

Apptix Voice Terms and Conditions

EFFECTIVE 10-01-2012; REVISED 02-01-2014

This agreement (the "Agreement"), effective as of the date last signed below (the "Effective Date"), is entered into between Apptix, Inc., a Florida corporation with offices located at 13461 Sunrise Valley Drive, Suite 300, Herndon, Virginia 20171 ("Apptix"), and the undersigned customer, (the "Customer") (Each, the "Party", and collectively, the "Parties").

THIS AGREEMENT REFLECTS THE CURRENT TERMS AND CONDITIONS RELATING TO THE SERVICES AND MAY BE AMENDED BY APPTIX UPON POSTING THE CHANGES ON THE APPTIX WEBSITE (www.Apptix.Com). BY CONTINUING TO USE THE SERVICES, CUSTOMER IS AGREEING TO THE POSTED CHANGES.

Section 1. Definitions

1.1 "Billing Plan" means the plan and fees for Services selected by Customer as set forth in an Order Form.

1.2 "DID" means a telephone number or Direct Inward Dialed number assigned by Apptix to Customer for the provision of Services under this Agreement.

1.3 "Early Termination Fees" means the then current monthly recurring charge multiplied by the number of months remaining in the Term or renewal term, plus any and all waived installation or other charges, including but not limited to promotional costs and discounts, and any other costs which have been incurred by APPTIX in directly providing Customer with Service.

1.4 "E911 Service" means providing functionality for contacting North America E911 emergency services of the geographic area in which the Subscriber is located as more fully described in the E911 Service Addendum.

1.5 "ILEC" means Incumbent Local Exchange Carrier.

1.6 "LCA" means the specific Local Calling Area within a geographic area (as determined by the applicable ILEC) comprised of one or more Rate Centers that is used for billing purposes to determine whether a call will be treated as local or long-distance.

1.7 "Market" means a geographic area (as defined by Apptix) comprised of one or more Rate Centers in which Apptix provides Services. The current list of available Markets and LCA's may be obtained from Apptix, which list may be supplemented or modified by Apptix (in its sole discretion) from time to time.

1.8 "MOS" means Mean Opinion Score and is a measurement of the quality of human speech at the destination end of the circuit. MOS is expressed as a single number in the range of 1 (lowest perceived quality) to 5 (highest perceived quality). MOS will be measured by Apptix utilizing the quality monitoring tools and statistics provided through the Customer's EdgeMarc device. Monitoring tools include, but are not limited to statistics on minimum MOS, average MOS, jitter, latency, and packet loss.

1.9 "PSTN" means the public switched telephone network.

1.10 "Rate Center" means a specific geographic area (as determined by the applicable ILEC) within a LCA or Market that is associated with one or more specific NPA/NXXX codes and is used for billing and measuring Services.

1.11 "Session Initiation Protocol" or "SIP" means the signaling protocol used between VoIP networks to establish control and terminate VoIP communications.

1.12 "Subscriber" means a single, individual end-user or telephone device that has been assigned a DID by Customer as part of the Services.

1.13 "VoIP" means Voice over Internet Protocol.

Section 2. The Apptix Services

2.1 Services. Apptix agrees to provide those services described in Schedule A and requested in an Order Form signed by both Parties (the "Services") in accordance with the terms of this Agreement.

2.2 Customer Cooperation. All obligations of Apptix to provide Services pursuant to this Agreement are subject to Customer providing Apptix with reasonable assistance including appropriate cooperation and assistance and information as may be necessary to identify any failure or disruption.

2.3 Porting In. Customer may elect to port an existing DID to Apptix for activation ("Port-In"). Apptix will support all valid requests and will cooperate with Customer to perform such Port-In in accordance with Customer's reasonable directions and Apptix's standard operating procedures. If Customer desires Apptix's help in Porting-In existing DID's, Customer will be required to provide a letter of agency on behalf of Customer in form and substance requested by Apptix. Customer hereby agrees to indemnify, defend and hold harmless Apptix, its affiliates and their officers, directors, employees, agents, providers, and suppliers from and against any third party claim related to or arising out of any Port-In (or request for Port-In), except for claims directly and exclusively attributable to the gross negligence or willful misconduct of Apptix.

2.4 Telephone Numbers. Apptix shall only provide Customer with the dedicated DIDs or ports ordered by Customer pursuant to an Order Form which has been accepted by Apptix.

Section 3. Order Process.

To activate Services, Customer must submit a signed Order Form to Apptix specifying the relevant services and rates, the desired hardware with mutually agreed installation and delivery schedule including an acceptable lead time and their respective prices (an "Order Form"). Following Customer's submission of such Order Form, Apptix will review the Order Form and inform Customer if the Services are available in the relevant locations, whether the hardware is available within the relevant time periods and whether the installation date is acceptable. The Order Form will be binding when Apptix accepts the Order Form by signing it and returning a copy to Customer. Once Apptix has completed the installation of the designated hardware and the DID Port-In has been completed (if applicable), Apptix will provide Customer with an electronic confirmation that Customer' Service has been activated together (if applicable) with the assigned DID. If Customer desires to order Toll Free Services, Customer must execute the Toll Free Service Addendum, and such Addendum will be binding when accepted by Apptix.

Section 4. Equipment, Delivery and Installation

4.1 Schedule. The date of delivery and installation is contingent upon receipt of equipment from Apptix's suppliers. Apptix will use commercially reasonable efforts to supply the requested hardware specified on an Order Form by the dates set forth in the Order Form, but does not guarantee delivery by a specified date, notwithstanding any provision to the contrary.

4.2 Installation Service. Apptix's obligation to proceed with installation Services is contingent upon Customer's compliance with any site preparation requirements specified by Apptix in order to prepare for the installation of the equipment. The schedule for completion may be affected by third-party delays.

4.3 Access. Customer shall arrange for Apptix to have authorized access to all necessary equipment and systems to install the applicable hardware and shall ensure that the Customer premises are ready for the installation of the equipment as specified by Apptix. Apptix will not be responsible for delays if Customer prevents timely access by Apptix to facilities for installation of the equipment.

4.4 Subcontracting. Customer acknowledges and agrees that Apptix may subcontract the installation services to a third party.

Section 5. Payment

5.1 Rate Plan. Customer may select from a variety of Billing Plans for the Services in each market. The Billing Plan selected by Customer shall be set forth in the Order Form. The rates for the Billing Plans and other additional fees are set forth in the applicable Pricing Schedule, attached hereto, which reflect the pricing for the Services as of the date of this Agreement. Aptix may change the rates for the Billing Plans, the Pricing Schedule and other additional fees upon notice to the Customer, or by posting such changes to the Aptix website. BY CONTINUING TO USE THE SERVICES, CUSTOMER IS AGREEING TO THE POSTED CHANGES. The Customer is also responsible for chargeable events as defined in the Aptix Voice Service Level Agreement.

5.2 Payment. As consideration for the Services, you agree to pay Aptix the applicable fees set forth on your Order Form at the time of your selection and due for the Services. All fees are due immediately as invoiced for a full month of service, are not pro-rated and are non-refundable, except as otherwise expressly noted in one or more of the Schedules to this Agreement. Any renewal of the Services is subject to our then-current terms and conditions, including, but not limited to payment of all applicable fees at the time of renewal. If Customer agrees to an automatic renewal, you authorize us to renew your subscription to the Services up to 7 days prior to its expiration, for the same term then-currently in place for the Services, at the applicable price for the Services, and to charge your credit card or other payment method on file for the renewal of the Services. Payments not made to Aptix by the due date shall accrue interest at the rate of one percent (1.0%) per month or the maximum rate allowed by law, whichever is less. Such interest shall accrue daily on all amounts due hereunder, including accrued default interest from the due date until payment in full is received by Aptix, notwithstanding the termination of this Agreement.

5.3 Taxes. Customer acknowledges and understands that all charges are exclusive of any applicable federal, state or local use, Universal Service Fund charges, 911 charges, excise, gross receipts, sales and privilege taxes, duties, fees or similar charges or expenses, whether charged to or against Aptix (except for taxes on Aptix's income) or Customer ("Additional Charges") and that Customer is liable for payment of all Additional Charges. Customer will pay any invoice relating to Additional Charges within thirty (30) days of receipt.

5.4 Suspension of Service. In the event charges due are not paid by the due date, in addition to its other remedies, Aptix shall have the right to take any and all of the following actions after giving Customer thirty (30) calendar days prior written notice: (i) suspend all or any portion of the Services until such time as the Customer has paid in full all charges then due Aptix, including any applicable late fees and (ii) terminate this Agreement and any applicable Addendum and collect Early Termination Fees based on the remaining term of all Order Forms. Any reactivation will require the account to be paid in full in addition to the collection of a \$75 administrative fee.

Section 6. Customer Responsibilities

6.1 Fraudulent/Unauthorized Use of Service. Customer shall not use or permit others to use the Services in a manner that is fraudulent or unauthorized. Aptix may, without notice and without liability, interrupt all Customer's communications to prevent or terminate fraudulent and/or unauthorized activities provided Aptix reasonably believes

that such activities have occurred or, with reasonable certainty, are about to be undertaken.

If Customer has subscribed to Apptix Business services, the Service is provided to Customer as a business user. Customer will not, sell, resell or transfer the Service to any other person for any purpose, or make any charge for the use of the Service, without the prior express written permission from Apptix. Customer agrees that the various Apptix Business Plans do not confer the right to use the Service for auto-dialing, outbound call center activities, continuous or extensive call forwarding, call relaying, telemarketing, fax broadcasting or fax blasting, and that Customer may not use the Service for those purposes. In addition to the limitation above if Customer has subscribed to Apptix Unlimited Services any use resulting in improper usage patterns, including but not limited to calling activity wherein the Customer's total minutes of use exceeds 85% of the aggregate usage and/or average minutes per seat are in excess of 90% of all Apptix customers is subject to the actions below.

Apptix reserves the right to (a) immediately terminate or modify the Service, (b) charge an administrative fee of US\$100.00 per day of Service during which Customer engaged in prohibited activities or (c) bill the Customer for all usage in excess of the Apptix average as calculated above, if Apptix determines, in its sole discretion that Customer's Service is/was being used for such prohibited activities or in any other manner prohibited by this Agreement. Such remedies are in addition to all other remedies available to Apptix.

6.2 Equipment. Except for any equipment purchased from Apptix through an Order Form, Customer shall be responsible for providing at its sole cost: (i) all hardware and software necessary to connect and interoperate with the Services and the Apptix network (ii) public IP address(es) for the SIP proxy server, softswitch, and/or other hardware/software solution for Voice Services (as described in Schedule A) (iii) broadband Internet connectivity (iv) ensuring that Customer and its Subscribers connect to Apptix's hosted VoIP platform via a public or dedicated connection (Apptix will charge Customer for such access according to the interconnection options set forth in the attached Pricing Schedule) (v) all other equipment, software and other facilities to be installed at the Customer's premises, including without limitation, routers, IP enabled phones and/or an analog terminal adapter. Customer is responsible for timely inputting, validating and maintaining Subscriber information in all applicable national databases, including, without limitation, Automatic Local Identification (ALI) Database, Dynamic Automatic Local identification (DALI) Database, Line Information Database (LIDB) and Caller ID with Name Database (CNAM), using an Apptix provided process, tool and/or interface. Customer shall not remove Automatic Number Identification (ANI) or otherwise take any action that may affect the integrity of the call detail information that is passed to Apptix as part of the Services.

The Service requires standard SIP based customer premises equipment ("CPE") which may be provided by Apptix or by the Customer on a BYOD (Bring Your Own Device) agreement. Use of the Service without such equipment is strictly prohibited. If Customer is providing any of its own equipment, it is solely responsible for maintaining such equipment and ensuring that it is compatible with the Service. If Customer-supplied equipment is not compatible with, or properly configured for Apptix, Apptix (i) is not responsible for any errors, failure of Service or degradation of Service that results, and (ii) Apptix may terminate the Service in its sole discretion.

6.3 Facilities. For components of the Services located at Customer facilities, Customer shall provide and maintain throughout the Term a safe physical environment for use of the hardware which complies with industry practices and with all applicable federal, state, and local laws and regulations. Customer is responsible for all equipment and facilities within its own network and for data and other communications circuits under Customer's direction or control used to reach the facilities and network of Aptix.

6.5 One Subscriber Per DID. Customer shall only assign one (1) Subscriber to each DID for Voice Services plan. In the event multiple Subscribers are assigned or are otherwise using any single DID, Aptix may retroactively charge Customer for (i) all applicable Subscriber fees for each and every Subscriber assigned to such DID, and (ii) all long-distance usage of Services for all affected Subscribers pursuant to the applicable Voice Services plan.

6.6 Concurrent Calls. Only two (2) concurrent calls may be assigned to each DID (except for DID assigned to a Trunk Line). In the event additional concurrent calls are assigned or are otherwise using any single DID, Aptix may elect to limit Customer for concurrent calls assigned to such DID, and may assess additional fees, and Customer agrees to pay such fees.

6.7 Use of Service and Device by Customers outside the United States. Aptix allows use of the Service inside or outside of the United States. However, if Customer uses Services outside the United States it does so at its own risk. If Customer removes the Device to a country outside the United States and/or uses or attempts to use it there, Customer does so at its own risk, including but not limited to the risk that such activity violates the laws of the country where Customer does so, and/or violates the export laws of the United States and/or the import laws of that other country.

6.8 Customer Cancellation. Service term begins on the subscription date, which is the date Customer first ordered the Service and Aptix accepts the order. Customer's Service will continue for twelve (12) months (the "**Commitment**"), unless earlier terminated in accordance with this Agreement. If Customer downgrades or cancels the Service before the end of such Commitment, Customer will be responsible for all the charges for its current billing cycle, all charges waived at the execution of commitment, including as applicable, but not limited to, the Activation Fee, shipping charges, and all discounts and promotions associated with the commitment. Customer will also be responsible for any unbilled charges which include all charges for the remainder of the Term which were not fulfilled, plus any disconnection fee. For example, if Customer cancels in month 9 Customer is responsible for all charges for the remainder of the 3 months. Customer will also be responsible for paying the difference between any discount or promotional pricing and the actual cost of service, shipping, fees, and or devices. In addition, if Customer terminates a Service that is based on a commitment before the end of the Commitment, Customer agree to pay Aptix all applicable recovery fees all of which immediately become due, payable and chargeable to Customer's credit card.

Section 7. Regulatory Matters

7.1 Legal Compliance. Customer and Aptix shall comply with all applicable laws, rules and regulations relating to the responsibilities assumed by Customer and Aptix under this Agreement.

7.2 Regulatory Treatment. The Services are not a telephone service and are subject to different regulatory treatment than telephone service. This treatment may limit or otherwise affect Customer and end-user rights of redress before any federal, state, or local regulatory agencies. Customer acknowledges and understands that the regulatory requirements applicable to VoIP services are currently under development and may be subject to change or clarification. In the event that any government or any regulatory agency with authority over Aptix and/or the Services provided pursuant to this Agreement makes any determination that the provision of the Services as contemplated in this Agreement is unlawful or if any such agency issues any order, rule or decision, or otherwise takes any action, that imposes additional obligations on Aptix, or materially increases the costs, performance burden or risks to Aptix, then Aptix may either (i) terminate this Agreement without liability upon sixty (60) days written notice to Customer (or such shorter period as is available to Aptix before such action is effective) or (ii) with sixty days notice to Customer, pass such increased costs through to Customer and Customer may terminate this Agreement without liability by delivering written notice of termination no later than sixty (60) days after the effective date of any rate increase.

7.3 CALEA. Aptix hereby confirms that it (or its provider) is working in good faith to provide a solution that complies with the Communications Assistance for Law Enforcement Act of 1994 ("CALEA"). As soon as any such CALEA solution becomes generally available, Aptix will provide such CALEA solution to Customer (at no additional charge) as a part of the Services.

7.4 Services Treated as Inbound. Customer recognizes that inbound services involve connectivity from the PSTN together with enhanced functionality, including but not limited to conversion and delivery to Customer in an IP-based format. For regulatory purposes Aptix may treat all inbound services for all Services as local in nature although there is no guarantee that such interpretation will be accepted by the relevant regulatory authority.

7.5 Transport and Application Services Only. Aptix provides communications transport and application services. Aptix does not operate or control the content transported. Aptix shall have no liability or responsibility for the content of any communication transmitted via the Services hereunder, except to the extent such content arises from communications initiated by Aptix.

Section 8. Warranty Disclaimers

8.1 Service. Aptix represents and warrants that the Services shall conform, in all material respects, with the documentation provided by Aptix in conjunction with the Services and be provided in accordance with the Service Level Agreement attached to this Agreement.

8.2 DISCLAIMER. EXCEPT AS EXPRESSLY WARRANTED IN THIS AGREEMENT (INCLUDING ANY SERVICE SCHEDULES OR ASSOCIATED SERVICE LEVEL AGREEMENTS), NEITHER APPTIX NOR ITS SUPPLIERS MAKES ANY WARRANTIES ABOUT THE SERVICES AND NO WARRANTIES ABOUT THE EQUIPMENT PROVIDED PURSUANT TO THIS AGREEMENT, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE, DATA ACCURACY, SYSTEM INTEGRATION, TITLE, NON-INFRINGEMENT AND/OR QUIET ENJOYMENT, AND THE EQUIPMENT AND SERVICES ARE PROVIDED "AS IS". NO WARRANTY IS MADE BY APPTIX ON THE BASIS OF TRADE USAGE, COURSE OF DEALING OR COURSE OF TRADE. APPTIX DOES NOT WARRANT THAT THE EQUIPMENT AND/OR SERVICES WILL MEET CUSTOMER'S REQUIREMENTS OR THAT THE OPERATION OF THE EQUIPMENT WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ALL ERRORS WILL BE CORRECTED.

8.3 Pass Through Warranty. Apptix does not manufacture any equipment. All equipment purchased under this Agreement is being provided by a third party. To the extent possible, Apptix will pass through any manufacturer's warranties directly to Customer and will work with Customer to obtain any warranty services. The warranty for any hardware will be as specified in the Order Form. If the Order Form does not specify a warranty, the equipment is provided on an "AS IS" basis.

Section 9. Liability and Indemnification

9.1 LIMITATION OF LIABILITY. EXCEPT FOR BREACHES OF OBLIGATIONS OF CONFIDENTIALITY OR INDEMNIFICATION, IN NO EVENT WILL APPTIX'S CUMULATIVE LIABILITY FOR CLAIMS ARISING FROM OR RELATING TO THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY CAUSE OF ACTION SOUNDING IN CONTRACT, TORT, OR STRICT LIABILITY, EXCEED THE TOTAL AMOUNT OF ALL FEES PAID OR PAYABLE TO APPTIX BY CUSTOMER DURING THE TWELVE (12)-MONTH PERIOD IMMEDIATELY PRIOR TO THE EVENT, ACT OR OMISSION GIVING RISE TO SUCH LIABILITY. THIS LIMITATION OF LIABILITY IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE.

EXCEPT FOR BREACHES OF OBLIGATIONS OF CONFIDENTIALITY OR INDEMNIFICATION, NEITHER APPTIX NOR ITS SUPPLIERS SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL LOSS OR DAMAGES, HOWEVER CAUSED ARISING OUT OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, BY SUCH PARTY'S NEGLIGENCE OR NEGLIGENCE OF ITS EMPLOYEES OR OTHERWISE, LOST PROFITS, COSTS OF DELAY, ANY FAILURE OF DELIVERY, BUSINESS INTERRUPTION, COSTS OF LOST OR DAMAGED DATA OR DOCUMENTATION OR LIABILITIES TO THIRD PARTIES ARISING FROM ANY SOURCE, EVEN IF APPTIX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION UPON

DAMAGES AND CLAIMS IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE.

The Parties acknowledge and agree that the disclaimers, exclusions and limitations of liability set forth in Sections 8 and 9 form an essential basis of this Agreement, and that, absent any of such disclaimers, exclusions or limitations of liability, the terms of this Agreement, including without limitation the economic terms, would be substantially different.

9.2 Indemnification. Each Party shall indemnify and hold harmless the other, against and from any liability, loss, damage, cost and expense (including reasonable attorneys' fees and costs of litigation) arising out of or in connection with any third party claim or action arising out of, or resulting directly from, the grossly negligent acts or omissions or the willful misconduct of it or its employees, directors, officers, representatives, and agents in the course of its performance of or the use of Services provided under this Agreement. The indemnification provided herein shall survive the termination of this Agreement and the termination of any Services provided pursuant to this Agreement.

9.3 Procedures. In the event of any third party claim, demand, suit, or action (a "Claim") for which an indemnified party is entitled to indemnification hereunder, such indemnified party may, at its option, require the indemnifying party to defend such Claim at such indemnifying party's sole expense. Neither Party may agree to settle any such Claim without the other Party's express prior written consent. Without limiting the foregoing, the indemnified party shall be permitted, at its own expense, to participate in the defense of any claim under this Agreement by counsel of its own choice.

9.4 Compliance with laws and infringement claims. Apptix shall indemnify and hold harmless Customer against and from any liability, loss, damage, cost and expense (including reasonable attorneys' fees and costs of litigation) arising out of or in connection with any third party claim or action against Customer arising out of, or resulting directly from, (i) any claim that the Services or use of such Services infringes or misappropriates such third party's intellectual property rights in the United States or (ii) any claim that the Services (provided used in a manner consistent with this Agreement) violates any applicable laws.

9.5 Procedures for infringement claims. Notwithstanding the foregoing, if any claim for which indemnity is or may be sought hereunder is made or appears reasonably possible for intellectual property infringement, Customer agrees: (i) promptly to notify Apptix in writing (ii) to cooperate with Apptix, and to allow Apptix sole authority to control the defense and settlement of such claim and (iii) to permit Apptix, at Apptix's sole discretion, to enable Customer to continue to use the Apptix Services, or to modify or replace any such infringing material to make it non-infringing, provided that, if Apptix determines that none of the foregoing alternatives is reasonably available, Customer shall, upon written request from Apptix, cease use of, and, if applicable, return, such materials as are the subject of the relevant infringement claim and agree to discontinue use of infringing Services.

Section 10. Term and Termination

10.1 Initial Term. Commencing on the Effective Date, Customer may order Service(s) on Order Form(s). Each Order Form shall include a term for each Service, which shall begin on the date the Order Form is accepted by Apptix and becomes effective (the "Service's Acceptance Date") and continue for the number of months indicated on the Order Form unless earlier terminated in accordance with this Agreement (the "Service Term"). Unless otherwise specified in a Service Order Form billing for services shall commence on the earlier of a) the activation of services, or b) thirty (30) days after Customer acceptance of this Agreement, and shall remain in effect for the duration specified. This Agreement shall govern all Services ordered pursuant to the terms and conditions herein. The term of this Agreement shall commence on the Effective Date and expire on the last to expire Service Term, except when earlier terminated as contemplated below.

10.2 Termination by Apptix. Apptix shall have the right to terminate this Agreement or, in its discretion, any portion of the Services by providing written notice to Customer in any of the following events: (i) Customer has not paid any undisputed amount due within thirty (30) calendar days of receipt of written notice of failure to pay such an undisputed amount due or (ii) upon the breach of a term of this Agreement by Customer if Customer has not cured such breach within thirty (30) calendar days of Customer's receipt of written notice of such breach, (iii) upon notice in the event of breach of any provision this Agreement by Customer which specifically permits Apptix to suspend or terminate Services. In order to dispute an amount, Customer must, within twenty [20] days of receipt of notice of the charge notify Apptix in writing that it is disputing the charge, provide the reasons for the dispute, and pay all undisputed charges within the due date. The Parties will negotiate in good faith to resolve any such dispute. If the Parties are unable to resolve the disputed charge, Apptix may suspend or terminate the Service.

10.3 Termination/Discontinuance of Service. Apptix reserves the right to suspend or discontinue providing the Service generally, or to terminate Service, at any time in its sole discretion. If Apptix discontinues providing the Service generally, or terminates or suspends Service in its discretion other than as a breach by Customer, Customer will only be responsible for charges accrued through the date of termination, including a pro-rated portion of the final month's charges. [If Service is terminated or suspended for any stated reason, including without limitation, violation of any terms of this Agreement, or because of any improper use of the Service or Device (such as, but not limited to, attempts to hack, disrupt, or misuse the Service or acts or omissions that violate any acceptable use policy of Apptix or of a third party provider to which Apptix is subject), Customer will be responsible for the full month's charges to the end of the current term, including without limitation unbilled charges, plus a disconnect fee if applicable, all of which immediately become due, payable and chargeable to Customer credit card.]

10.4 Termination by Customer. Except as otherwise provided in Section 6.8, Customer may terminate the Agreement during the 30 day period following the initial Service Acceptance Date with no further obligation.

10.5 Effects of Termination. If, prior to the end of the Service Term or any agreed renewal term, (a) Customer terminates the Agreement or a Service for any reason other than a material breach by APPTIX, or (b) APPTIX

terminates the Agreement due to Customer's breach or default, including without limitation, violation of any terms of this Agreement, or because of any improper use of the Service or Device (such as, but not limited to, attempts to hack, disrupt, or misuse the Service or acts or omissions that violate any acceptable use policy of Apptix or of a third party provider to which Apptix is subject), then Customer shall pay APPTIX upon receipt of invoice, a termination charge equal to the Early Termination Fees. The Parties agree that the termination charges are reasonable liquidated damages and are not a penalty. Upon Termination, Customer shall be required to pay all amounts due as of the date of termination including any and all charges associated hardware, equipment, installation and/or site assessment services. Any right or obligation which becomes absolute before termination of this Agreement for any reason, or which is by definition of a continuing nature, will survive such termination. Notwithstanding and without limiting the foregoing, Sections 1, 5, 8.2, 9.1, 11 and 12 shall survive the termination or expiration of this Agreement.

Section 11. Non-disclosure

11.1 Confidential Information. Either Party acknowledges that it may receive from the other information, written, oral, or computer based that such Party indicates is confidential or that by the nature of the information or the circumstances surrounding the disclosure ought to reasonably be deemed confidential ("Confidential Information").

11.2 Ownership of Confidentiality Obligations. As between the Parties, Confidential Information of the disclosing Party shall remain the sole property of the disclosing Party.

11.3 Mutual Confidentiality Obligations. Each Party agrees as follows: (i) it will use the Confidential Information only for the purposes described herein (ii) that such Party will not reproduce the Confidential Information and will hold in confidence and protect the Confidential Information from dissemination to, and use by, any third party (iii) that it will not create any derivative work from Confidential Information disclosed to such Party by the other Party (iv) it will restrict access to the Confidential Information to such of its personnel, agents, and/or consultants and contractors, if any, who have a need to have access and who have been advised of the obligation and have agreed in writing to treat such information in accordance with the terms of this Agreement and (v) it will return or destroy, as mutually agreed, all Confidential Information of the other Party in its possession upon termination or expiration of this Agreement, except as otherwise required by law.

11.4 Exceptions. The foregoing Section 11.1 shall not apply to information that (i) is publicly available or in the public domain at the time disclosed (ii) is or becomes publicly available or enters the public domain through no fault of the recipient (iii) is rightfully communicated to the recipient by persons not bound by confidentiality obligations with respect thereto (iv) is already in the recipient's possession free of any confidentiality obligations with respect thereto at the time of disclosure (v) is independently developed by the recipient or (vi) is approved for release or disclosure by the disclosing Party without restriction.

11.5 Permitted Disclosures. Notwithstanding the foregoing, each Party may disclose Confidential Information

received in confidence to the limited extent required (i) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law. The Party making the disclosure pursuant to any of the above exceptions shall give written notice to the other Party and cooperate, at no expense to it, with the disclosing Party's efforts to obtain a protective order to the extent permitted or (ii) to establish a Party's rights under this Agreement, including to make such court filings as it may be required to do.

Section 12. General

12.1 Relationship of Parties. Neither Party shall have the authority to bind the other by contract or otherwise make any representations or guarantees on behalf of the other. Both Parties acknowledge and agree that the relationship arising from this Agreement does not constitute an agency, joint venture, partnership, employee relationship or franchise.

12.2 Force Majeure. Neither Party shall be liable for, delays, failure to perform, or damage, or destruction, or malfunction of any equipment, or any consequence of any thereof caused or occasioned by or due to fire, flood, water, the elements, labor disputes or shortages, utility curtailments, power failures, civil disturbance, acts of God or public enemy, war, military or government requisition, or any other cause beyond such Party's reasonable control. This provision shall not apply to payment obligations.

12.3 Assignment. This Agreement shall be binding on each Party and its successors and permitted assigns. Customer may not assign this Agreement in whole or in part at any time without the consent of Aptix, which consent may not be unreasonably withheld. Notwithstanding the foregoing, either Party may assign this Agreement without consent in connection with a merger, or sale of all or substantially all the assigning Party's assets.

12.4 Waiver. The failure of either Party to insist upon or enforce strict performance by the other Party of any provision of this Agreement or to exercise any right under this Agreement shall not be construed as a waiver or relinquishment to any extent of such Party's right to assert or rely upon any such provision or right in that or any other instance rather, the same shall be and remain in full force and effect, unless such waiver is provided in writing.

12.5 Notices. All notices, demands, requests, delivered and other communications required or permitted hereunder shall be sent via electronic transmission with a hard copy to follow, via U.S. certified mail or other reputable courier return receipt requested, in writing and shall be deemed to be delivered on the date the facsimile is received, or, if later, and regardless of whether actually received, three (3) business days following the date that such are sent by U.S. certified mail or other reputable courier.

If to Apptix:

Apptix, Inc.
13461 Sunrise Valley Dr.
Suite 300
Herndon, VA 20171, USA
Attn: Legal Department
Telephone : (703) 890-2800
Facsimile : (703) 890-2801

If to Customer then Apptix shall use the address given on the applicable Order Form.

Any Party may at any time change its address or facsimile number for notification purposes by giving the other Party prior written notice as provided in this Section by setting forth the new address and the date on which it will become effective.

12.6 Construction Severability. In the event that any provision of this Agreement conflicts with the law under which this Agreement is to be construed or if any such provision is held invalid by a court with jurisdiction over the Parties to this Agreement, (i) such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law, and (ii) the remaining terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect.

12.7 Mediation. Before filing or initiating any suit, action, or legal proceeding relating to this Agreement, the Parties shall attempt in good faith to settle between the parties hereto all disputes, controversies, or differences arising out of or relating to this Agreement ("Disputes") in accordance with the following provisions. First, the Parties shall each make available an executive of at least director-level seniority with authority to resolve such dispute (the "Executives"), and such Executives shall attempt to resolve the Dispute for a period of thirty (30) calendar days. If the Executives are unable to resolve the Dispute during such thirty (30) day period to both parties' satisfaction, then the dissatisfied Party shall submit the dispute to non-binding mediation as follows. The party that did not submit the Dispute to mediation shall have fifteen (15) calendar days to select in good faith an impartial unaffiliated third party to act as mediator (the "Mediator") and the parties shall submit the Dispute to the Mediator for resolution. For a period of thirty (30) calendar days, the Mediator shall have the exclusive right to mediate the Dispute. Any meetings between the Parties held in conjunction with this dispute resolution process shall be held at a location to be mutually agreed upon by the parties. Each Party shall pay its own expenses and costs in connection with the presentation of such Party's case. The remaining costs of the mediation, including fees of the Mediator, shall be borne equally by the Parties. If at the end of the period for mediation, the efforts of the Parties hereto have ended in failure and the Dispute remains unresolved, any Party may exercise its rights and remedies at law or in equity.

12.8 Governing Law. This Agreement and all of the Parties' respective rights and obligations in connection therewith will be governed by Virginia law (excluding conflicts rules).

12.9 Submission to Jurisdiction; Waiver of Jury Trial. Each of the Parties irrevocably agrees that any legal action or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby or for recognition and enforcement of any judgment in respect hereof or thereof brought by any other Party or its successors or assigns shall be brought and determined in federal court located in the Eastern District of Virginia (or, if such federal court lacks jurisdiction thereover, in the Circuit Court for Fairfax County, Virginia), and all of the Parties hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts, generally and unconditionally, with regard to any such action or proceeding arising out of or relating to this Agreement and the transactions contemplated hereby (and agrees not to commence any action, suit or proceeding relating thereto except in such courts). Each Party further agrees to accept service of process in any manner permitted by such courts. Each of the Parties hereby irrevocably and unconditionally waives, and agrees not to assert, by way of motion or as a defense, counterclaim or otherwise, in any action or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby, (a) any claim that it is not personally subject to the jurisdiction of the above-named courts for any reason other than the failure lawfully to serve process, and (b) that (i) the suit, action or proceeding in any such court is brought in an inconvenient forum, (ii) the venue of such suit, action or proceeding is improper or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

12.10 Entire Agreement. This Agreement (together with its schedules, exhibits and other information incorporated by reference) is the entire and only agreement between and among the Parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous proposals, agreements, promises, representations, discussions and other communications, written or oral. Any amendment must be made in writing and signed by authorized representative of both Parties.

12.11 Captions. The captions or headings in this Agreement are made for convenience and general reference only and shall not be construed to describe, define or limit the scope or intent of the provisions of this Agreement.

SCHEDULE A

Apptix Services

1. Hosted PBX and Voice Services ("Apptix Voice")

A. Apptix Voice Plans

Apptix Voice plans provide inbound and outbound local and long-distance VoIP communications via a DID and allows for IP to IP hand-off or PSTN to IP (or vice-versa) hand-off using a net protocol conversion via SIP signaling using G.711, G.729A and/or such other voice encoding formats as mutually agreed between the parties. Apptix Voice plans may not be immediately available in all Markets.

Apptix Voice plans also include access to Telecommunications Relay Services (711), Operator Services, Directory Assistance Services and Directory Listing Services in some Markets. The foregoing services may not be immediately available in all Markets. Standard Apptix Voice plans do not support the following call types: 976, 900, 700, and 1010xxx. Further, Apptix Voice plans also include 911-type services ("E911"). E911 services and limitations are more fully described in the E911 Attachment, which is incorporated and made part of this Agreement.

Apptix Voice plans are a bundle of hosted flat-rate IP PBX and voice access calling plans. Two Different plans are offered that include a host of individual IP PBX features as detailed below as well as local, local toll and Long Distance calling within the Continental United States and Canada. On-net calls are that are made between Subscribers on the Apptix Voice network are free. Outbound calls to Alaska and Hawaii are billed separately in 6 second minimums and in 6 second increments thereafter.

Customer's existing DID phone numbers can be ported to Apptix Voice and additional DID phone numbers can be provided in most rate centers. There is a charge to perform the initial port of each DID. There is also a charge associated with DID numbers that are procured on behalf of Customer that are not in active use by being associated with a specific plan.

A detailed description of Apptix Voice Basic and Premium plan features plans can be found at <http://www.apptixvoice.com/apptixvoicefeaturelist.pdf>

B. Inbound Toll Free Service

Apptix Voice Toll Free Service provides Customer with inbound-only toll free service that allows their customers to contact them at no expense from anywhere in the Continental US or United States Offshore States and Territories. For calls originating within the Continental US Customer will be charged in 6 second minimums and in 6 second increments thereafter. For calls originated outside the Continental US Customer will be charged in 30 second minimums and in 6 second increments thereafter.

Customer's existing Toll Free phone numbers can be ported to Apptix Voice and additional US Toll Free phone numbers can be provided in most markets. There is a charge associated to perform the initial port of each Toll Free phone number. There is also a charge associated with procuring new Toll Free numbers and a monthly service charge for every Toll Free number activated by Customer.

C. International Calling Service

Outbound calls to International destinations are billed on a usage basis in addition to the monthly flat-rate package plan in 30 second minimums and in 6 second increments thereafter. Calls terminating in Mexico will be charged in 60 second minimums and increments.