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Network Service Agreement

The Network Service Agreement ("NSA" or "Agreement") provides general terms, conditions, and a framework within which the VIRTBIZ Client ("Client") may, from time to time, purchase certain telecommunications and related infrastructure services ("Services") from VIRTBIZ for its use and/or resale to its customers ("End User Customers").

Section 1 – General

- 1.1 Nondisclosure.** Any information transferred between VIRTBIZ and the Client shall not be disclosed outside the parties of this Agreement without the express consent of both parties.
- 1.2 Ordering Service.** Client may request VIRTBIZ to provide Service by submitting a service order and/or accepting a quote or proposal from VIRTBIZ. Client acknowledges and agrees that Client is solely responsible for the accuracy of all service orders and other information that it provides to VIRTBIZ. Service orders, quotes or proposals will clearly set forth terms, pricing, monthly recurring charges and other additional specific terms as applicable. All service orders shall be subject to availability and acceptance by VIRTBIZ.
- 1.3 Contact Information.** Client agrees to provide adequate contact information in order to facilitate communication between VIRTBIZ and Client for purposes such as invoicing and billing correspondence, technical correspondence, service notices and other communication as may be appropriate. Client acknowledges and agrees that Client is solely responsible for the accuracy of contact information on file with VIRTBIZ. VIRTBIZ shall make facilities available via online portal or other means for Client to provide updates to contact information (ie: email address, phone number, authorized contact changes, etc.)

Section 2 – Invoicing and Payment

- 2.1 Invoicing.** VIRTBIZ shall provide Client with a monthly itemized invoice, in advance, for Services and other charges that are due. For the purpose of VIRTBIZ technician labor, an invoice shall be submitted to the Client accompanied by a brief description of work done. All provisions of this Service Agreement ("Agreement") apply to the User's Principal Account and Associate Accounts billed to the Principal Account.
- 2.2 Payment Terms.** All amounts due VIRTBIZ are payable by the Due Date published on the invoice.. Payment is considered past due if received after due date indicated on invoice.
- 2.3 Delinquency.** A 10% late fee will be applied to all past due invoices after the 5th day of delinquency. If Client's account goes unpaid and requires litigation, Client will be required to pay all court costs and legal fees incurred by VIRTBIZ.
- 2.4 Check / EFT Conversion.** Payment by check authorizes us to submit your check electronically to your bank for payment. If your payment is returned for non-sufficient funds, you authorize your account to be electronically debited or bank drafted for the amount of the check plus any applicable fees. A \$35 fee will be charged on all returned checks.
- 2.5 Purchase is Final.** Service purchases are final once provisioning has begun. No refunds are issued for service that has been provisioned.
- 2.6 Prepayment.** Prepayment for periods of 6 months and 1 year shall be fixed at the published rate current at the time the agreement is made. 6 month and 1 year services shall be automatically renewed at the end of the pre-paid term to the same term length of their previous subscription at the current rate published online.



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- 2.7 Month to Month.** Users subscribing or converting to Month-to-Month service may be prorated to the end of current month and billed thru the next full month. Rates and pricing for month-to-month services are subject to change at any time and without advance notice. Monthly users shall be initially charged at the current published rate at the time of the prepayment, thereafter monthly users shall be charged at the rate published for at least 20 days prior to payment becoming due.
- 2.8 Taxes.** Texas residents will be assessed 8.25% regulatory fee for the purpose of assessing sales tax and associated costs. VIRTBIZ will give effect to any valid exemption certificate provided to the extent it applies to any Service billed by VIRTBIZ to Client following VIRTBIZ receipt of such exemption certificate.

Section 3 – Default; Suspension of Service

- 3.1 Customer Default.** Client is in default of the Agreement if client (a) fails to cure any monetary breach within 7 days of receiving notification from VIRTBIZ; (b) fails to cure any non-monetary breach of any terms of the agreement within thirty (30) days of receiving notice of such breach from VIRTBIZ; or (c) files or initiates proceedings or has proceedings filed or initiated against it seeking liquidation, reorganization or other relief (such as the appointment of a trustee, receiver, liquidator, custodian or other such official) under any bankruptcy, insolvency or other similar law (each such event shall be a Customer Default).
- 3.2 Suspension of Service.** In the event of Customer Default, services provided to Client, including physical and electronic access privileges as may apply, may be suspended.
- 3.3 Reinstatement of Service.** Upon remedy of Customer Default by Client, service can be reinstated upon receipt of payment by VIRTBIZ, or upon VIRTBIZ management approval.
- 3.4 Termination by VIRTBIZ.** Service that has been suspended for 45 days is eligible for termination. Termination means that the service is permanently ceased and may not be reinstated. Client's data may no longer be available after termination, and Client's account will be permanently closed.
- 3.5 VIRTBIZ Default.** VIRTBIZ is in default of the Agreement if VIRTBIZ fails to cure any non-monetary breach of any material term of this Agreement within thirty (30) days of receiving written notice of the breach from Client; provided, however that Client expressly acknowledges that Service related failure or degradation in performance is not subject to a claim of VIRTBIZ default. Client's sole and exclusive remedy for any failure of Service is set forth in the applicable Service Level Agreement (SLA).
- 3.6 Termination by Client.** In the event of VIRTBIZ Default, Client may terminate the Services and the Agreement upon written notice to VIRTBIZ. Any termination shall not relieve Client of its obligations to pay all charges incurred hereunder prior to such termination.

Section 4 – Limitation of Liability

- 4.1 General Limitations.** In no event shall VIRTBIZ be liable for incidental, consequential, special or indirect damages, including, without limitation, lost business profits.
- 4.2 Force Majeure.** VIRTBIZ shall not be liable for any delay or failure to perform its obligations due to any cause beyond its reasonable control including, but not limited to, acts of third parties not under the direction or actual control of VIRTBIZ, acts of God, fire, explosion, vandalism, cable cut, flood, storm or other similar catastrophe, any law, order, regulation, direction, action or request of the government, or any department, agency, commission, court, or bureau of a government, or any civil or military authority, national emergency, insurrection, riot, war, strike, lockout, or work stoppage (each, a "Force Majeure Event").
- 4.3 No Warranty.** SERVICE IS PROVIDED ON AN "AS IS, AS AVAILABLE" BASIS. NO WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY OR FITNESS



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FOR A PARTICULAR PURPOSE, ARE MADE WITH RESPECT TO VIRTBIZ OR ANY INFORMATION OR SOFTWARE THEREIN. THIS EXPRESSLY INCLUDES ANY REIMBURSEMENT FOR LOSSES OF INCOME DUE TO DISRUPTION OF SERVICE BY VIRTBIZ OR ITS PROVIDERS.

Section 5 – Enforcement and Severability

- 5.1 Enforcement of Agreement.** The parties expressly agree that any suit to enforce any provision of this agreement shall be brought only in the appropriate court having jurisdiction of the matter subject to stated domicile.
- 5.2 Domicile of Performance.** The parties expressly agree that this Agreement is wholly performable in Dallas, Dallas County, Texas and that in the event of any legal action between the parties based upon or involving this Agreement, laws of the state of Texas shall govern the validity of the agreement, the construction of its terms, the interpretation and enforcement of the rights and duties of the parties hereto. The parties further agree that any suit to enforce any provision of this Agreement shall be brought only in the appropriate court having jurisdiction of the matter in Dallas County, Texas.
- 5.3 Severability of Agreement.** If any portion of the Terms of Service or Network Service Agreement is found to be unenforceable or invalid, all other portions shall remain valid.
- 5.4 Non-enforcement is Not Consent.** Non-enforcement of any section of this Agreement does not constitute consent and we reserve the right to enforce each and every portion of the Terms.
- 5.5 Modification of Agreement.** VIRTBIZ may modify these terms and conditions upon notice published online via VIRTBIZ. User's use of VIRTBIZ's services after such notice shall constitute User's acceptance of the modification to this Agreement.

Section 6 – Miscellaneous Provisions

- 6.1 Subject to Laws.** This Agreement is subject to all applicable federal, state and local laws, and regulations, rulings and orders of governmental agencies, including, but not limited to, the Communications Act of 1934, as amended, the Telecommunications Act of 1996, the Rules and Regulations of the Federal Communications Commission ("FCC") and the obtaining and continuance of any required approval or authorization of any governmental body. Either party may terminate its obligations under this Agreement without liability if ordered to do so by the final order or ruling of a court or other governmental agency or if such order or ruling would make it impossible for either party to carry out its obligations under this Agreement.
- 6.2 Relationship of Parties.** This Agreement does not create a partnership, joint venture or agency relationship between VIRTBIZ and Client, and neither party shall have any authority to bind the other to any agreement, understanding or other instrument, in any manner whatsoever.
- 6.3 Lawful Use of Service.** The services provided by VIRTBIZ are subject to the condition that they will not be used for any unlawful purposes.
- 6.4 Acceptable Use Policy.** VIRTBIZ maintains an Acceptable Use Policy (AUP) online on its website virtbiz.com, which may be updated from time to time. Continued use of VIRTBIZ services by Client is contingent on continued compliance with the published AUP.
- 6.5 Entire Agreement.** This Agreement constitutes the entire understanding between the parties relating to the rights, duties and obligations granted and assumed herein. Any prior agreements, promises, negotiations or representations regarding the subject matter hereof are of no force or effect. No alteration or variation of the terms of any provision shall be valid unless made in writing and signed by a duly authorized representative of VIRTBIZ and Client.