

## REALLINX VOIP Service Subscriber Agreement

This Service Subscriber Agreement ("Agreement") is entered into by Reallinx, Inc., and an end user of Reallinx's enhanced voice communications services as described below. This Agreement covers the services described below as well as any devices provided by Reallinx for use in conjunction with the services, including but not limited to the "Reallinx Equipment" (as defined in this Agreement). In this Agreement, "you", "your" and "Customer" mean the customer of the Reallinx services defined below, and "Reallinx," "we," "our," and "us" mean Reallinx, Inc., and any Reallinx affiliates authorized to provide you with Reallinx services.

BY ENROLLING IN, ACTIVATING, USING, OR PAYING FOR THE SERVICES, YOU AGREE TO THE TERMS AND CONDITIONS IN THIS AGREEMENT, INCLUDING THOSE PERTINENT TO 911 EMERGENCY DIALING, AND TO THE PRICES, CHARGES, TERMS AND CONDITIONS PROVIDED TO YOU WITH RESPECT TO THE SERVICE DURING THE SERVICE REGISTRATION PROCESS, INCLUDING IN MARKETING AND INFORMATIONAL MATERIALS ASSOCIATED WITH YOUR OFFER, AND ON THE REALLINX SERVICE WEB SITE, ALL OF WHICH ARE INCORPORATED HEREIN BY REFERENCE. IF YOU DO NOT AGREE TO ALL OF THESE REFERENCED TERMS AND CONDITIONS, DO NOT USE THE SERVICES, AND CANCEL THE SERVICES IMMEDIATELY BY CALLING REALLINX AT 1-800-597-2518.

### 1. Service Description

Reallinx VOIP Service is an enhanced voice communication service whereby the voice communication is converted to Internet Protocol ("IP") and carried, in part, over high-speed Internet access, also known as broadband Internet service. This service is often generically referred to as "Voice Over IP", "VOIP", "Voice Over Net", or "VON". It is separate and distinct from standard Reallinx broadband service offerings notwithstanding whether a VOIP service and broadband service are billed together or as a bundle. THE SERVICE CANNOT BE USED TO MAKE OPERATOR-ASSISTED, COLLECT CALLS, 900/976 calls or International calls.

### 2. Service Requirements

Reallinx VOIP Service requires use of specialized customer premises equipment (the "Reallinx Equipment") whether obtained through Reallinx or a third party that allows VOIP connectivity either through a specialized telephone or, by utilizing a telephone adapter, from a regular telephone handset (which you need to supply) to your broadband connection, and (b) a broadband connection. Reallinx does not guarantee that the service will be continuous or error-free based on various technical requirements such as the need for power supply. In addition, Service may, from time to time, be interrupted for equipment, network, or facility upgrades or modifications.

### 3. Reallinx VOIP Service 911 Emergency Dialing

a. PLEASE READ THE INFORMATION BELOW ABOUT 911 DIALING CAREFULLY. BY USING AND PAYING FOR THE SERVICES, YOU ACKNOWLEDGE AND AGREE TO ALL OF THE INFORMATION BELOW REGARDING THE LIMITATIONS OF REALLINX VOIP 911 EMERGENCY DIALING SERVICE, AND THE DISTINCTIONS BETWEEN SUCH SERVICE AND TRADITIONAL WIRELINE 911 OR E-911 CALLS.

TRADITIONAL WIRELINE 911 and E-911 CALLS MAY NOT BE MADE FROM YOUR VOIP LINES PROVIDED THROUGH THIS AGREEMENT. YOU ACKNOWLEDGE THAT REALLINX HAS INFORMED YOU THAT THE SERVICE DOES NOT SUPPORT TRADITIONAL WIRELINE 911 OR E-911. MOREOVER, YOU AGREE TO ADVISE ALL INDIVIDUALS OF THIS LIMITATION WHO MAY HAVE OCCASION TO PLACE CALLS OVER THIS SERVICE FROM THE LOCATION AT WHICH YOU HAVE INSTALLED IT.

YOU ACKNOWLEDGE AND UNDERSTAND THAT REALLINX VOIP SERVICE DOES OFFER A LIMITED 911-TYPE SERVICE AND, DEPENDING ON YOUR LOCATION AND PHONE NUMBER, MAY OFFER YOU A LIMITED E-911-TYPE SERVICE. NOTWITHSTANDING SUCH LIMITED OFFERINGS, YOU ACKNOWLEDGE AND UNDERSTAND THAT ALL SUCH 911-TYPE DIALING SERVICES DIFFER IN IMPORTANT RESPECTS FROM TRADITIONAL WIRELINE 911 SERVICE, AS DESCRIBED HEREIN.

REALLINX VOIP 911 EMERGENCY DIALING IS ONLY AVAILABLE ON REALLINX VOIP CERTIFIED DEVICES OR EQUIPMENT AND UPON COMPLETION OF ORDER PROCESSING.

b. LIMITED 911 AND E911-TYPE DIALING CAPABILITIES WITH REALLINX VOIP SERVICE

WHEN YOU DIAL 911 ON YOUR PHONE UTILIZING REALLINX VOIP SERVICE, YOUR CALL MAY BE ROUTED TO A DIFFERENT DISPATCHER THAN THAT USED FOR TRADITIONAL WIRELINE 911 DIALING. THE DISPATCHER WILL BE LOCATED AT EITHER A PUBLIC SAFETY ANSWERING POINT (PSAP) OR OTHER PSAP OR LOCAL OR REGIONAL EMERGENCY SERVICE PERSONNEL DESIGNATED FOR WIRELESS SERVICES FOR THE ADDRESS YOU LISTED AT THE TIME YOU REGISTERED FOR THE SERVICE OR OTHER BACK-UP EMERGENCY ANSWERING SERVICES. IN ADDITION, REALLINX VOIP 911 SERVICE HAS FEWER CAPABILITIES THAN TRADITIONAL WIRELINE 911 SERVICE AS FOLLOWS:

REALLINX VOIP 911 SERVICE WILL NOT FUNCTION IF YOUR EQUIPMENT FAILS OR IS NOT CONFIGURED CORRECTLY OR IF YOUR REALLINX VOIP SERVICE IS INTERRUPTED OR NOT FUNCTIONING FOR ANY REASON, INCLUDING, BUT NOT LIMITED TO, IN THE EVENT OF A BROADBAND SERVICE OUTAGE, POWER OUTAGE, OR SUSPENSION OR DISCONNECTION OF YOUR SERVICE BECAUSE OF BILLING ISSUES. IF THERE IS A POWER OUTAGE, YOU MAY BE REQUIRED TO RESET OR RECONFIGURE THE REALLINX EQUIPMENT PRIOR TO BEING ABLE TO USE YOUR REALLINX VOIP SERVICE, INCLUDING FOR 911 PURPOSES.

THE PSAP OR LOCAL EMERGENCY SERVICE DISPATCHER RECEIVING REALLINX VOIP 911 EMERGENCY SERVICE CALLS MAY NOT BE ABLE TO CAPTURE AND/OR RETAIN AUTOMATIC NUMBER OF LOCATION INFORMATION. THIS MEANS THAT THE DISPATCHER MAY NOT KNOW THE PHONE NUMBER OR PHYSICAL LOCATION OF THE PERSON WHO IS MAKING THE 911 CALL. CONSEQUENTLY, SHOULD YOU DIAL 911 USING REALLINX VOIP SERVICE, YOU MUST IMMEDIATELY TELL THE DISPATCHER YOUR LOCATION (OR THE LOCATION OF THE EMERGENCY, IF DIFFERENT). MOREOVER, YOU MUST TAKE

CARE NOT TO DISCONNECT THE LINE, AS THE DISPATCHER MAY NOT HAVE A PHONE NUMBER TO USE TO CALL YOU BACK. IF YOU ARE UNABLE TO SPEAK AND DESCRIBE YOUR LOCATION, THE EMERGENCY DISPATCHER MAY NOT BE ABLE TO LOCATE YOU.

PROVISIONING OF THE 911-TYPE FUNCTIONALITY MAY TAKE ADDITIONAL TIME TO COMPLETE IN WHICH CASE ANY 911 CALLS DIALED BETWEEN INSTALLATION AND COMPLETION OF 911 PROVISIONING MAY NOT COMPLETE OR MAY BE FORWARDED TO A NON-PUBLIC, BACKUP EMERGENCY ANSWERING SERVICE.

FOR TECHNICAL REASONS ASSOCIATED WITH THE POSSIBILITY OF NETWORK CONGESTION, THERE IS A GREATER POSSIBILITY THAT YOUR 911 CALL DIALED USING THE REALLINX VOIP SERVICE WILL PRODUCE A BUSY SIGNAL OR WILL EXPERIENCE UNEXPECTED ANSWERING WAIT TIMES AND/OR TAKE LONGER TO ANSWER, AS COMPARED TO TRADITIONAL WIRELINE 911 CALLS.

IF YOU DO NOT CORRECTLY IDENTIFY THE ACTUAL LOCATION WHERE YOUR REALLINX EQUIPMENT WILL BE LOCATED AT THE TIME YOU REGISTER FOR THE SERVICE, 911 COMMUNICATIONS MAY BE MISDIRECTED TO AN INCORRECT LOCAL EMERGENCY SERVICE PROVIDER.

IF YOU HAVE CALL FORWARDING, LOCATE ME, DO NOT DISTURB, OR OTHER FEATURES PROGRAMMED AND IN USE AT THE TIME YOU DIAL A 911 CALL, AND YOUR 911 CALL IS INTERRUPTED, THE EMERGENCY DISPATCHER MAY NOT BE ABLE TO CALL YOU BACK AT THE PHONE FROM WHICH YOU DIALED THE CALL.

911 DIALING WILL NOT FUNCTION CORRECTLY IF YOU MOVE YOUR REALLINX EQUIPMENT TO A LOCATION OTHER THAN THAT PROVIDED WHEN YOU REGISTERED FOR THE SERVICE. IN SUCH EVENT, IN ORDER TO HAVE 911 CALLING ROUTED CORRECTLY, YOU MUST UPDATE YOUR SERVICE ADDRESS IN ACCORDANCE WITH THE INSTRUCTIONS ON THE REALLINX VOIP SERVICE WEBSITE.

YOU ACKNOWLEDGE AND UNDERSTAND THAT REALLINX WILL NOT BE LIABLE FOR ANY SERVICE OUTAGE AND/OR INABILITY TO DIAL 911 USING YOUR SERVICE OR TO ACCESS EMERGENCY SERVICE PERSONNEL DUE TO THE 911 DIALING CHARACTERISTICS AND LIMITATIONS SET FORTH IN THIS DOCUMENT. YOU AGREE TO DEFEND, INDEMNIFY, AND HOLD HARMLESS REALLINX, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES AND AGENTS AND ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICES TO YOU IN CONNECTION WITH THE SERVICE, FROM ANY AND ALL CLAIMS, LOSSES (INCLUDING LOSS OF PROFITS OR REVENUE), DAMAGES, FINES, PENALTIES, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEY FEES) BY, OR ON BEHALF OF, YOU OR ANY THIRD PARTY OR USER OF THE SERVICE RELATING TO THE FAILURE OR OUTAGE OF THE SERVICE, INCLUDING THOSE RELATED TO 911 DIALING.

YOU ACKNOWLEDGE THAT REALLINX DOES NOT OFFER PRIMARY LINE OR LIFELINE SERVICES, AND THAT REALLINX STRONGLY RECOMMENDS THAT YOU ALWAYS HAVE AN ALTERNATIVE MEANS OF ACCESSING TRADITIONAL WIRELINE 911 SERVICES.

#### **4. Other Service Distinctions**

##### **a. Privacy and Security**

VOIP utilizes, in whole or in part, the public Internet and third party networks to transmit voice and other communications. You acknowledge and understand that Reallinx cannot guarantee that the VOIP is completely secure. Reallinx always respects your privacy and treats the content of all communications as private, except as may be required by law.

##### **b. Power Outages**

You acknowledge and understand that the Service does not function in the event of power failure. 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 prior to utilizing the Reallinx VOIP Service.

##### **c. Broadband Service Interruptions**

You acknowledge and understand that the Service does not function in the event of interruption of your broadband or high speed Internet access service.

##### **d. Home Security Systems and other Non-voice Communications Equipment**

Home security systems and medical monitoring equipment are not compatible with Reallinx VOIP Service. Other non-voice communications equipment, including but not limited to, devices set up to make automatic phone calls, fax machines, and modems may be compatible with Reallinx VOIP Service. By accepting this Agreement, you use the Service at your own risk and waive any claim against Reallinx for interference with or disruption of such systems due to the Services.

##### **e. Local Number Portability**

If you are porting an existing telephone that is currently subscribed to a carrier other than Reallinx for local, local toll and/or long distances telecommunications services, to Reallinx VOIP Service, the terms and conditions of this paragraph shall apply:

- 1) you hereby authorize Reallinx to process your order for Reallinx VOIP Service and to notify your local telephone company of your decision to switch your local, local toll and long distance services to Reallinx VOIP Service, and represent that you are authorized to take this action;
- 2) you should keep another phone connected to an existing phone extension at your service location until the Port Effective Date, after which you will be able to both make and receive calls using the Reallinx VOIP Service; and

- 3) you agree and acknowledge that if the Reallinx Equipment is not yet activated as of the Port Effective Date, your existing phone service for the number you are transferring will be disconnected you will have no service for that line. Therefore, to avoid an interruption in your phone service, it is extremely important that you install the Reallinx Equipment prior to, or on, the Port Effective Date. An estimate of the Port Effective Date will be sent to you via e-mail by Reallinx following your completion of the ordering process.

## **5. Use of Service**

### **a. Lawful, Non Fraudulent Use of Service and TA**

You will not use the Service for any unlawful, abusive, or fraudulent purpose, including, for example, using the Service in a way that (1) interferes with our ability to provide Service to you or other customers; or (2) avoids your obligation to pay for communication services. If Reallinx has reason to believe that you or someone else is abusing the Service or using it fraudulently or unlawfully, we can immediately suspend, restrict, or cancel the Service without advance notice. The Reallinx Equipment is intended for use only in the United States. If you remove the Reallinx Equipment to a country other than the United States and attempt to 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. Reallinx reserves the right to terminate your service immediately and without advance notice if you violate the above restrictions, leaving you responsible for all outstanding charges, all of which immediately become due and payable.

### **b. Theft of Reallinx Equipment or Service**

You agree to notify Reallinx immediately, in writing or by calling Reallinx customer service, if the Reallinx Equipment is stolen or if you become aware at any time that your Service is being stolen or fraudulently used. When you call or write, you must provide your account number and a detailed description of the circumstances of any such 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.

### **c. Prohibited Uses of Service and "Fair Use"**

You are expressly prohibited from reselling or transferring the Service or Reallinx Equipment to any other person for any purpose, without express written permission from Reallinx in advance. In addition, you are expressly prohibited from using the Service for auto-dialing, continuous or extensive call forwarding, telemarketing, fax broadcasting or fax blasting, or for uses that result in excessive usage inconsistent with normal business, home office, or residential usage patterns. In addition, connection of your Service to a device which converts use of the Service to an outbound trunkline by more than one individual is prohibited. If Reallinx determines, in its sole discretion, that you are reselling or transferring the Service or that your Service is being used for any of the aforementioned purposes, Reallinx reserves the right, without advance notice, to immediately terminate or modify the Service, or to change your calling plan to a different offer on a prospective basis, and in addition, to assess additional charges for each month in which excessive usage occurred.

PLEASE NOTE, HOWEVER, THAT YOUR USE OF THE SERVICE IS also SUBJECT TO the following "Fair Use" policy. YOU WILL BE IN VIOLATION OF THIS POLICY IF, WITHIN ANY THIRTY (30) DAY PERIOD, YOUR USAGE, MEASURED BY MINUTES OF USE FROM THE VOIP SERVICE TERMINATED TO THE PUBLIC SWITCHED TELEPHONE NETWORK ("PSTN") EXCEEDS MORE THAN TWO (2) TIMES THE AVERAGE LEVEL OF USAGE OF REALINX'S VOIP SERVICE CUSTOMERS. IF DETERMINED BY US IN OUR SOLE DISCRETION THAT YOU HAVE EXCEEDED THIS "FAIR USE" LIMIT, YOU WILL AUTOMATICALLY BE CHARGED \$0.02 PER MINUTE IN EXCESS OF THE FAIR USAGE LIMIT. CUSTOMER AGREES THAT ANY FAILURE OF REALINX TO ENFORCE THIS PROVISION SHALL NOT BE DEEMED TO BE A WAIVER TO ENFORCE THIS PROVISION IN THE FUTURE.

### **d. Copyright / Trademark / Unauthorized Usage of Device, Firmware or Software**

The Service and Reallinx Equipment and any software or firmware used to provide the Service or provided to you in conjunction with providing the Service, or incorporated into the Reallinx Equipment, and all Services, information, documents and materials on Reallinx's web site(s) shall not be copied or reproduced in any manner other than to assist in the utilization of the Service. All websites, corporate names, service marks, trademarks, trade names, logos and domain names (collectively "Marks") of Reallinx are and shall remain the exclusive property of Reallinx and nothing in this Agreement shall grant you the right to right or license to use such Marks. You acknowledge that you have not been provided 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 Reallinx Equipment, 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 Reallinx Equipment is exclusively for use in connection with the Service. If you decide to use the Service through an interface device not provided by Reallinx, which Reallinx reserves the right to prohibit in particular cases or generally, you warrant and represent that you possess all required rights, including software and/or firmware licenses, to use that interface device with the Service and you will indemnify and hold harmless Reallinx against any and all liability arising out of your use of such interface device with the Service.

### **e. Tampering with the Reallinx Equipment**

You agree not to change the electronic serial number or equipment identifier of the Reallinx Equipment, or to perform a factory reset of the Reallinx Equipment, without express permission from Reallinx in each instance. Reallinx reserves the right to terminate your Service should you tamper with the Reallinx Equipment.

## **6. Renewal / Termination**

This agreement shall be for the term of two years, unless a different term is indicated in a separate written document. Such term shall begin on the date Reallinx activates the Service outlined in this agreement. This agreement shall, upon expiration, be renewed in one-year increments by Customer's continued use of his account with Reallinx, unless written notice of cancellation is provided no later than sixty (60) calendar days prior to the expiration of this agreement. Termination by the Customer shall not create the right to a refund of any fees paid or payable. Such termination shall be

effective upon the end of the current billing cycle, and any applicable termination fees as outlined in this Agreement shall then be due and payable.

#### **7. Early Termination Fee**

If service is terminated, either in whole or in part, prior to the selected term expiration, then Customer shall pay an early termination fee equal to the total number of remaining months in the term of the applicable Service Order(s), multiplied by the monthly recurring charges, to be paid by the customer at the contracted rate. Customer agrees that the foregoing liquidated damages are fair and reasonable and that Reallinx' provisioning of the services would not be commercially viable but for these Customer commitments. Customer understands that a request to move service from the Customer's current location to another location that Reallinx determines cannot be economically served by Reallinx shall constitute termination of service or may incur a relocation charge. If Customer is terminated due to non-payment, the Early Termination Fee outlined in herein applies.

#### **8. Other Charges**

a. All service orders and service agreements outlined herein are subject to an order-processing fee to equal to 30% of the first month of service (or \$35.00, whichever is greater). For the purpose of this agreement, taking the sum of all Monthly Recurring Charges outlined above and multiplying by 30% will calculate the order processing fee. This order-processing fee shall only be applied against the Customer and payable to Reallinx in the event that Reallinx determines that service is not available due to unforeseen technical difficulties not anticipated prior to order entry. Customer agrees that the foregoing liquidated damages are fair and reasonable and that Reallinx's provisioning of the services would not be commercially viable but for these Customer commitments.

b. Orders requiring the shipment of hardware, e.g. customer premises equipment, will be subject to a \$20.00 shipping and handling charge. Shipping and handling charges are non-refundable. If Customer refuses the charges outlined in this Agreement or back charges them by the credit card company, customer agrees to pay an additional \$200.00, and authorizes Reallinx to assess this charge to the Customer Credit Card. Customer also agrees to pay all collection fees required to collect any overdue, refused, or back-charged fees associated with this Agreement.

#### **9. Equipment and Software**

a. Reallinx shall not be responsible for the installation, operation, or maintenance of customer premise equipment (CPE) or other equipment or software (including without limitation, cabling) not provided by Reallinx (collectively, "non-Reallinx equipment or software"). Customer shall be responsible for the use and compatibility of the non-Reallinx equipment or software. Impairment of the Customer's use of the services due to non-Reallinx equipment or software shall not relieve Customer of any obligations hereunder. Reallinx shall not be responsible for any changes in service which may cause non-Reallinx equipment or software to become obsolete, require modification or alteration, or which may otherwise impact performance of equipment or software.

b. Other than all software and hardware provided to you by Reallinx and any revised version thereof that you choose to use, you must provide all equipment, devices and software necessary to receive the Service. Due to the infinite number of possible combinations of hardware and software, you are responsible for the compatibility of your system with the Service.

#### **10. Payment**

Inclusion of credit card number on this agreement hereby authorizes Reallinx to charge all setup, service, and monthly charges (including any renewal of this Service) to Customer's Credit Card, without further notice to the Customer. Any balance exceeding 30 days past-due will be billed a 6.5% per month finance charge. Inclusion of Customer's tax identification number or social security number authorizes Reallinx, Inc. to access your personal credit report to make judgment on credit worthiness before services are extended. A minimum of \$100.00 disconnect/reconnect fees will be assessed on all balances exceeding 45 days past due, plus applicable finance charges. Reallinx reserves the right to terminate service without warning to any customer with an outstanding balance exceeding 45 days past due.

#### **11. Limitations of Liability**

a. BY ENROLLING IN, ACTIVATING, USING OR PAYING FOR THE SERVICES, YOU AGREE THAT YOU HAVE READ THIS AGREEMENT AND UNDERSTAND THE LIMITATIONS OF REALLINX VOIP SERVICE DESCRIBED HEREIN.

b. REALLINX 'S LIABILITY TO YOU ON ACCOUNT OF ANY ACT OR OMISSION OF REALLINX RELATED TO THIS AGREEMENT, INCLUDING ACTS OR OMISSIONS RELATED TO 911 DIALING, SHALL BE LIMITED TO ACTUAL DAMAGE TO REAL OR TANGIBLE PERSONAL PROPERTY, OR BODILY INJURY OR DEATH PROXIMATELY CAUSED BY REALLINX 'S INTENTIONAL MISCONDUCT OR RECKLESSNESS. EXCEPT FOR DAMAGES THAT ARE THE DIRECT RESULT OF REALLINX'S WILLFUL OR INTENTIONAL MISCONDUCT, YOU WILL NOT BE ENTITLED TO ANY OTHER DAMAGES, INCLUDING INDIRECT OR CONSEQUENTIAL DAMAGES FOR LOST PROFITS OR REVENUE OR OTHERWISE REGARDLESS OF THE FORM OF ACTION. REALLINX AND OUR EMPLOYEES, AGENTS, CONTRACTORS AND REPRESENTATIVES WILL HAVE NO LIABILITY WHATSOEVER FOR LOSS OF PROFITS OR REVENUE OR ANY DAMAGES OR MODIFICATIONS TO, OR LOSS OR DESTRUCTION OF, ANY OF YOUR SOFTWARE, FILES, DATA OR PERIPHERALS.

c. REALLINX SHALL HAVE NO LIABILITY WHATSOEVER FOR ANY DAMAGES RESULTING FROM INSTALLATION WORK PERFORMED BY YOU OR BY THIRD PARTIES, INCLUDING, WITHOUT LIMITATION, ANY WIRING, SOFTWARE DOWNLOAD OR OTHER WORK ASSOCIATED WITH ENABLING THE SERVICE OR CREATING EXTENSIONS THERETO.

d. REALLINX SHALL NOT BE LIABLE TO THE CUSTOMER FOR ANY LOSS, DAMAGE, LIABILITY, CLAIM OR EXPENSE ARISING OUT OF OR IN RELATION TO THIS AGREEMENT, THE SERVICES, OR REALLINX EQUIPMENT. MOREOVER, YOU EXPRESSLY UNDERSTAND AND AGREE THAT REALLINX INC. WILL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF REALLINX INC. HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (a) THE USE OR THE INABILITY TO USE THE SERVICE AND/OR SOFTWARE; (b) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICE AND/OR SOFTWARE; (c) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (d) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICE AND/OR SOFTWARE; (e) FAILURE TO INSURE THE COMPATIBILITY OF YOUR SYSTEM (I.E., THE EQUIPMENT, DEVICES, AND SOFTWARE THAT YOU PROVIDE TO RECEIVE THE SERVICE) WITH THE SERVICE AND/OR SOFTWARE, OR (f) ANY OTHER MATTER RELATING TO THE SERVICE AND/OR SOFTWARE.

e. REALLINX DOES NOT GUARANTEE ACTUAL DATES OF INSTALLATION, OR DATES OF SERVICE DELIVERY. ANY DATES QUOTED BY A REALLINX REPRESENTATIVE ARE MEANT AS ESTIMATES ONLY. REALLINX SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, CLAIM, OR EXPENSE ARISING OUT OF OR IN RELATION TO INSTALLATION DATES, TIMES, OR ANY OTHER SCHEDULING FACTORS.

## **12. Self Installation Waiver**

a. Customer agrees that Reallinx, its officers, employees, and channel partners are authorized to order a "self install" on the customer's behalf whenever available, and releases them of responsibility for such tasks. "Self Install" shall be defined as a line which may require the Customer to perform tasks including, but not limited to, hardware installation, and other equipment configuration as necessary. Reallinx, or its third-party contractors, will aid in these tasks at the rate of \$99.00 per hour.

b. In consideration of Reallinx Inc. furnishing services and/or equipment to enable the Customer to participate in the self installation of a VOIP line, the Customer agrees as follows:

- I, on behalf of myself, my personal representatives and my heirs, hereby voluntarily agree to release, waive, discharge, hold harmless, defend and indemnify and its owners, agents, officers and employees from any and all claims, actions or losses for bodily injury, property damage, wrongful death, loss of services or otherwise which may arise out of my attempt for self installation, I specifically understand that I am releasing, discharging, and waiving any claims or actions that I may have presently or in the future for the negligent acts or other conduct by the owners, agents, officers or employees of Reallinx. I hereby acknowledge that an unsuccessful installation attempt could result in additional costs.

## **13. Indemnity**

YOU AGREE TO INDEMNIFY AND HOLD REALLINX AND ITS SUBSIDIARIES, AFFILIATES, OFFICERS, AGENTS, CO-BRANDERS OR OTHER PARTNERS, AND EMPLOYEES, HARMLESS FROM ANY CLAIM OR DEMAND, INCLUDING REASONABLE ATTORNEYS' FEES, MADE BY ANY THIRD PARTY DUE TO OR ARISING OUT OF CONTENT YOU SUBMIT, POST, TRANSMIT OR MAKE AVAILABLE THROUGH THE SERVICE, YOUR USE OF THE SERVICE, YOUR CONNECTION TO THE SERVICE, YOUR VIOLATION OF THIS SERVICE AGREEMENT, YOUR VIOLATION OF THE ACCEPTABLE USE POLICY, OR YOUR VIOLATION OF ANY RIGHTS OF ANOTHER.

## **14. Customer Premises Equipment Return Policy**

a. Equipment purchased from Reallinx and returned within twenty (20) days from the date of purchase with the original shipping invoice are eligible for refund or exchange. No refunds or exchanges are allowed after twenty (20) days from the date of purchase. All items must be in new condition, including the original box, packaging, manuals and accessories. Products deemed defective after the 20-day period outlined above may be under Manufacturer's warranty, consult your owner's manual for details.

b. An open box fee equal to 15% of the purchase price will be charged on any opened item, unless the item is defective and exchanged for the exact same item (fee not applicable in Hawaii). The 15% open box fee will be assessed at the time of refund or exchange.

c. Reallinx will not accept the return or exchange of any item if the UPC code has been removed from the packaging.

d. Refunds on hardware will be issued in form of in-house account credit, unless otherwise requested and agreed to by Reallinx. Refunds on purchases made with a credit card will only be made as in-house account credit, or as a credit to the same card.

## 15. Notices

All notices given by any party or required under this agreement shall be in writing and addressed to:

Reallinx, Inc.  
1314 W McDermott Dr  
Suite 106 PMB 716  
Allen TX 75013

## 16. Termination For Cause

Reallinx may immediately terminate all or a portion of your service, or suspend any or all access to all or a portion of the service, without notice, for conduct that Reallinx believes is: (a) illegal, fraudulent, harassing or abusive; (b) a violation of these Terms and Conditions, any policies or guidelines posted by Reallinx on the service; or (c) harmful to other users, third parties, the service, or the business interests of Reallinx (d) non-payment of services when you are past due on any invoice by more than 15 days. If Reallinx has terminated a portion, but not all, of your access to the service for the foregoing reasons, you will nevertheless be responsible for the all charges for the service. Use of a service for illegal, fraudulent or abusive purposes may be referred to law enforcement authorities without notice to the Customer. If you file a claim against Reallinx, or a claim that in any way involves Reallinx, then Reallinx may terminate your service. Upon termination of your service, Reallinx will have no obligation to notify any third parties nor will Reallinx be responsible for any damages that may result or arise out of termination of your service. Termination or suspension by Reallinx of service to a Customer also constitutes termination or suspension (as applicable) of that Customer's license to use the Software. If Reallinx Terminates your contract for cause, all remaining payments of your contract will be due immediately.

## 17. Modifications To Service

Reallinx reserve the right to modify or discontinue, temporarily or permanently, at any time and from time to time, the Service (or any function or feature of the Service or any part thereof) with or without notice. You agree that Reallinx will not be liable to you or to any third party for any such modification, suspension or discontinuance of the Service.

## 18. Additional Agreements

- a. If any provision of this agreement is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this agreement will remain in full force and effect.
- b. The Customer may not sell, transfer, or assign this agreement without the prior written consent of Reallinx
- c. Any alterations made to this Agreement by the Customer are null and void without the signature of an authorized Reallinx employee. Furthermore, the signed contract will remain in force (less the Customer alterations) according to the terms of Reallinx contract version [www.reallinx.com/voip\\_msa.htm](http://www.reallinx.com/voip_msa.htm)
- d. Customer agrees that by signing an agreement referencing these terms, customer is bound to all terms and conditions as outlined in this agreement.
- e. The section titles and paragraph headings in these Terms and Conditions are for convenience only and have no legal or contractual effect.
- f. Customer agrees that Reallinx may, without prior notice to Customer, assign its agreement to an affiliate or other third party.

## 19. Disclaimer Of Warranties

YOU EXPRESSLY UNDERSTAND AND AGREE THAT:

- a. YOUR USE OF THE SERVICE AND/OR SOFTWARE IS AT YOUR SOLE RISK. THE SERVICE AND/OR SOFTWARE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. REALLINX EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.
- b. EXCEPT AS THIS AGREEMENT EXPRESSLY STATES, AND EXCEPT FOR ANY LIMITED WARRANTY SET FORTH IN THE MATERIALS ACCOMPANYING THE EQUIPMENT, WE MAKE NO EXPRESS WARRANTY REGARDING THE SERVICES OR EQUIPMENT OR ANY INSTALLATION SERVICE AND DISCLAIM ANY IMPLIED WARRANTY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. WE ALSO MAKE NO WARRANTY THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE. WE DO NOT AUTHORIZE ANYONE, INCLUDING, BUT NOT LIMITED TO, REALLINX EMPLOYEES, AGENTS OR REPRESENTATIVES, TO MAKE A WARRANTY OF ANY KIND ON OUR BEHALF AND YOU SHOULD NOT RELY ON ANY SUCH STATEMENT.
- c. REALLINX MAKES NO WARRANTY THAT (i) THE SERVICE AND/OR SOFTWARE WILL MEET YOUR REQUIREMENTS, (ii) THE SERVICE WILL AND/OR SOFTWARE BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE (FOR EXAMPLE, BUT

WITHOUT LIMITATION, REALLINX DOES NOT WARRANT THAT YOU WILL ALWAYS RECEIVE EMAILS ADDRESSED TO YOU), (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE AND/OR SOFTWARE WILL BE ACCURATE OR RELIABLE, (iv) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE AND/OR SOFTWARE WILL MEET YOUR EXPECTATIONS, AND ANY ERRORS IN THE SERVICE AND/OR SOFTWARE WILL BE CORRECTED.

d. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM REALLINX OR THROUGH OR FROM THE SERVICE AND/OR SOFTWARE WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THESE TERMS AND CONDITIONS.

## **20. Exclusions And Limitations**

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS OF SECTIONS 18 AND 19 MAY NOT APPLY TO YOU.

## **21. BILLING AND PAYMENT FOR SERVICE**

a. Reallinx will render to you monthly on-line bills for Reallinx VOIP Service, with the following charges:

1. A monthly service flat fee for unlimited local calling, call features, and advanced service. Depending on the specific calling plan to which you subscribe, other types of calls, such as in-state, state-to-state, or outbound international calling, may either be included in the monthly service flat fee on an unlimited basis, or may carry additional per-minute rates. All such rate information will be described in the marketing materials associated with your offer.

2. Any additional calls which are not included in the monthly fee, charged on a per minute usage basis.

3. Depending on your calling plan and method of installation, you may also be charged for activation, early termination, plan change, separate features, modifying features on your account, inside wire and installation, disconnect and/or other fees, as further described at in the marketing materials or your signed contract pertinent to your offer. If an early termination fee applies to your offer, it will not apply if you cancel your service less than 30 days after the date we commence billing for your service. You may incur charges or experience a change in the terms of your plan offer if you change your phone number after your Reallinx VOIP Service has been activated. Where you obtained your equipment directly from Reallinx, Reallinx also reserves the right to charge for shipping and handling charges associated with the equipment.

All fees and charges will be billed in advance except for usage-based charges and any other charges which Reallinx decides to not advance bill, all of which will be billed monthly, in arrears.

b. Payment Method

You authorize Reallinx to charge any amounts payable by you in connection with your use of the Service automatically by credit card. Your right to use the Service is subject to any limits established by your credit card issuer. Your charges and credits issued in accordance with Section 7(a) above will appear on an online billing s

c. Commencement of Billing

You understand that you are responsible for self-installing the Reallinx Equipment once upon receipt. It is recommended that You complete installation of the Reallinx Equipment promptly because you will be responsible for full payment for the charges on your Reallinx bill even if you have not yet installed the Reallinx Equipment and used the Service at the time the bill is rendered.

d. Price Changes

We may change the prices and charges for the Services, including those associated with certain features, and/or for international calling from time to time. We may decrease prices and charges without providing advance notice. Increases to the prices or charges for existing Services, including those associated with certain features, and/or for international calling are effective no sooner than three days after we notify you of such charges directly or fifteen days after we post them on our web site at <http://www.reallinx.com/voip.htm>. Increases to charges that recover our costs associated with government programs are effective no sooner than 3 days after we post the increases on our web site.

e. Charges and Billing

Charges accrue through a full billing period. To determine the charge for each international call, we round up to the next full minute for any fraction of minutes used. We will determine the format of the bill and the billing period, and we may change both the bill format and the billing period from time to time.

f. Failure to Pay

We may suspend, restrict, or cancel the Services and this Agreement, without advance notice, if you do not make payments for current or prior bills by the required due date. Service suspension or cancellation will result in your loss of the number associated with the Service.

g. Late Payment Charge

We may add interest charges to any past-due amounts at the lower of 6.5% per month or the maximum rate allowed by state law, prorated for each day payment is past due. Acceptance of late or partial payments (even if marked "Paid in Full" or with other restrictions) shall not waive any of our rights to collect the full amount of your charges for the Service. Notice

of any disputes must be in writing and received by us within 30 days after you received your bill or you will waive any objection. You agree to reimburse us for reasonable attorneys' fees and any other costs associated with collecting delinquent or dishonored payments. If charges cannot be processed through your credit card, we will charge you an additional \$15.00. If the state law where you receive the Service requires a different fee, we will charge you that amount.

**h. Taxes and Other Charges**

Reallinx will charge you for and you must pay any applicable taxes, fees, surcharges or other charges associated with nationwide and international calls using the Service, unless you can show with documentation satisfactory to us that you are exempt. Taxes will be in the amounts that federal, state and local authorities require us to bill you.

**i. No Credit Allowances for Interruption of Reallinx VOIP Service**

You acknowledge and agree that the Services are provided "as is." Credit allowances for interruption of Reallinx VOIP Service, including international calling services, will not be provided.

**22 Dispute Resolution By Binding Arbitration**

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. YOU CONTINUE TO HAVE CERTAIN RIGHTS TO OBTAIN RELIEF FROM A FEDERAL OR STATE REGULATORY AGENCY. THIS SECTION DOES NOT APPLY TO RESIDENTS OF CALIFORNIA.

**a. Binding Arbitration**

The arbitration process established by this section is governed by the Federal Arbitration Act ("FAA"), 9 U.S.C. §§ 1-16. You 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 shall be conducted in accordance with the American Arbitration Association's ("AAA") Supplementary Procedures for Consumer-Related Disputes, as modified by this Agreement, which are in effect on the date a dispute is submitted to the AAA. 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.

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 BARRED BY THIS AGREEMENT AND MAY NOT AWARD PUNITIVE DAMAGES OR ATTORNEYS' FEES UNLESS SUCH DAMAGES OR FEES ARE EXPRESSLY AUTHORIZED BY A STATUTE. YOU AND REALLINX 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 a court, you must first contact our customer account representatives at the customer service number on your Reallinx bill for the Services, or write to us at Reallinx Inc, 1314 W McDermott Dr Ste 106 PMB 716 Allen TX 75013 and give us an opportunity to resolve the dispute. Similarly, before Reallinx takes a dispute to arbitration, we must first attempt to resolve it by contacting you. If the dispute cannot be satisfactorily resolved within sixty days from the date you or Reallinx is notified by the other of a dispute, then either party may then contact the AAA in writing at AAA Service Center, 134555 Noel Road, Suite 1750, Dallas, Texas 75240-6620 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.or](http://www.adr.or). 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, online, 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 in the state of your primary residence. Arbitrations under this Agreement shall be confidential as permitted by federal law. By notifying Reallinx within twenty days after commencing an arbitration proceeding, you may elect to relieve both parties to the arbitration of confidentiality obligations.

**c. Fees and Expenses of Arbitration**

You must pay the applicable AAA filing fee when you submit your written request for arbitration to the AAA. The AAA's filing fee and administrative expenses for a document arbitration will be allocated according to the AAA's Rules, except as stated herein, for claims of less than \$10,000, you will only be obligated to pay a filing fee of \$20 and we will pay all of the AAA's other costs and fees. For claims between \$10,000 and \$75,000, you will pay a fee to the AAA of no more than \$375, and we will pay all of the AAA's other costs and fees. If you elect an arbitration process other than a document ("desk") or telephone arbitration, you must pay your allocated share of any higher administrative fees and costs for the process you select. If you request such an alternative process, or for claims of \$10,000 or greater, Reallinx will also consider, upon receiving your request and on a case-by-case basis, paying some or all of the AAA's fees and expenses that you would otherwise be allocated under the AAA's rules. You also may ask the AAA about the availability of a pro bono arbitrator and/or a waiver or deferment of fees and expenses from the AAA; more information about the AAA's rules and policies is available at the AAA's web site, which is [www.adr.org](http://www.adr.org). Unless applicable substantive law provides otherwise, each party will pay its own expenses to participate in the arbitration, including attorneys' fees and expenses for witnesses, document production and presentation of evidence. If you prevail before the arbitrator, however, you may seek to recover the AAA's fees and the expenses of the arbitrator from us. If we prevail before the arbitrator, and if we show that you acted in bad faith in bringing your claim, then we may seek to recover the AAA's fees and expenses of the arbitrator from you.

**23. Miscellaneous**

a. No Third Party Rights

This Agreement does not provide any third party with a remedy, claim, or right of reimbursement.

b. Acts Beyond Our Control

Neither you nor we will be responsible to the other for any delay, failure in performance, loss or damage due to fire, explosion, power blackout, earthquake, volcanic action, flood, the weather elements, strike, embargo, labor disputes, civil or military authority, war, acts of God, acts or omissions of carriers or suppliers, acts of regulatory or governmental agencies, or other causes beyond our reasonable control, except that you must pay for any Services used.

c. Governing Law

This Agreement is governed by the Federal Communications Act to the extent applicable, and otherwise This Agreement will be governed by the law of the State of Texas, without regard to its choice of law rules, except that the arbitration provisions in Section 11 are also 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.

d. Changes to this Agreement

Reallinx may change this Agreement from time to time. If we make any material changes to the prices or charges, we will comply with our notice commitments described in this Agreement. IF YOU CONTINUE TO BE ENROLLED IN, USE, OR PAY FOR THE SERVICES AFTER ANY CHANGES IN THE PRICES, CHARGES, TERMS OR CONDITIONS, YOU AGREE TO THE CHANGES.

Where required by law in specific states, and subject to the requirements thereof, customers who cancel their service within the first three, five, seven, fifteen or other number of days specified by state law, as applicable, following acceptance of this Agreement, will be refunded all charges incurred with respect to their account.

**27. General Information**

The Terms and Conditions referenced herein combined with your signed agreement referencing these term and conditions constitute the entire agreement between Reallinx and you. These Terms and Conditions govern your use of the Service, superceding any prior agreements between you and Reallinx with respect to the subject matter of these Terms and Conditions. You also may be subject to additional terms and conditions that may apply when you use affiliate services, third-party content or third-party software. These Terms and Conditions and the relationship between you and Reallinx will be governed by the laws of the State of Texas without regard to its conflict of law provisions. You and Reallinx agree to submit to the personal and exclusive jurisdiction of the courts located within the county of Travis, Texas. The failure of Reallinx to exercise or enforce any right or provision of these Terms and Conditions will not constitute a waiver of such right or provision. If any provision of these Terms and Conditions is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of these Terms and Conditions remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service or these Terms and Conditions must be filed within one (1) year after such claim or cause of action arose or be forever barred.