide the Service or provided to Customer in conjunction with providing the Service, or embedded in the Device, and all Services, information, documents and materials on VONtel's website(s) are protected by trademark, copyright or other intellectual property laws and international treaty provisions. All websites, corporate names, service marks, trademarks, trade names, logos and domain names (collectively "marks") of VONtel are and shall remain the exclusive property of TCT WEST, INC. d/b/a VONtel and nothing in this Agreement shall grant you the right to license or to use 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 Customer in conjunction with providing the Service, or embedded in the Device, other than a nontransferable, revocable license to use such firmware or software (without making any modification thereto) strictly in accordance with the terms and conditions of this Agreement, and that the Device is exclusively for use in connection with the Service. If you decide to use the Service through an interface device not provided by VONtel, which VONtel reserves the right to prohibit in particular cases or generally, you promise that you possess all required rights, including software and/or firmware licenses, to use that interface device with the Service and you will indemnify and hold harmless VONtel against any and all liability arising out of your use of such interface device with the Service.



K. Tampering with the Device

You agree not to change the electronic serial number or equipment identifier of the Device, or to perform a factory reset of the Device, without express permission from VONtel. VONtel reserves the right to terminate your Service should you tamper with the Device, leaving you responsible for the full month's charges to the end of the current term, including without limitation unbilled charges, plus any applicable disconnect fee, all of which immediately become due and payable.

L. Theft of Service

You agree to notify VONtel immediately, in writing, by electronic mail or U.S. Postal Service, if the Device is stolen or if you become aware at any time that your Service is being stolen or used fraudulently. When you call or write, you must provide your account number and a detailed description of the circumstances of the 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. You will be liable for all use of the Service using a Device stolen from you and any and all stolen Service or fraudulent use of the Service for up to 10 hours after you notify us in writing of the theft. Notwithstanding anything herein to the contrary, credits will not be issued for charges resulting from fraud that arises out of third parties hacking into your equipment or the Internet. This includes, but is not limited to, modem hijacking, wireless hijacking or other fraud arising out of a failure of your internal procedures. VONtel will not issue credit for invoiced charges for fraudulent use resulting from your negligent or willful acts or those of a user of your service.

M. Number Transfer on Service Termination

VONtel may, solely at VONtel's discretion, release the telephone number that was ported to VONtel by you and used in connection with your Service provisioned by VONtel to your new service provider, if such new service provider is able to accept such number, upon your termination of the Service, and provided (i) your account has been terminated; (ii) your VONtel account is completely current including payment for all charges and applicable disconnect fees; and (iii) you request the transfer upon terminating your account. Customer will not be able to port away the telephone number if Customer cancels within thirty days of the Activation Date.

N. Service Distinctions

You acknowledge and understand that the Service is not a telephone service. Important distinctions exist between telephone service and the Service offering provided by VONtel. The Service is subject to different regulatory treatment than telephone service. This treatment may limit or otherwise affect your rights of redress before regulatory agencies.

O. Collect Call and Operator Services

VONtel does not offer collect call or operator services via this Service.

P. International DIDs or telephone numbers

Customers that have international (non-United States) direct inward dial telephone numbers ("DIDs") are provided with these numbers based on current United States and overseas regulations. These regulations are subject to change without notice and VONtel may be required to discontinue this service, without notice. VONtel reserves the right to discontinue International DID services for any reason at any time and is only obligated to refund the pro-rated monthly fee.

Q. International Services

1. Foreign Carrier Restrictions. Foreign carriers or regulatory agencies may impose, upon the portion of the end-to-end international service or facilities they provide, certain limitations or restrictions that may limit your ability to use the VONtel services. You must conform to any limitations or restrictions imposed by the foreign carriers or agencies.



2. Foreign Carrier Acts or Omissions.

- a. When other U.S. or foreign carriers and foreign telecommunications administrations use facilities to establish connections to points not reached by VONtel's network, VONtel is not liable for acts or omissions of other carriers or foreign telecommunications administrations.
- b. International calls are priced on the basis of the country and city codes dialed by you. When the facilities of other U.S. or foreign carriers are used in establishing connections to points not reached by VONtel's network, VONtel is not liable for refunds or damages if those calls do not terminate in the country, city or area codes associated with the called number.

R. Surcharges

In addition to surcharges that may be found in the applicable Calling Plan, VONtel may adjust its rates and charges or impose additional rates and charges to recover amounts it is required or permitted by governmental or quasi-governmental authorities to collect from others or pay to others in support of statutory or regulatory funds or programs ("Governmental Charges").

S. Taxes

1. All taxes, tax-like charges, and tax-related surcharges are referred to collectively as "Tax(es)." VONtel may elect to impose and collect such Taxes from you, unless otherwise constrained by court order or direction.
2. You agree to pay all Taxes imposed. If VONtel has collected Taxes and a challenged Tax is found to have been invalid and unenforceable, VONtel, in its sole discretion, will either reduce service rates for a fixed period of time in the future in order to flow-through to customers an amount equivalent to the amounts collected, or it will credit or refund such amounts to affected customers (less its reasonable administrative costs), if the amounts collected were retained by VONtel or if they were delivered to the jurisdiction and returned to VONtel, or it will negotiate an arrangement with the jurisdiction to provide a future benefit for customers in that jurisdiction.
3. If you provide VONtel with a duly authorized tax exemption certificate, VONtel will exempt you in accordance with law, effective on the date VONtel receives the certificate.

IV. RESTRICTIONS ON THE USE OF SERVICE

A. VONtel offers its services subject to availability of facilities, limitations of service offerings, and the provisions of this Agreement.

B. Services provided by VONtel under the Agreement shall not be used: (1) for any unlawful purpose; (2) for making telephone calls that use automatic dialing devices and terminate into electronic information services, pay-per-call services, or other domestic or international audiotext services; (3) for international call-back offerings using uncompleted call signaling to any country, when that country has prohibited such an offering by statute or regulatory decision; (4) for business usage that exceeds the average of TRI TEL business long distance customers, if you are on the business plan or (5) by residential customers who exceed normal residential usage patterns.

C. VONtel may (1) deny, for any lawful reason, your request for service, or (2) limit or allocate the facilities available to or used by any Service, if necessary, to manage its network in an efficient manner; meet reasonable service expectations; furnish service to existing and future customers based on forecasted customer requirements; or for any other lawful reason.

D. VONtel may, without notice (consistent with governing laws or regulations), block traffic to or from specific countries,



country codes, cities, city codes, local telephone exchanges (“NXX exchanges”), individual telephone stations, groups or ranges of individual telephone stations, or calls using certain customer authorization codes, whenever VONtel deems it necessary to take such action to prevent (1) the unlawful use of service; (2) nonpayment for service; (3) the use of service in violation of this Agreement; or (4) network blockage or the degradation of service furnished to you or other customers.

V. PAYMENT OBLIGATIONS

A. You are responsible for payment of all charges for services furnished to you and anyone else who uses your Service. This responsibility is not changed by virtue of any use, misuse, or abuse of your service undertaken or caused by third parties, except as outlined herein.

B. You must promptly notify VONtel of any change in your invoicing address or, if applicable, in the credit card or bank account used for payment. You should notify the VONtel Customer Service Department by emailing VONtel at the following address: tct@tctwest.net

C. VONtel will invoice Customer for Services on a monthly basis in advance and all payments are due and payable by Customer without demand or setoff within thirty (30) days from the invoice date (the “Due Date”). Amounts not paid within forty-five (45) days of the invoice date will be considered past due.

D. If VONtel becomes concerned at any time about your ability to pay for services, VONtel may require that you pay its charges within a specified number of days and that you make such payments in cash or the equivalent of cash.

E. If VONtel hires a collection agency to collect, or attempt to collect, any charges owed VONtel, you will be liable to VONtel for an additional payment equal to 35% of the charges owed, where permitted by applicable law. If VONtel incurs any fees or expenses, including attorneys’ fees, in collecting, or attempting to collect, any charges owed VONtel other than by hiring a collection agency, you will be liable to VONtel for the payment of all such fees and expenses reasonably incurred.

F. If billing systems or other support is not available for a service, feature, surcharge, tax or other charge element at the time of service provision, VONtel will bill for that service, feature, surcharge, or other charge element as soon as it is capable of doing so.

G. No Credit Allowances for Interruption of Service. You acknowledge and agree that the Service is provided “as is.” Credit allowances for interruption of Service, including international calling services, will not be provided.

VI. CANCELLATION OF SERVICE A. By the Customer

1. If you cancel your Service with VONtel, you will not be able to use the Device or Equipment.
2. Cancellation may take up to two business days.
3. Your credit card will be charged for any usage after contacting VONtel to cancel your Service. B. By VONtel 1. VONtel reserves the right to discontinue furnishing services, cancel your account, and/or block your access to VONtel network, without incurring any liability, immediately and without notice if VONtel deems that such action is necessary to prevent or to protect against fraud or to otherwise protect VONtel’s personnel, agents, facilities, or services. Without limitation, VONtel may take such actions if:



- a. You refuse to furnish information or furnish false information that (i) is essential for billing; or (ii) pertains to your creditworthiness, your past or current use of common carrier communications service, or your planned use of such service;
 - b. You indicate that you will not comply with a request for security for the payment for services;
 - c. Your service usage charges exceed established parameters based on your history of usage, which may indicate a likelihood of non-payment or possible fraud;
 - d. You have been given written notice by VONtel of any past due amount (which remains unpaid, in whole or in part) for any of VONtel's or an affiliated carrier's service to which you either subscribe or had subscribed or used;
 - e. You either refuse to pay when billed for service or indicate to VONtel or an entity billing on VONtel's behalf that you do not intend to pay for service used by you;
 - f. You use, or attempt to use, service with the intent to avoid the payment, either in whole or in part, of the charges for the service by (i) using or attempting to use service by rearranging, tampering with, or making connections to service in an unauthorized manner; or (ii) using tricks, schemes, false or invalid numbers, false credit devices, or other fraudulent means or devices;
 - g. You act, or fail to act, in a manner that hinders or frustrates any investigation by VONtel or others having legal authority to investigate your legal obligations;
 - h. Your telephone equipment fails to pass back to VONtel the appropriate signal to start and stop billing for a call;
 - i. You were previously provided with notice of breach of contract, took corrective action, but thereafter engage in the same breach activity; or
 - j. You act in a manner that is threatening, obscene, harassing, or abusive to VONtel personnel.
 - k. You act in violation of sections III. (C) above.
4. VONtel reserves the right to discontinue furnishing services, cancel your account, and/or block your access to VONtel network, without incurring any liability, immediately upon written notice to you if:
 - a. Any invoice charges remain outstanding and owed by you after the 30th day from the date of the invoice notifying you of the charges; or
 - b. You fail to comply with a request by VONtel for security for the payment for services.
 5. The discontinuance of service(s) by VONtel pursuant to these provisions does not relieve you of any obligation to pay VONtel for charges due and owing for service(s) furnished up to the time of discontinuance. VONtel may charge you a Disconnect fee if your service is canceled pursuant to either section VI. B. 1. or VI. B. 2. above.



VII. LIABILITY

A. TCT WEST, INC. d/b/a VONtel will not be liable for: (i) any failure of performance due to causes beyond its control, including, but not limited to, acts of God, fires, floods or other catastrophes; national emergencies, insurrections, riots or wars, acts of terrorism, strikes, lockouts, work stoppages or other labor difficulties; and any law, order, regulation or other action of any governing authority or agency thereof; or (ii) delayed installation of VONtel's facilities or commencement of service.

B. With respect to any other factual allegation, legal claim, or dispute by you or by any others, for damages associated with the ordering (including the reservation of any specific number for use with a service), installation (including delays thereof), provision, termination, maintenance, repair, interruption, or restoration of any service or facilities offered by VONtel, VONtel's liability, if any, will be limited as follows:

1. With respect to the attempts to route calls to public safety answering points or municipal emergency service providers, as described in Section II, VONtel's liability, if any, will be limited to the lesser of: (a) the actual monetary damages incurred and proved by you as the direct result of VONtel's action, or failure to act, in routing the call, or (b) the sum of \$1,000.00.
2. With respect to the provisioning of, or any error or omission in, data, information, or content furnished in connection with any service provided by VONtel, for example, Directory Assistance, VONtel's liability will be limited to the lesser of: (a) the amount of actual money damages proven by you to have been incurred as the proximate result of your reliance on such data, information, or content; or (b) \$100.00.
3. VONtel shall not be liable for any delays or incompleteness or costs or charges pursuant to a delay or incompleteness in local number portability (LNP).

C. IN NO EVENT WILL VONtel BE LIABLE TO YOU FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE LOSS OR DAMAGE OF ANY KIND, INCLUDING LOST PROFITS (WHETHER OR NOT VONtel HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES) BY REASON OF ANY ACT OR OMISSION IN ITS PERFORMANCE UNDER THIS AGREEMENT. THIS SECTION SURVIVES TERMINATION OF THIS AGREEMENT.

D. TCT WEST, Inc. d/b/a VONtel will be indemnified, defended, and held harmless by you against all claims of loss or damage arising from the use of service furnished by VONtel, including:

1. Allegations or claims for libel, slander, invasion of privacy, or infringement of copyright arising out of the material, data, information, or other content transmitted via VONtel service; and
2. All other allegations and claims arising out of any intentional act or omission by you or others authorized by you to use the service, in connection with any service provided by VONtel.

E. VONtel MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES ABOUT ITS SERVICES AND DISCLAIMS ANY IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE OR NONINFRINGEMENT. VONtel DOES NOT AUTHORIZE ANYONE TO MAKE A WARRANTY ON VONtel'S BEHALF AND YOU MAY NOT RELY ON ANY STATEMENT OF WARRANTY AS A WARRANTY BY VONtel.

F. VONtel will not be liable for any act or omission of any other company or companies furnishing a portion of the service, such as the equipment used to operate the Service, or from any act or omission of a third party, including those vendors participating in VONtel offerings made to you, or for damages associated with service, or equipment that it does not manufacture, or for damages that result from the operation of customer provided systems, equipment, facilities or services that are interconnected with VONtel services.



VIII. DISPUTE RESOLUTION

IT IS IMPORTANT THAT YOU READ THIS ENTIRE SECTION CAREFULLY. THIS SECTION PROVIDES FOR RESOLUTION OF DISPUTES THROUGH FINAL AND BINDING ARBITRATION BEFORE A NEUTRAL ARBITRATOR INSTEAD OF IN A COURT BY A JUDGE OR JURY OR THROUGH A CLASS ACTION.

A. Binding Arbitration

The arbitration process established by this section is governed by the Federal Arbitration Act ("FAA"), 9 U.S.C. Sec. 1-16. Both you and VONtel have the right to take any dispute that qualifies to small claims court rather than arbitration. All other disputes arising out of or related to this Agreement (whether based in contract, tort, statute, fraud, misrepresentation or any other legal or equitable theory) must be resolved by final and binding arbitration. This includes any dispute based on any product, service or advertising having a connection with this Agreement and any dispute not finally resolved by a small claims court. The arbitration will be conducted by one arbitrator using the procedures described by this Section. If any portion of this Dispute Resolution Section is determined to be unenforceable, then the remainder shall be given full force and effect. The arbitration of any dispute involving \$10,000 or less shall be conducted in accordance with the Consumer Arbitration Rules of the American Arbitration Association ("AAA"), as modified by this Agreement, which are in effect on the date a dispute is submitted to the AAA. The AAA's Commercial Arbitration Rules and fee schedules will apply to any disputes in excess of \$10,000. You have the right to be represented by counsel in an arbitration. In conducting the arbitration and making any award, the arbitrator shall be bound by and strictly enforce the terms of this Agreement and may not limit, expand, or otherwise modify its terms. The arbitrator may not award punitive, exemplary or similar damages. The parties agree that an award of such damages will be void if issued.

NO DISPUTE MAY BE JOINED WITH ANOTHER LAWSUIT, OR IN AN ARBITRATION WITH A DISPUTE OF ANY OTHER PERSON, OR RESOLVED ON A CLASS-WIDE BASIS. THE ARBITRATOR MAY NOT AWARD DAMAGES THAT ARE NOT EXPRESSLY AUTHORIZED BY THIS AGREEMENT AND MAY NOT AWARD PUNITIVE DAMAGES OR ATTORNEYS' FEES UNLESS SUCH DAMAGES ARE EXPRESSLY AUTHORIZED BY A STATUTE. YOU AND VONtel BOTH WAIVE ANY CLAIMS FOR AN AWARD OF DAMAGES THAT ARE EXCLUDED UNDER THIS AGREEMENT.

B. Arbitration Information and Filing Procedures

Before you take a dispute to arbitration or to small claims court, you must first contact our Customer Service Department representative at the customer service number on your VONtel invoice for the Services, or write to us at the following address and give us an opportunity to resolve the dispute:

VONtel
TCT WEST, INC.
405 South 4th Street
Basin, Wyoming 82410

You must describe your dispute and provide VONtel with any supporting documentation. Likewise, if VONtel has a dispute with you, it will notify you by letter sent to your billing address and attempt to resolve it before pursuing arbitration.

If the dispute cannot be satisfactorily resolved within sixty days from the date you or VONtel is notified by the other of a dispute, then either party may then contact the AAA in writing at AAA Service Center, 2200 Century Parkway, Suite 300, Atlanta, GA 30345-3203 and request arbitration of the dispute. Information about the arbitration process and the AAA's Arbitration Rules and its fees are available from the AAA on the Internet at www.adr.org. The arbitration will be based only on the written submissions of the parties and the documents submitted to the AAA relating to the dispute, unless either party requests that the arbitration be conducted using the AAA's telephonic, on-line, or in-person procedures. Additional charges may apply for these procedures. Any in-person arbitration will be conducted



at a location that the AAA selects within Big Horn County, Wyoming. Any arbitration shall remain confidential. Neither you nor VONtel may disclose the existence, content or results of any arbitration or award, except as may be required by law, or to confirm and enforce an award. Judgment of the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

ANY CLAIM OR DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT MUST BE BROUGHT WITHIN TWO YEARS AFTER THE DATE THE BASIS FOR THE CLAIM OR DISPUTE FIRST ARISES.

C. Fees and Expenses of Arbitration

Each party must pay its own expenses associated with any arbitration, including its attorney's fees. If you file a request for arbitration, you will have to pay a filing fee in accordance with the AAA fee schedule. Under AAA rules, some costs such as the arbitrator's fees and expenses will be allocated between the parties.

D. In addition to the procedures described in this Section for resolving a dispute, you may also have the right to file a complaint with an appropriate federal or state regulatory agency.

E. CUSTOMER ACKNOWLEDGES THAT THIS ARBITRATION PROVISION CONSTITUTES A WAIVER OF ANY RIGHT TO A JURY TRIAL

IX. PRIVACY

Vontel Service utilizes, in whole or in part, the public Internet and third party networks to transmit voice and other communications. Vontel is not liable for any lack of privacy which may be experienced with regard to the Service.

X. MISCELLANEOUS PROVISIONS

A. Entire Agreement

These Terms and Conditions constitute the entire Agreement between you and VONtel, and supersede any and all prior agreements, oral or written, concerning the subject matter. If there is any inconsistency or conflict between the terms of any calling plan, promotion, and/or authorized written communications you have received and the provisions of this Agreement, the provisions of this Agreement will control.

B. No Obligation to Assist in Switching to a Different Provider

If you either voluntarily cancel your VONtel account or if VONtel cancels your service for any reason set forth above, VONtel will have no obligation whatsoever to assist you in any respect in switching from VONtel to another service provider.

C. Assignment

Customers may not modify or assign this Agreement. In its sole discretion, VONtel may assign this Agreement.

D. No Waiver of Rights

If either party fails to enforce any right or remedy under this Agreement, that does not waive the right or remedy for any other breach or failure. E. Binding Effect

This Agreement is binding upon you and VONtel and upon, respectively, your and VONtel's agents and heirs.



F. Severability

If any part or provision of this Agreement is finally determined to be invalid or unenforceable under applicable law by a court of competent jurisdiction, then that part or provision will be ineffective only to the extent of such invalidity or unenforceability, without in any way affecting the remaining parts or provisions of this Agreement.

G. Governing Law

This Agreement is governed by and construed under the laws of the State of Wyoming and applicable federal law, without regard to its choice of law principles, except that the arbitration provisions in Section VII shall be governed by the Federal Arbitration Act. This governing law provision applies no matter where you reside, or where you use or pay for the services. Venue and Jurisdiction for all small claims court actions shall be in Big Horn County, Wyoming.

H. Survival

Any liability or obligation of a party to the other party under the provisions of Sections I, II, IV, V and VII as applicable, will, in each case, survive cancellation or termination of this Agreement.

I. Headings of No Force or Effect

Headings in this Agreement are for reference only and have no effect on the meaning of any provision.