



## TERMS AND CONDITIONS

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THIS TERMS AND CONDITIONS POLICY (“TAC” OR “POLICY”) IS A MATERIAL PART OF ANY AGREEMENT WITH EHC FOR PROVISION OF ITS SERVICES TO ITS CUSTOMERS. PLEASE READ AND FOLLOW THIS POLICY CAREFULLY. THIS POLICY MAY BE REVISED FROM TIME TO TIME BY EHC, OR AS OTHERWISE SET FORTH BELOW AND THE CURRENT VERSION OF THIS POLICY MAY BE FOUND AT [www.EHCInternet.com](http://www.EHCInternet.com).

In consideration of the covenants and agreements herein contained, Emerald Harbor Communications and its affiliates, (collectively “EHC”) and Customer covenant and agree as follows:

**1. Services —**

EHC shall provide to Customer a connection to the Internet for lawful uses via EHC's telecommunication and/or computer facilities, which shall be operated seven (7) days per week, twenty-four (24) hours per day (the "Services"), subject to temporary unavailability or interruptions due to service requirements, network maintenance, repair and modification, facility upgrades, acts or omissions outside of EHC's control and *force majeure*. The Services provided by EHC pursuant hereto are subject to all of the terms and conditions of this Agreement.

**2. Voice Services —**

Telephone service is provided using VoIP technology including local extension dialing, direct incoming and outgoing dialing, voice mail, multi-line calling, auto attendant, call holding, call conferencing, incoming direct dialing, 911-service, unlimited local calling in the Local area, unlimited nationwide long-distance calling. Fax service including unlimited local and nationwide long-distance service, International Calling and incoming direct dialing. The quality and availability of the telephone services are delivered over, and dependent upon the quality, availability, and usage rates (when using metered service) of the Internet service. All communication will be established over internet connections of various types including but not limited to Fiber, Cable, DSL, and Satellite Internet. VoIP services are particular latency and jitter sensitive and should be tested prior to ordering of services.

**3. Voice Equipment—**

Computers, phones, fax adapters, network cables, network switches, and routers may be required for provision of Service and will be located both at Customer sites and remote facilities. Specific models and quantities may be required for optimal network operation. The types of equipment, models and quantity requirements are subject to change without explicit notice from the EHC. Additional equipment may be required in the future. Customer must already own, lease, and/or purchase applicable equipment from EHC or third party.

**4. E911—**

Customer shall be bound by all of the terms of EHC's e911 policy posted at <https://EHCInternet.com> and is subject to periodic review and updating without customer's consent or additional modification to this agreement.

**5. Limitations on access to E911 Services—**

- (a) You should consider maintaining an alternate means of contacting E911 services. The EHC E911 service differs from traditional E911 service. You understand and acknowledge that you should consider having an alternate means of contacting E911 services and
- (b) EHC emergency services may not operate during a power outage. You understand and acknowledge that you may not be able to use your device to contact E911 services if your power is disrupted. Once power service is restored, you may be required to reset or reconfigure your Internet service before you will be able to use it to contact E911 services. You are responsible for providing an uninterruptible backup power supply to ensure continued operation of electrical equipment, including customer premises equipment necessary to provide Internet service, in the event of a power outage.
- (c) E911 services will not operate if your broadband connection is disrupted. You understand and acknowledge that you will not be able to use your device to contact E911 services if your broadband connection is disrupted. Once your broadband connection has been restored, you may be required to reset or reconfigure your Internet equipment before you will be able to use the device to contact E911 services.
- (d) E911 services will not operate unless you register your correct service address with EHC for each specific Direct Inward Dial "DID" or Telephone Number "TN". You understand and acknowledge that you must provide EHC with your correct service address in order for E911 services to work. If you notice that the location information identified in your 911 registration section of the EHC menu is inaccurate, you can correct your service address by going to the e911 menu via EHC' web portal and selecting E911.
- (e) E911 services will not operate correctly if you disable, damage or move the device to another location. If you disable, damage or move the device to a location other than the service address you provided

when it was registered, it will not function properly and result in an Emergency Call Routing Center "ECRC" Call. If you wish to move to a new address, go to the web menu and select the E911 option. For each TN or DID for which Customer desires emergency calling services, Customer must provide EHC with each TN and provide a correct and valid emergency response address for that TN. Customer must update this information whenever necessary to reflect changes. The required information must be accurately set forth in the system in order to provide full 911 service functionality. If a 911 call is made from a non-provisioned or improperly provisioned telephone number, the call will not be automatically routed to the correct PSAP. Instead, that 911 call must be handled by the backbone provider's 24/7 Emergency Call Routing Center and Customer must pay a per-call ECRC charge of \$300.00, payable immediately via EHC invoice. Customer acknowledges that if it chooses the PSTN emergency call routing option, it is responsible for all ECRC call charges even if erroneous calls are placed by unknown persons or companies that happen to accidentally or purposely dial the Companies' private emergency number assigned to it by EHC. Companies placing five or more calls routed to the ECRC in any month will be subject to an additional \$1,000.00 penalty fee, payable immediately via EHC invoice. EHC may terminate this Schedule if Customer fails to correct non-provisioned or improperly provisioned TNs and addresses, resulting in repeated monthly penalties

- (f) EHC E911 service will not operate properly outside of the United States, Canada, or the registered address of record for the Phone Number.
- (g) EHC is only able to provide E911 service in cities and towns where the local Public Safety Answering Point, or PSAP, is technically capable of receiving your address information with your E911 call. If the PSAP that serves your area is not equipped to receive your EHC registered address, you will need to provide the 911 operator with your address information orally.

**6. Access Right —**

Customer shall provide EHC with timely access to Customers' property and equipment as reasonably required to provide the Services. Customer shall be responsible to obtain required access rights and pay any fees incurred relative to access at Customers own expense except as expressly stated in the applicable SERVICE AGREEMENT. EHC will coordinate with and, except in an emergency, rely on Customer to grant or obtain consent to enter upon Customers' property and premises, as applicable, which consent shall not be unreasonably withheld. Access rights mean the right to construct, install, repair, maintain, inspect, replace and remove Service Components and the right to use ancillary equipment space within a building to connect an Customer's Site to EHC's network. Customer must provide EHC with timely

information about and access to Customers' facilities and equipment as EHC reasonably requires in order to provide the Services, subject to reasonable security policies. Customer has the responsibility to furnish any conduit, holes, wireways, wiring, plans, equipment, space, power/utilities and other items as EHC reasonably requires for the Services and to obtain any necessary licenses, permits and consents (including easements and rights-of-way). Sites must be ready for EHC to perform its work according to the agreed upon schedules. Sites must be free from Hazardous Materials and be reasonably suitable for the Services. "Hazardous Materials" mean any substance or material capable of posing an unreasonable risk to health, safety or property or whose use, transport, storage, handling, disposal or release is regulated by any law related to pollution, to protection of air, water or soil or to health and safety. EHC shall have no obligation to perform work at a location that is not a suitable and safe working environment or to handle, remove or dispose of Hazardous Materials.

**7. Payment —**

Customer shall pay EHC a one-time activation charge upon execution of the (RESIDENTIAL OR COMMERCIAL) SERVICE AGREEMENT ("SERVICE AGREEMENT") in accordance with its fee schedule. **THIS ACTIVATION CHARGE SHALL BE NONREFUNDABLE UNDER ANY AND ALL CIRCUMSTANCES.** Thereafter, Customer shall pay EHC a monthly fee in accordance with the SERVICE AGREEMENT fee schedule. **THERE ARE NO REFUNDS FOR ANY PORTION OF AN UNUSED MONTHLY, QUARTERLY, SEMI-ANNUAL OR ANNUAL PAYMENT UPON CANCELLATION OR TERMINATION OF THE SERVICES BY EITHER PARTY FOR ANY REASON UNLESS EXPLICITLY DEFINED IN THE SERVICE AGREEMENT.** EHC shall not be responsible for the payment of any telephone or other connected equipment or service charges or taxes incurred by Customer in connection with Customer's utilization of the Services, which such expenses are, and shall remain, the sole liability and responsibility of Customer. Customer acknowledges, covenants and agrees that it shall pay all of EHC's attorneys fees, court costs and expenses of litigation if EHC incurs same in enforcing this Agreement or because Customer has failed to pay any amount due hereunder on or before the due date therefore, whether or not litigation is actually commenced.

**8. Late Payment Fee Assessment —**

Any and all amounts not paid when due shall be subject to interest at the rate of eighteen percent (18%) per annum, in addition to a five percent (5%) late charge for each month, or portion thereof, said amount remains unpaid.

**9. Credit Assessment —**

Customer authorizes and consents to EHC obtaining a credit report on Customer and acknowledges that the acceptability to EHC of said credit report is a condition precedent to any of EHC's obligations arising under this Agreement.

**10. Term and Termination —**

(a) The Term of this Agreement shall commence on the day and year that services is made available to the Customer regardless of service utilization. Term of this Agreement (including any renewal Terms) shall automatically renew for additional periods of one (1) month unless either party gives written notice to the other party of their intention to terminate this Agreement at least sixty (30) days prior to the end of the then-current Term.

(b) EHC may terminate this Agreement and its obligation to provide Services pursuant hereto without notice to Customer upon: (i) Customer's failure to pay any amounts due and owing pursuant hereto within ten (10) days after the date of the invoice therefore; or (ii) EHC's determination that Customer has used the Services fraudulently, unlawfully or abusively, and has failed or refused to cease such fraudulent, unlawful or abusive use within two (2) days after EHC's sending of notice thereof to Customer, or at any time after such notice is given, if Customer recommences such fraudulent, unlawful or abusive uses; or (iii) Customer's breach of the terms and conditions hereof, and/or those set forth in EHC's Acceptable Use Policy ("AUP"), incorporated herein by this reference as if fully set forth herein (available at <https://EHCInternet.com/legal> ) and failure or refusal to cure any breach of this Agreement and/or AUP (other than as set forth in subparagraph (b)(i) and (b)(ii)) within two (2) days after notice of such breach has been sent by EHC to Customer. Upon such termination, Customer acknowledges and understands that EHC shall remove and delete all of Customer's electronically stored data from EHC's facilities without further notice or any liability of any kind, nature or description whatsoever to Customer, and Customer hereby expressly authorizes EHC to undertake such removal and deletion.

(c) In addition to the remedies described above, EHC may, in its sole and absolute discretion, elect to suspend or interrupt Services under this Agreement upon: (i) Customer's failure to pay any amounts due and owing hereunder within ten (10) days after the date of the invoice therefore; or (ii) EHC's determination that Customer has used the Services fraudulently, unlawfully or abusively. Upon its determination to suspend provision of Services hereunder, EHC shall notify Customer that the Services hereunder have been suspended and the reason therefore, but covenants and agrees not to remove any of Customer's electronically stored data from EHC's facilities unless and until this Agreement is cancelled. **Customer acknowledges and understands that its obligation to make payment hereunder for the Services is and shall not be abrogated, delayed, excused or otherwise relieved by a suspension of the Services provided by EHC or termination of the Agreement by EHC. Customer will pay an early termination fee equal to the greater of \$300 or the early termination fee specified on the SERVICE AGREEMENT should the term of service be**

**terminated by the customer for any reason or EHC for policy violations prior to the end of the term.**

(d) The rights and remedies provided by this Agreement are given in addition to any other rights or remedies EHC may have by law, statute, ordinance or otherwise. All such rights and remedies are intended to be cumulative, and the use of any one right or remedy by EHC shall not preclude or waive its right to use all other rights and remedies.

(e) EHC may discontinue service at any time without reason at its sole discretion. Any derogatory, inflammatory, or other type of posts on any public forum, social network, etc. that EHC believes will have a negative impact on the company or any of its affiliates will be grounds for immediate termination of service with no refund.

**11. Indemnification —**

Customer covenants and agrees to defend, indemnify and hold harmless EHC, its parents, affiliates and subsidiaries, and its and their respective officers, directors, shareholders, employees, contractors, agents and representatives, of, from and against any and all actions, causes of action, claims, costs, damages, expenses, interest, judgments, liabilities, penalties, and suits whatsoever (including, but not limited to, reasonable attorneys fees, court costs, expert witness fees and expenses of litigation) whatsoever imposed upon, incurred by or asserted against EHC and/or any of its parents, affiliates, subsidiaries, officers, directors, shareholders, employees, contractors, agents and representatives, which arise, directly or indirectly, out of any use by Customer of the Services provided by EHC or from Customer's breach or violation of any of the terms and conditions hereof.

**12. Disclaimer of Warranties —**

Customer acknowledges, understands and agrees that EHC exercises no control whatsoever over the content, accuracy or quality of the data and information passing through its network or any products or services ordered by Customer via its network. The Services, and any information, products or services obtained by Customer through its use of the Services, are provided "AS-IS". **EHC makes no warranties or representations of any nature or description, either express or implied, with respect to the services to be provided hereunder including, without limitation, any warranties of non-infringement, quality, performance, merchantability or fitness for a particular purpose or use. This disclaimer of warranties constitutes an essential part of this agreement.**

**13. Limitation of Liability —**

**(a) Under no circumstances and under no legal theory (tort, contract or otherwise) shall EHC be liable to Customer or any other person or party for damages of any kind or nature including, but not limited to, any direct, indirect, special, incidental, consequential or punitive damages of any character whatsoever, arising out of its provision of the Services**

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**hereunder, or its failure to provide the Services hereunder, including, but not limited to, damages for loss of goodwill, work stoppage, computer failure or malfunction, or losses of data or information due to delays, non-deliveries, misdeliveries or interruptions in service, regardless of the cause therefore.**