



City of Green River City Council Meeting Agenda Documentation

Preparation Date: 4/27/16	Submitting Department: Finance
Meeting Date: 5/3/16	Department Director: Chris Meats
	Presenter: Chris Meats

Subject:

Approval of an Agreement with Vonage Business for Voice Services

Purpose Statement

Approval of an agreement with Vonage Business to setup DID and trunk lines to provide voice services for the City

Background/Alternatives

The City utilizes Century Link for our current voice provider. Switching to Vonage will transfer the City services for voice over to Vonage through our current internet provider the Joint Power Telecom Board. The City already utilizes a VOIP system so the protocol will not change but will allow the City to better use the JPTB bandwidth that is available. This will also allow the City to remove a T-1 line that is dedicated for voice services, thus saving about \$500 a month.

Vonage will also allow the City to have caller ID for City staff so calls from the City will no longer be unknown or unavailable to our citizens.

Attachments

Agreements

Fiscal Impact

The IT Division budgets annually for the City's voice services. This will have a savings of about \$500 a month.

Staff Impact

This agreement will impact all the employees of the City and we would not be able to function without a voice provider.

Legal Review

The agreements have been sent to Legal Counsel for review. The agreement has several items the City generally does not agree too but as Vonage will amend their agreement staff feels the benefits of the agreement will outweigh the additional legal risks.

Suggested Motion

I move to approve a service agreement for Vonage Business for voice services for the City and authorize the Mayor to sign the agreement according to the Sales Order SS019070, the Governing Body hereby finding the commitment of Vonage Business to provide the voice services specified for the term of years specified has been determined to constitute a significant benefit and advantage to the City and the public, in that such services are not readily or economically available to the City in the absence of an extended term contract.



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For Small Business

Terms of Service

🏠 Unified Communications > Terms of Service

Effective Date: January 7, 2016

These Vonage Business Terms of Service (hereinafter referred to as the "Terms" or "Agreement") apply to the use of products or services provided by Vonage Business ("Vonage Business," "Vonage" or "Company") to the person or entity identified in a valid and binding Sales Order (the "Customer") and are an integral part of the agreement between Vonage Business and Customer. The Customer and Vonage Business are sometimes collectively referred to herein as the "Parties," or individually as a "Party." By ordering, purchasing or using the Services, Customer agrees to be bound by these Terms, which among other things, require mandatory arbitration of disputes instead of a jury trial and limit Vonage Business's liability.

PURSUANT TO FCC REQUIREMENTS, VONAGE BUSINESS IS REQUIRED TO ADVISE ITS CUSTOMERS OF ANY LIMITATIONS THAT E911 SERVICE MAY HAVE IN COMPARISON TO TRADITIONAL E911 SERVICE, WHICH ARE SET FORTH AT SECTION 22 BELOW AND IN THE E911 ACKNOWLEDGEMENT.

AGREEMENT

Definitions: The following capitalized terms, as used in this Agreement, shall have the meanings set forth below:

"Affiliate" means, with respect to a party to these Terms, any entity that Controls, is Controlled by or under common Control with such party. **"Control,"** for purposes of this definition, means the direct or indirect ownership or control of more than fifty percent (50%) of the voting equity of the subject entity.

"Applicable Laws" means any and all applicable federal, state or local laws, rules or regulations including applicable restrictions concerning call recording, call monitoring, call interception and/or direct marketing or telemarketing.

"AUP" means the Vonage Business acceptable and reasonable use policy set forth at <https://enterprise.vonage.com/AUP>.

"Customer Data" means any data, information or other materials of any nature whatsoever generated by Customer, or provided to Vonage Business by or through Customer, in the course of implementing or using the Services.

"Customer Equipment" means all equipment owned, leased or otherwise provided by Customer, or which is specifically identified in one or more Sales Orders as Customer Equipment, used in connection with the Services. **"Customer Equipment"** includes equipment sold by Vonage Business to Customer, but does not include Vonage Business Equipment.

"Customer Premises" means the physical location(s) owned or leased by Customer where Services are provided or Vonage Business Owned Equipment will be used or stored.

"E911 Acknowledgement" means the provisions set forth in the Vonage Business E911 Disclosure Notice and Acknowledgement set forth at <https://enterprise.vonage.com/e911> attached to and incorporated by reference into a Sales Order and/or executed by Customer acknowledging Vonage Business's policies regarding the availability and limitations of E911 service.

"Initial Service Term" means the period of time stated in a Sales Order during which Vonage Business will provide Services to Customer.

"Private Circuit" means a telecommunications circuit provided or managed by Vonage Business and used in connection with the Services.

"Renewal Service Term" means a period of time after expiration of the Initial Service Term that is equal to the period of time of the Initial Service Term.

“Sales Order” means a valid and binding agreement for the purchase of Services that has been signed by an authorized representative of Customer and accepted by Vonage Business and shall automatically incorporate these Terms by reference.

“Service” or “Services” means all products or services provided or made available by Vonage Business to Customer that are set forth in a Sales Order.

“Service Date” means the date that Service is installed, activated and available for Customer’s use at a Customer Premises.

“Service Level Agreement” means the terms and conditions that outline Vonage Business’s responsibilities in connection with delivery by Vonage Business to Customer of those Services to which service level commitments apply, as solely determined by Vonage Business.

“Service Term” means the Initial Service Term and all subsequent Renewal Service Terms.

“Software” means any proprietary software (including any documentation relating to such software) owned or licensed by Vonage Business, or which Vonage Business has a right to sublicense under this Agreement, which software is either provided to Customer under this Agreement or is used by Customer in connection with the Services.

“Taxes and Fees” means any taxes and fees arising in any jurisdiction imposed on or incident to the provision, sale or use of Service and Vonage Business Equipment, including value added, sales, use, gross receipts, excise, franchise, public utility or other taxes, fees, duties or surcharges (including universal service, 911 and other regulatory fees and surcharges), and certain recovery fees, whether imposed on or by Vonage Business or a Vonage Business Affiliate.

“Vonage Business” means Vonage Business Inc. or any Affiliate of Vonage Business providing Services to a Customer as identified in a Sales Order.

“Vonage Business Equipment” means all equipment that is used, leased or otherwise provided by Vonage Business in connection with the Services, including phones, routers, switches and battery backup placed on the Customer Premises.

1. TERMS AND POLICIES.

These Terms incorporate and include all additional terms, conditions and policies that are (i) set forth in an addendum, schedule, exhibit or amendment to these Terms, (ii) set forth in an applicable Service Level Agreement, and (iii) set forth at <https://enterprise.vonage.com/>. These Terms supersede and replace all terms and conditions set forth in any documents issued by Customer, including purchase orders and specifications. Vonage Business reserves the right to change any of the Terms at any time, but only on a prospective, not retroactive, basis. Vonage Business will provide Customer thirty (30) days advance notice of changes to the Terms that would have a materially adverse effect on Customer. Notice may be provided by posting the revised or modified Terms to <https://enterprise.vonage.com/terms>, through Customer's invoice or by e-mail to the most recent email address associated with Customer's account. Changes will become effective on the next business day following the 30-day notice period and Customer agrees to be bound by any changes after such 30-day notice period.

2. SALES ORDER.

All Services will be described in a Sales Order, which will set forth as applicable: (i) the price, delivery, installation location(s) and other information about the Services; (ii) Vonage Business Equipment being offered for sale or lease to Customer; and (iii) any associated delivery or installation information. The Sales Order incorporates by reference these Terms, and when executed by Vonage Business and Customer, becomes a binding contract between Vonage Business and Customer. Vonage Business will provide, and Customer will pay for and receive from Vonage Business each Service pursuant to the terms and conditions of each Sales Order. Subject to Vonage Business' right to amend the Terms in Section 1, a Sales Order may only be amended in writing signed by both Customer and Vonage Business.

3. INSTALLATION AND EQUIPMENT.

a. **Permissions and Consents.** Customer shall provide Vonage Business, at no cost to Vonage Business, all permissions, consents or authorizations necessary to install, activate, maintain, inspect, alter, repair and replace the Service and any Vonage Business Equipment, including the right to access and enter Customer's Premises.

b. **Customer Equipment.** Customer understands and acknowledges that installation and delivery of the Services may require the use of certain Customer Equipment and/or Vonage Business Equipment. Customer represents that it owns or otherwise has the right to use the Customer Equipment in connection with the Services. Customer shall be fully responsible for the installation, maintenance, repair and operation of any Customer Equipment and shall ensure the compatibility of any Customer Equipment with Vonage Business Equipment. Customer will not (i)

relocate, rearrange, repair, disconnect or otherwise modify the Service or any Vonage Business Equipment without Vonage Business' prior written consent; or (ii) create or allow any liens or other encumbrances to be placed on any Vonage Business Equipment. Customer will use commercially reasonable efforts to protect and maintain Vonage Business Equipment in a secure location at the Customer Premises within conditions (including room temperature) that are customary and reasonable for such equipment, and shall be fully liable for all costs, charges or expenses associated with damage to or loss of Vonage Business Equipment beyond normal wear and tear. Any Vonage Business Equipment (and any replacements thereof) may be refurbished equipment, so long as the equipment is of good quality and appearance and supports the Services.

c. **Equipment Return.** Upon the termination of this Agreement or any Service, Customer shall securely pack, ship and return to Vonage Business all Vonage Business Equipment at Customer's expense. Vonage Business may invoice Customer, and Customer shall pay, for the full replacement value of any Vonage Business Equipment that has not been timely returned to Vonage Business. In addition, if Customer has not returned the Vonage Business Equipment within ten (10) days after the termination of the applicable Service, then upon not less than twenty four (24) hours' prior notice, Customer will provide access to Vonage Business and/or its agents during normal business hours for the retrieval and removal of Vonage Business Equipment from Customer Premises and Vonage may charge Customer's selected method of payment, and Customer will pay and be liable for up to a one thousand dollar (\$1,000) equipment return fee per Customer location.

d. **Equipment and Data Backup.** As part of the Service installation process, system files on Customer Equipment may be modified. Such modifications may disrupt the normal operations of Customer Equipment, including the possible corruption or loss of data stored on computer(s). Customer understands and acknowledges that installation, use, inspection, alteration, maintenance, repair or removal of the Vonage Business Equipment may result in an interruption to Service or damage to Customer Equipment, software and loss of data. Customer covenants to back-up all existing computer files by copying them to another storage medium prior to the installation of Vonage Business Equipment and Software. Customer acknowledges, understands and accepts the risks of not making such a backup, including the loss of some or all of Customer's software or data, or damage to Customer Equipment. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, VONAGE BUSINESS SHALL HAVE NO LIABILITY FOR ANY DAMAGE TO, LOSS OF OR DESTRUCTION OF CUSTOMER'S EQUIPMENT, PERIPHERALS, SOFTWARE OR DATA.

4. SOFTWARE.

a. **Non-Exclusive License.** If Software is provided by Vonage Business in connection with the Services, Vonage Business grants to Customer a personal, limited, revocable, non-exclusive, non-assignable and non-transferable license to use the Software, in object code form only, solely for the purpose of using the Service. This license will permit such use by Customer and any of its employees or contractors (but only within the scope of their employment or services with Customer) authorized by Customer to use the Service, provided that Customer shall be responsible for all uses of the Service as provided in this Agreement. This license commences upon Vonage Business's acceptance of the Sales Order for the Service and terminates immediately upon the expiration or termination of this Agreement for any reason. Customer shall return or destroy all Software and any related written material, together with any copies, in its possession or under its control promptly upon the expiration or termination of this Agreement for any reason. Any attempt to sublicense, assign or transfer any of the rights, duties or obligations under this license is void and may result in termination by Vonage Business of this Agreement and the license. No other licenses or rights to the Software are granted or implied.

b. **End User Licenses.** Certain Software Vonage Business provides to Customer may contain third-party software ("Third-Party Software"), including open source software. Use of such Third-Party Software may be governed by separate copyright notices and license provisions, which may be found or identified in documentation or on other media delivered with the Third-Party Software and which are incorporated by reference into this license. Notwithstanding any other terms in this Section 4, such provisions shall govern the use of Third-Party Software. Customer agrees to comply with the terms and conditions of all end user license agreements accompanying any Software (including Third-Party Software) or plug-ins to such Software distributed in connection with the Service. All end user licenses shall immediately terminate on the date that the Service expires or this Agreement is terminated.

c. **Copyright / Trademark / Unauthorized Usage of Device, Firmware or Software.** The Service, Vonage Business Equipment and Software and all information, documents and materials on Vonage Business's website(s) are protected by trademark, copyright, patent and other intellectual property laws and international treaty provisions. All websites, website content, corporate names, service marks, trademarks, trade names, logos and domain names of Vonage Business are and shall remain the exclusive property of Vonage Business and/or its Affiliates and nothing in this Agreement shall grant Customer the right or license to use any of the foregoing. Customer agrees that the Vonage Business Equipment is exclusively for use in connection with the Service and that Vonage Business will not provide any

passwords, codes or other information or assistance that would enable Customer to use the Vonage Business Equipment for any other purpose. If Customer decides to use the Service through an interface device not provided by Vonage Business (which Vonage Business reserves the right to prohibit in particular cases or generally), Customer warrants and represents that it possesses all required rights, including software and/or firmware licenses, to use that interface device with the Service and Customer will indemnify, defend and hold harmless Vonage Business from and against any and all liability arising out of Customer's use of such interface device with the Service. Customer may not undertake, cause, permit or authorize the modification, creation of derivative works, or translate, reverse compile, disassemble, hack or reverse engineer, or otherwise attempt to derive the source code from the binary code of the Software.

5. SERVICE TERM AND TERMINATION.

a. **Service Term.** Each Sales Order will set forth the Initial Service Term. In the absence of a specific period of time stated in the Sales Order, the Initial Service Term shall be thirty-six (36) months. The Initial Service Term will begin on the Service Date. Sales Orders which describe delivery of Service to multiple Customer Premises may identify multiple Service Dates and Service Terms. The Initial Service Term will automatically renew for a Renewal Service Term (with automatic renewal of subsequent Renewal Service Terms) unless either Party terminates the applicable Sales Order by giving the other Party written notice of termination not less than ninety (90) days prior to the expiration of the Initial Service Term, or applicable Renewal Service Term, as the case may be. Notwithstanding notice by a Party to terminate this Agreement, Services with a remaining Service Term will remain in effect through the applicable Service Term and the terms and conditions of this Agreement and the applicable Sales Order will continue to apply to such Services. Upon termination of the applicable Service Term, Vonage Business will not be obligated to furnish the Services to Customer; provided, however, if Vonage Business continues to provide Services and Customer accepts and continues to use the Services after termination of the Service Term, such use shall be on a month-to-month basis and Customer shall be obligated to pay for such Services at then-current monthly rates for such Services.

b. **Customer Cancellation and Termination Charges Prior to Service Date.** If Customer cancels all or any part of the Service prior to the Service Date for the applicable Service, except as may be expressly permitted by this Agreement, then Customer's liability for such cancellation shall be an amount equal to: (a) all charges (including applicable taxes) incurred by Vonage Business as a result of such cancellation, including recurring and non-recurring charges, third-party license fees or early termination fees or charges associated with any Private Circuit or other Service; plus

(b) two (2) months of the forecasted monthly recurring charges or monthly commitment level payments for the Service. Vonage Business may automatically charge Customer's selected method of payment or Customer shall pay such cancellation amount immediately upon receipt of an invoice therefore, at Vonage Business's option.

c. Customer Cancellation and Termination Charges After Service Date. Customer may terminate specified Service(s) after the applicable Service Date upon thirty (30) days' written notice to Vonage Business. If Customer does so, or if Service is terminated by Vonage Business hereunder as the result of Customer's default, Customer shall pay Vonage Business a termination charge equal to the sum of: (i) all unpaid amounts for Service actually provided; (ii) 100% of the remaining monthly recurring charges for months 1-12 of the Service Term; (iii) 75% of the remaining monthly recurring charges for month 13 through the end of the Service Term; (iv) if not recovered by the foregoing, any termination liability payable to third parties resulting from the termination and any out of pocket costs of construction to the extent such construction was undertaken to provide Services hereunder; and (v) applicable Taxes and Fees on all of the foregoing.

d. Early Termination Fees and Charges. Customer understands and agrees that Vonage Business will incur substantial losses upon an early termination of Service, which may include: (i) upfront costs from third-party service providers and subcontractors; (ii) commitments to subscription-based services related to the provision of the Services; (iii) allocation of substantial labor force resources to mobilize for the provision of the Services; (iv) substantial opportunity costs and lost profits. Customer acknowledges and agrees that the precise losses incurred by Vonage Business as a result of an early termination are difficult to ascertain and that the early termination charges set forth in this Section 5 are fair and reasonable estimates of Vonage Business's anticipated and actual damages, and not a penalty.

6. BILLING, CREDIT, DEPOSITS AND PAYMENT.

a. Commencement of Billing. Billing will commence on the Service Date and will not be delayed due to Customer's readiness to accept or use the Service. In the event the Service includes a Private Circuit, billing for the Private Circuit will begin on the date the Private Circuit is delivered to any Customer Premises. If Customer notifies Vonage Business within two (2) business days after a Service Date that Service is not functioning substantially in accordance with applicable specifications, with such notice specifying the deficiencies, Vonage Business will work to correct any deficiencies and, subject to the preceding sentence, the Service Date will occur when

such issues have been resolved. If the specified issues were not, in Vonage Business's determination, attributable to Vonage Business, its agents, or contractors, the original Service Date for that Service will remain unchanged.

b. **Information and Installation Responsibilities.** Customer acknowledges and agrees that the Service may be comprised of multiple Private Circuits and/or Services ordered from Vonage Business for installation at one or more designated Customer Premises. Customer is obligated to timely provide to Vonage Business access to the location where the Service is to be installed, as well as any relevant information and documentation.

c. **Customer Address Accuracy.** Customer shall provide Vonage Business with the correct address at which Services will be provided. Vonage Business relies on the accuracy and completeness of such information to determine and invoice applicable taxes, fees, surcharges and assessments. If Customer does not provide a valid address, Customer will be responsible for any resulting taxes, fees, surcharges, assessments and penalties.

d. **Expedited Service Date.** Customer may request an expedited Service Date and Vonage Business will notify Customer of any additional charges required to process the request for an expedited Service Date, which shall include, but not be limited to, any third party charges incurred by Vonage Business to expedite the Service ("Expedite Charges"). If Vonage Business accepts the expedited Service Date request, Customer will be obligated to pay the agreed upon Expedite Charges as set forth on the Sales Order.

e. **Credit Approval and Deposits.** Customer agrees to supply Vonage Business with the information necessary to verify Customer's credit rating prior to providing Customer with access to the Services or Equipment. Vonage Business may also, during the Service Term of this Agreement, update its information regarding Customer's credit rating without notice to or permission from Customer. Customer authorizes Vonage Business to make inquiries and to receive information about Customer's credit experience from others, enter this information in Customer's file, and disclose such information concerning Customer to appropriate third parties for reasonable business purposes. Vonage Business reserves the right any time during the Service Term, in its sole discretion, to refuse to provide Service based upon lack of Customer's creditworthiness, or in the alternative to require a security deposit that will be returned to Customer, without interest thereon, upon the expiration or

termination of this Agreement or other form of secure payment authorization, such as auto-payment. Customer authorizes Vonage Business to offset any amounts due to Vonage Business against the security deposit.

f. Payment of Invoices and Disputes. Invoices are delivered monthly. Fixed charges are billed in advance and variable, usage-based charges are billed in arrears. Billing for partial months is prorated. Payment is due upon receipt of invoice and in no event later than thirty (30) days after the invoice date. Charges for installation of Services shall be as stated in the Sales Order and shall be payable along with Customer's initial invoice. Past due amounts bear interest at the lower of 1.5% per month or the maximum rate allowed by law. All fees and charges (together, "Service Fees") and any other amounts due to Vonage Business may, at Customer's direction, be charged to Customer's Visa, MasterCard, American Express or other valid credit or debit card, and/or electronically debited to Customer's bank account, in which case Customer hereby authorizes Vonage Business to charge Customer's credit/debit card and/or to electronically debit Customer's bank account for all such fees, charges (including termination-related charges), taxes and payment transaction processing costs. Pre-paid cards are not accepted. If Customer reasonably disputes an invoice, Customer must pay the undisputed amount and submit written notice of the disputed amount (with details of the nature of the dispute and the Services and invoice(s) disputed) to the address below on or before the due date. In the event Customer intends to dispute amounts already paid in full, Customer must submit notice of such dispute in writing within ninety (90) days from the date of the invoice (such date at the end of such period being the "Dispute Due Date"). After receipt of notice of the dispute, Vonage Business shall undertake an investigation of the dispute, so long as Customer has not waived its rights pursuant to this paragraph to make the dispute. At the conclusion of the investigation, Vonage Business will notify Customer of any amount determined by Vonage Business to be correctly charged and such amount will become immediately due and payable together with interest from the date originally due. If the dispute notice is not sent by the Dispute Due Date, Customer waives all rights to dispute the applicable charges, unless otherwise provided by law. All billing disputes must be sent to Vonage Business at bsgbilling@vonage.com. If Customer does not deliver full payment for all undisputed billed charges by the due date, Vonage Business may impose late payment fees and/or restrict, suspend or terminate use of the Services or Equipment. Returned checks are subject to imposition of returned check fees and charges. Customer shall also reimburse Vonage Business for all reasonable attorneys' fees and other costs incurred by Vonage Business relating to collecting delinquent payments or Customer's non-payment breach of this Agreement. Vonage Business may also apply any deposits or other payments made by Customer. If Vonage Business applies any portion of a security deposit, Customer shall, within five (5) days following written notice thereof

from Vonage Business, replenish the security deposit by the amount so applied by Vonage Business. If Vonage Business restricts, suspends or terminates Customer's Services, Vonage Business may, at its sole option, choose to restore Customer's Services prior to the payment of all charges due. Such restoration shall not be construed as a waiver of Vonage Business's right to (i) receive full payment for all charges due or (ii) again restrict, suspend or terminate the Services at any time for non-payment of any unpaid charges. The failure of Vonage Business to restrict, suspend or terminate the Services for non-payment of any charges shall not operate as a waiver or estoppel to restrict, suspend or terminate Services of such account for non-payment of current or future charges.

g. Additional, Unrelated Charges. The Services may allow Customer to access the Internet, on-line services and other information. Customer acknowledges that Customer may incur charges while using the Service in addition to those billed by Vonage Business. For example, Customer may incur charges as a result of accessing certain on-line services or purchasing or subscribing to certain other offerings. Customer agrees that all such charges, including all applicable taxes, are the sole responsibility of Customer, and Customer covenants to timely pay all such charges.

7. TAXES AND FEES.

Prices for Services do not include, and Customer is responsible for, all Taxes and Fees. Customer may present Vonage Business with an exemption certificate eliminating Customer's and Vonage Business's liability to pay certain Taxes and Fees. Vonage Business may charge a regulatory recovery fee to offset costs incurred by Vonage Business in complying with inquiries and obligations imposed by federal, state and municipal regulatory bodies/governments and related legal and billing expenses. The regulatory recovery fee may also include recovery of costs for legal, intellectual property, cybersecurity, compliance and other related expenses, including those related to number portability, customer privacy protection and anti-fraud protection. The regulatory recovery fee is not a tax or charge required or assessed by any government authority and may be recovered by Vonage Business through imposition of a surcharge on cost of the Service.

8. REGULATORY AND LEGAL CHANGES.

Vonage Business may discontinue, limit, modify any Service, or impose additional requirements to the provision of any Service, as may be reasonably required to comply with any Applicable Laws. If changes in Applicable Laws materially and adversely affect delivery of Service (including the economic viability thereof), the Parties will use good faith efforts to negotiate appropriate changes to this Agreement. If the parties cannot reach agreement within thirty (30) days after Vonage Business's notice requesting renegotiation, Vonage Business may, on a

prospective basis after such 30-day period, pass any increased costs resulting from such changes on to Customer; provided, however, that Vonage Business shall provide Customer written notice of any increased costs or charges and Customer may upon notice given to Vonage Business within sixty (60) days after delivery of the notice of the increased charges terminate Service without liability for an early termination fee or charge. If Customer does not terminate Service within such 60-day period, Customer's termination right shall expire and Customer shall be obligated to accept and pay for the Service until expiration or termination of the Service Term.

9. PROHIBITED USE OF THE SERVICE.

Customer shall use the Services only in a manner that fully complies with all Applicable Laws and the terms and conditions of this Agreement, including the AUP. Any use of the Services or any other action in violation of this Section 9 or that causes a disruption in the Vonage Business network integrity, or in Vonage Business's determination threatens or compromises the security of Vonage Business, its vendors, its other customers or the Services whether directly or indirectly, is strictly prohibited and permits Vonage Business to suspend or terminate the Services without prior notice at the sole discretion of Vonage Business and further permits Vonage Business to disclose any information, including Customer Confidential Information, to necessary authorities or third parties. Vonage Business shall have the right, in its sole, but reasonably exercised discretion, not to accept, transmit or deliver any messages or content that it reasonably believes contains inappropriate content or that is, or could reasonably become, the subject of any legal, regulatory, or other governmental proceeding or process, including a law enforcement proceeding, process, or inquiry. Any use found to be inconsistent with the restrictions of this Section 9 may result in termination of the Services without prejudice to any other Vonage Business rights or remedies.

10. FRAUDULENT USE OF SERVICE.

Customer shall bear the risk of loss and assume all liability arising from any prohibited, unauthorized or fraudulent usage of Services. Any such prohibited, unauthorized or fraudulent use shall be deemed a material breach of the Agreement by Customer. Customer is responsible to secure all credentials used to access the Services, including credentials used by telephones or softphones and credentials used by end users or administrators, as well as the media access control (MAC) address of telephones used by Customer. Customer acknowledges that placing telephones on a publicly accessible internet protocol address or a publicly accessible network will subject the Customer to a higher level of risk for fraudulent activity. Customer shall not be excused from paying for Services or any portion thereof on the basis that fraudulent calls, and any charges associated with such calls (e.g. long distance charges), comprised a corresponding portion of the

Services. In the event Vonage Business discovers fraudulent calls being made, Customer consents to Vonage Business taking actions it deems reasonably necessary (including blocking access to particular calling numbers or geographic areas), without notice to Customer, to prevent such calls from taking place. Customer acknowledges and agrees that Vonage Business: (a) is under no obligation to investigate the authenticity of calls charged to Customer's account, (b) is under no obligation to take action to prevent such calls from being made, and (c) is not liable for any fraudulent calls processed by Vonage Business and billed to Customer's account.

11. NO RESALE.

Customer represents and warrants that it will be the ultimate end user of the Service. Customer shall not in any way resell, license, permit or otherwise allow any third party to use the Services without receiving Vonage Business's prior written consent, which may be withheld or conditioned in Vonage Business's sole discretion.

12. THIRD PARTY NETWORKS.

In some cases, Vonage Business may utilize the public Internet and third party networks outside of its control in conjunction with the provision and maintenance of the Services and its websites. In such cases, Vonage Business makes no representation that the Internet or any such third party network will adequately secure or protect the privacy of Customer or any end user's personal information, and Vonage Business expressly denies any associated liability. Actions or inactions caused by these third party networks can result in situations in which Vonage Business customers' connections may be impaired or disrupted. Although Vonage Business will use commercially reasonable efforts to remedy or avoid such events, Vonage Business expressly disclaims warranties with respect to these third party networks or any disruptions that may occur thereon.

13. REQUIRED MAINTENANCE.

Vonage Business reserves the right to perform repair and maintenance on or upgrade, update or enhance (collectively, the "Maintenance") its network, infrastructure, website(s), Services and Vonage Business Equipment with or without prior notice or liability to Customer, even if the Maintenance causes a partial or full disruption of the Services; provided, however, and subject to Vonage Business's business needs, Vonage Business shall use commercially reasonable efforts to perform the Maintenance in a manner so as to avoid unduly interfering with Customer's use of the Services, including by providing reasonable commercial notice where feasible.

14. VOICE-TO-TEXT AND TEXT-TO-VOICE LIMITATIONS.

Certain Vonage Business Services may provide a function that allows voicemails to be converted to text and vice-versa. Customer understands and agrees that Vonage Business's voice-to-text ("VTT") and text-to-voice ("TTV") features may not accurately transcribe voicemails or articulate text messages, respectively. Customer is solely responsible for checking the original message and verifying the accuracy of the message when using any VTT or TTV features. Vonage Business expressly disclaims all liability with respect to the conversion of voicemails to text or vice-versa.

15. SUPPORT AND SERVICE LEVEL COMMITMENTS.

Customer will timely report any issues, trouble or problems affecting Service to Vonage Business using a Customer-initiated trouble ticket (a "Trouble Ticket"). Trouble Ticket procedures and additional information for Vonage Business support can be found at <https://enterprise.vonage.com/support>. Calls to and from Vonage Business customer service, sales or other representatives may be recorded and/or monitored for quality assurance and training purposes and by speaking with such Vonage Business representatives, Customer consents to such recording and/or monitoring. If Vonage Business does not meet a performance or other service level commitment set forth in an applicable Service Level Agreement, and upon Customer's timely request submitted in accordance with this Agreement or the applicable Service Level Agreement, a service credit will be issued to Customer as stated in the applicable Service Level Agreement. Customer's sole remedies for any non-performance, outages, failures to deliver or defects in Service are set forth in the applicable Service Level Agreement and these Terms.

16. CUSTOMER DATA; SUGGESTIONS AND FEEDBACK.

Customer hereby grants Vonage Business a non-exclusive, non-transferable (except in connection with any assignment of this Agreement) license to copy, store, record, transmit, display, view, print, and use Customer Data, solely to the extent necessary to provide the Services to Customer. In the event that Customer provides Vonage Business with suggestions, enhancement requests, recommendations, proposals, documents, or other feedback with respect to the Services or Software (collectively, "Suggestions"), Customer grants Vonage Business and its Affiliates a royalty-free, worldwide, irrevocable, perpetual license to use, modify, and distribute such Suggestions in connection with efforts to improve, enhance or modify the Services or Software without compensation or attribution to Customer of any kind.

17. DEFAULT AND REMEDIES.

a. **Customer Default.** If Customer either (a) fails to make any payment when due and such failure continues for five (5) business days after written notice from Vonage Business, or (b) fails to observe or perform any other material term of this Agreement and such failure continues for thirty (30) days after written notice from Vonage Business, then Vonage

Business may elect to: (i) terminate this Agreement and/or any Sales Order, in whole or in part; (ii) immediately suspend Customer's Service, in whole or in part; or (iii) pursue all remedies Vonage Business may have at law or in equity.

b. **Suspension of Services.** Notwithstanding any other provision of this Agreement, Vonage Business may suspend Customer's right to access or use any portion or all of the Service immediately and without liability to Customer in any of the following circumstances: (i) Customer's use of the Service violates Applicable Laws or the AUP; (ii) Vonage Business is legally required to suspend or terminate Service; (iii) Customer's use of the Service poses a security risk to the Service or any third party or may subject Vonage Business or any third party to liability; or (iv) the occurrence or threat of any other event or circumstance for which Vonage Business reasonably believes that suspension of Service is necessary to protect the Vonage Business (or other third-party) network, systems or customers.

c. **Vonage Business Default.** If Vonage Business fails to observe or perform any material term of this Agreement, other than non-performance under or failure to comply with any Service Level Agreement, Customer may terminate any applicable Sales Order only after Customer has delivered written notice of such failure to Vonage Business, such notice to contain reasonable detail describing any breach, and Vonage Business has failed to remedy such failure within thirty (30) business days of its receipt of Customer's written notice. In the event such failure is not capable of cure within the 30-day period, the time for Vonage Business to cure will be extended to sixty (60) business days from the date that Vonage Business received notice of such breach so long as Vonage Business is diligently attempting to remedy such breach during that period.

18. WARRANTY DISCLAIMER.

VONAGE BUSINESS PROVIDES THE SERVICES, EQUIPMENT AND SOFTWARE ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTY OR REPRESENTATION OF ANY KIND (EXCEPT FOR ANY THIRD PARTY MANUFACTURER WARRANTIES THAT MAY BE APPLICABLE TO EQUIPMENT PURCHASED BY CUSTOMER FROM VONAGE BUSINESS), WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. VONAGE BUSINESS MAKES NO WARRANTY THAT THE SERVICES WILL MEET CUSTOMER REQUIREMENTS, SPECIFICATIONS, EXPECTATIONS OR THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, ERROR-FREE, THAT ANY DEFECTS IN THE SERVICES WILL BE CORRECTED, THAT THE SERVICES WILL OPERATE IN COMBINATION WITH CUSTOMER CONTENT, CUSTOMER APPLICATIONS, OR WITH ANY OTHER

HARDWARE, SOFTWARE, SYSTEMS OR DATA NOT PROVIDED BY VONAGE. CUSTOMER ACKNOWLEDGES THAT VONAGE DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. VONAGE BUSINESS IS NOT RESPONSIBLE FOR MESSAGES OR INFORMATION LOST OR MISDIRECTED DUE TO INTERRUPTIONS OR FLUCTUATIONS IN THE SERVICES OR THE INTERNET IN GENERAL, OR FOR ANY ISSUES RELATED TO THE PERFORMANCE, USE, OPERATION OR SECURITY OF THE SERVICES THAT ARISE FROM CUSTOMER'S USE, CUSTOMER CONTENT, CUSTOMER APPLICATIONS, OR THIRD PARTY CONTENT. VONAGE DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES REGARDING THE RELIABILITY, ACCURACY, COMPLETENESS, CORRECTNESS OR USEFULNESS OF THIRD PARTY CONTENT. TO THE EXTENT THAT VONAGE BUSINESS CANNOT DISCLAIM ANY WARRANTIES IN CERTAIN JURISDICTIONS, THE SCOPE AND DURATION OF SUCH WARRANTY WILL BE THE MINIMUM PERMITTED UNDER SUCH LAW. ALTHOUGH REASONABLE EFFORTS ARE MADE TO PROVIDE SECURITY FOR VOICEMAILS AND FAX TRANSMISSIONS, VONAGE BUSINESS MAKES NO GUARANTEES OR WARRANTIES OF SECURITY.

19. LIMITATION OF LIABILITY.

NEITHER VONAGE BUSINESS, NOR ITS AFFILIATES, VENDORS, SUPPLIERS, DISTRIBUTORS, CHANNEL AND OTHER MARKETING PARTNERS OR OTHER REPRESENTATIVES SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, REPLACEMENT COSTS, OR ANY LOSS OF REVENUE OR PROFITS, CONTENT, DATA, OR DATA USE, EVEN IF VONAGE BUSINESS HAS BEEN INFORMED IN ADVANCE OF SUCH DAMAGES OR SUCH DAMAGES COULD HAVE REASONABLY BEEN FORESEEN BY VONAGE BUSINESS. VONAGE BUSINESS'S AGGREGATE LIABILITY FOR ALL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT, OR OTHERWISE, SHALL IN NO EVENT EXCEED THE TOTAL AMOUNTS ACTUALLY PAID TO VONAGE BUSINESS UNDER THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO A CLAIM SUBJECT TO THIS SECTION 19. THE PARTIES ACKNOWLEDGE AND ACCEPT THE REASONABLENESS OF THE DISCLAIMERS AND LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION 19.

20. INDEMNIFICATION.

Customer agrees to defend, indemnify and hold harmless Vonage Business from and against any loss, damage or costs (including reasonable attorney's fees) incurred in connection with claims made or brought against Vonage Business by a third party arising from or relating to:

(i) any act, error, omission, fault, negligence, or misconduct of Customer or any user of the Services, Software or Vonage Business Equipment, whether authorized or unauthorized by Customer; (ii) Customer's breach of any obligation, warranty, representation, or covenant of this Agreement or the AUP; (iii) any claim by any employee or invitee of Customer or user other than a claim based on the gross negligence or willful misconduct of Vonage Business; (iv) any claim by any customer of Customer, end user or other third party relating to, or arising from, Customer Data or Customer's use of the Services, Software or Vonage Business Equipment; or (v) violation of any Applicable Laws by Customer or any Customer employee, contractor or agent.

21. CONFIDENTIALITY.

a. Confidential Information. "Confidential Information" means all nonpublic information relating to a Party or its Affiliates that (i) if provided in writing, is marked or labeled as confidential or proprietary, or (ii) if provided verbally, is designated as confidential at the time of disclosure, or (iii) even if not so marked, labeled or identified, given the nature of the information or the circumstances surrounding its disclosure, reasonably should be considered as confidential. Confidential Information includes, without limitation, all nonpublic information relating to (i) a Party's or its Affiliates' technology, customers, employees, business plans, agreements, finances and other business affairs, (ii) the Vonage Business network or service delivery platform, and (iii) the terms of any Sales Order. Confidential Information does not include any information that (i) has become publicly available without breach of this Agreement, (ii) was known to the Party receiving Confidential Information under this Agreement (the "Receiving Party") at the time of its receipt from the Party disclosing the Confidential Information (the "Disclosing Party") or its Affiliates as shown by documentation reasonably acceptable to Disclosing Party, (iii) is received from a third party who did not acquire or disclose such information by a wrongful or tortious act, or (iv) was independently developed by the Receiving Party without use of any Confidential Information as shown by documentation reasonably acceptable to Disclosing Party.

b. Non-Use; Non-Disclosure. Each Party hereby agrees to hold Confidential Information in strict confidence and shall, in any case, protect such Confidential Information with no less diligence than that with which it protects its own confidential or proprietary information of a similar nature. The Receiving Party agrees not to use any Confidential Information of the Disclosing Party for any purpose unrelated to the Services. Each Party may disclose the Confidential Information of the other Party on a "need to know basis" and then only to its and its Affiliates' directors, officers, advisors, employees and other legal, business or financial partners or representatives; provided that all such persons are subject to written confidentiality agreements which contain provisions which are no less restrictive than the provisions of this Section 21. In addition, Vonage Business may disclose this Agreement under a comparable non-disclosure agreement in response to a third party due diligence request supporting a financing or non-ordinary course of business corporate transaction.

c. **Compelled Disclosure.** If the Receiving Party is legally compelled by any means (including deposition, interrogatory, request for documents, subpoena, civil or regulatory investigative demand or similar process) to disclose Confidential Information of the Disclosing Party, subject to applicable laws, the Receiving Party must provide the Disclosing Party with prompt written notice of such legal requirement in order to allow the Disclosing Party to seek a protective order or other appropriate remedy or waive compliance with this Section 21.

d. **Return or Destruction.** Upon the termination or expiration of this Agreement, or at any time upon the request of the Disclosing Party, the Receiving Party shall, at the Disclosing Party's option, return or destroy (and certify as to such destruction) all Confidential Information of the Disclosing Party in its control or possession, other than copies which the Receiving Party may be required to maintain under applicable law or regulation.

22. EMERGENCY 911 SERVICES.

By using the Service or Vonage Business Equipment, Customer acknowledges the limitations of Vonage Business E911 services as described in the E911 Acknowledgement, as well as those set forth in this Section 22. Customer is advised to thoroughly read and understand the E911 Acknowledgement and the options available. Customer acknowledges that it has received the E911 Acknowledgement and has read, understands and agrees to the terms and conditions of the E911 Acknowledgement, and assumes the risks associated with the Vonage Business E911 service limitations.

23. LOCAL NUMBER PORTABILITY.

a. **Number Transfer on Service Activation.** In the event Customer is not utilizing a new phone number for the Services, but rather is transferring an existing phone number (s) which currently is subscribed to a carrier other than Vonage Business for local, long distance and international telephone services, to Vonage Business, the terms and conditions of this Section 23 shall apply:

i. Customer hereby authorizes Vonage Business to process Customer's order for Services and to notify Customer's current local telephone company or other service provider of its decision to switch all local, local toll and long distance services to Vonage Business, and represents and warrants that Customer is authorized to take this action;

ii. Customer agrees and acknowledges that if the Vonage Business Equipment is set up prior to the date that the number switch becomes effective ("Port Effective Date"), Customer may only be able to make outgoing calls over the phone connected to the Vonage Business Equipment. In such event, Customer should keep another phone connected to an existing

phone extension at its service location to receive incoming calls until the Port Effective Date, after which Customer will be able to both make and receive calls using the Service. Customer agrees and acknowledges that if its Vonage Business Equipment is not yet activated as of the Port Effective Date, its existing phone service for the number being transferred may be disconnected and Customer may have no service for that line. Therefore, to avoid an interruption in Customer's phone service, Vonage Business Equipment must be installed prior to, or on, the Port Effective Date. An estimate of the Port Effective Date will be sent to Customer via e-mail by Vonage Business following completion of the ordering process.

b. **Number Transfer on Service Termination.** Vonage Business or its providers may receive requests from other telephony providers ("Requesting Party") acting as agents on Customer's behalf to port a telephone number currently assigned to Customer to a third party provider ("Port-Out"). Vonage Business will support all such requests and will cooperate with the Requesting Party to perform any Port-Out in accordance with the Requesting Party's reasonable directions and Vonage Business's or its vendors' standard operating procedures. Customer will be responsible for all monthly, usage and disconnect fees associated with Service until the Port-Out date of completion or last date of the service period, whichever comes last. Vonage Business assumes no liability for costs associated with any numbers that cannot be ported or that Customer chooses not to port.

24. GENERAL.

a. **Assignment.** This Agreement inures to and is binding upon the Parties' successors and permitted assignees. Customer shall not assign this Agreement without Vonage Business's prior written consent, not to be unreasonably conditioned, withheld or delayed; provided that Customer may, without consent, but with reasonable prior written notice, assign its rights and obligations hereunder to any parent, affiliate or subsidiary of Customer or pursuant to any merger, acquisition, reorganization, sale or transfer of all or substantially all its assets; provided, however, that any proposed assignee shall be at least as creditworthy as Customer (as reasonably determined by Vonage Business), shall agree in advance and in writing to assume and be bound by all provisions of this Agreement, and shall deliver to Vonage Business fully-executed documents reasonably acceptable to Vonage Business establishing the terms of such an assignment. Any assignment by Customer other than as permitted by this Section 24(a) shall be void and of no force or effect.

b. **Force Majeure.** Neither Party is liable for any failure of performance (other than for delay or performance in the payment of money due and payable hereunder) to the extent such failure is due to any cause or causes beyond such Party's reasonable control, including acts of God, fire, explosion, vandalism, cable cut, adverse weather conditions, governmental action, acts of terrorism or strikes and similar labor difficulties. Either Party's invocation of this clause will not relieve Customer of its obligation to pay for any Services actually

provided or permits Customer to terminate any Services except as expressly provided herein. In the event such force majeure event prevents the availability or material use of the affected portion of Services and such event continues for more than thirty (30) consecutive days, either Party may terminate the affected portion of the Services without liability.

c. **Intellectual Property and Publicity.** Except as explicitly granted herein, neither Party is granted a license or other right (express, implied or otherwise) to use any trademarks, copyrights, service marks, logos, trade names, patents, trade secrets or other form of intellectual property of the other Party or its affiliates without the express prior written authorization of the other Party. Customer will not issue any press release or other public statement relating to this Agreement, except as may be required by law or agreed by Vonage Business in a writing signed by an authorized representative of Vonage Business's Corporate Communications department. Customer agrees that Vonage Business may identify Customer using its name, trademarks and/or logos in its marketing collateral, presentations and websites, provided that Customer may revoke such right with written notice to Vonage Business at any time.

d. **Nonexclusive.** This Agreement is non-exclusive. Nothing in this Agreement prevents either Party from entering into similar arrangements with other persons or entities.

e. **Notices.** Except as otherwise provided in this Agreement,

i. **To Customer:** In the event Vonage Business is required or desires to provide Customer with notice under this Agreement, it will provide electronic notice to the e-mail address on file. In the event Customer changes its e-mail address for notice purposes, Customer shall advise Vonage Business immediately in writing. Customer hereby agrees to electronic delivery of all required notifications, including invoices, unless otherwise expressly provided herein.

ii. **To Vonage Business:** Any notice required or given under this Agreement to Vonage Business (except for billing disputes as described in Section 6) will be in writing and delivered to Vonage Business as follows:

Vonage Business
Attn: Legal Department
7900 West Park Drive, Suite A-315
McLean, VA 22102

And to:

Vonage Business Client Services
Attn: Vice President Operations
7900 West Park Drive, Suite A-315
McLean, VA 22102

Copies of notices shall be sent via fax or e-mail (which shall not constitute formal notice) to:

Office of the Chief Legal Officer
Vonage Business
Facsimile: 1.732.202.5221
E-mail: VonageBusNotices@vonage.com

Such address and contact information may be changed by either Party by prior written notice to the other Party in accordance with this paragraph. A notice will be deemed to be duly given (i) on the date of delivery if personally delivered by hand or by a nationally recognized overnight express courier, or (ii) upon the third day after such notice is deposited in the United States mail, if mailed by registered or certified mail, postage prepaid, return receipt requested. For clarity, e-mail or fax notices are informational only and shall not constitute formal notice.

f. **Facsimile and Electronic Transmission; Counterparts.** Sales Orders, and other documents that may be executed in connection with the Services (collectively “Service Documentation”), may be executed and delivered by facsimile or electronic transmission, and upon receipt, such transmission shall be deemed the delivery of an original. Service Documentation may be executed in several counterparts, each of which when executed shall be deemed to be an original, and such counterparts shall each constitute one and the same instrument.

g. **Electronic Communications and Consent to use of Electronic Signatures and Records.** By ordering, purchasing or using the Services, Customer agrees that Vonage Business may provide to Customer by use of electronic communications any required notices, agreements and other information concerning Vonage Business, including changes to these Terms. In addition, by clicking “I Agree” or “I Accept” (or similar) anywhere on a Vonage Business website or webpage Customer agrees and acknowledges to conduct business electronically and be bound by the applicable agreement, document or transaction.

h. **Basis of Bargain; Failure of Essential Purpose.** Customer acknowledges and agrees that Vonage Business has established its prices and entered into this Agreement in reliance upon the limitations and exclusions of liability and the warranty disclaimers set forth in this Agreement, and that they are an essential basis of the bargain

between the parties and are material terms of this Agreement. The Parties agree that the limitations and exclusions of liability and warranty disclaimers specified in this Agreement will survive and apply even if found to have failed their essential purpose, and Customer hereby waives its right to contest the enforceability of any provision of this Agreement by reason of such failure.

i. **No Commitments.** Customer represents that Vonage Business has made no commitments or promises orally or in writing with respect to delivery of any future features or functions. In relation to any future features or functions, all presentations, RFP responses, and/or product roadmap documents, information or discussions, either prior to or following the date herein, are informational only, and are not the basis for, nor part of this Agreement or any Sales Order. Vonage Business has no obligation to provide any future releases or upgrades or any features, enhancements or functions, unless specifically agreed to by both Parties. Customer acknowledges that its purchasing decisions are not based upon any future features or functions.

j. **Survival, Modification.** The terms and conditions of this Agreement will survive the expiration or other termination of this Agreement to the fullest extent necessary for their enforcement and for the realization of the benefit thereof by the Party in whose favor they operate. Except for the rights of Vonage Business in Section 1, all modifications, amendments, supplements to or waivers of this Agreement must be in writing and executed by authorized representatives of both parties.

k. **Relationship of the Parties.** The relationship of Vonage Business and Customer shall not be that of partners, agents or joint venturers for one another, and nothing contained in the Agreement shall be deemed to constitute a partnership or agency agreement between the Parties for any purposes. Vonage Business and Customer shall be independent parties and shall discharge their contractual obligations at their own risk subject to the terms of this Agreement.

l. **Third Party Services.** Vonage Business may use or rely on one or more licensors, service providers, and/or equipment providers or equipment lessors whose products, equipment and/or services are provided in conjunction with, or incorporated into, the Services and/or Vonage Business Equipment (“Third-Party Services”). Each provider of such Third-Party Services (a “Third-Party Service Provider”) is expressly made a third party beneficiary under the applicable Sales Orders and this Agreement and shall have the right to enforce the terms and conditions of the Sales Orders and this Agreement respecting any terms affecting such Third-Party Service Provider as if such Third-Party Service Provider were a party to the Sales Order and/or this Agreement. Further, Third-Party Services may be governed by

separate legal terms and conditions, which may be found or identified in documentation or on other media delivered with the Third-Party Services and which are incorporated by reference into these Terms and shall govern the use of Third-Party Services. Customer agrees to comply with such terms and conditions of all Third-Party Services and Third-Party Service Providers. Any non-compliance with terms and conditions of Third Party Service Providers shall be considered non-compliance with these Terms.

m. **Waiver.** The failure of either Party to enforce compliance with a provision of this Agreement shall not be construed as a general waiver of such provision or any other provision.

n. **Severability.** If any term, covenant or condition contained in this Agreement or any Sales Order is, to any extent, held invalid or unenforceable in any respect under the laws governing this Agreement, the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

o. **Governing Law.** The laws of the State of Delaware will govern this Agreement, without reference to its principles of conflicts of laws. Because this agreement is a transaction in interstate commerce, the Federal Arbitration Act (“FAA”), and not state arbitration law, shall govern the interpretation and enforcement of the arbitration provision in Section 25, below.

p. **Entire Agreement.** This Agreement, together with the applicable Sales Order(s), supersedes any prior or contemporaneous agreements, statements, understandings, writings, commitments, or representations concerning its subject matter, as between Customer and Vonage Business.

q. **Export Controls.** Customer agrees to comply fully with all relevant export laws and regulations of the United States, including the U.S. Export Administration Regulations, administered by the Department of Commerce. Customer also expressly agrees that it shall not export, directly or indirectly, re-export, divert, or transfer any portion of Vonage Business Service, Equipment or Software to any destination, company, or person restricted or prohibited by U.S. export controls.

25. DISPUTE RESOLUTION; BINDING ARBITRATION.

a. **Management Resolution.** In the event either Party has a dispute or claim against the other Party (except with respect to invoice disputes which are addressed in Section 6), the disputing Party shall provide written notice to the other Party in accordance with the provisions of Section 24(e), above. The Parties agree to escalate disputes to their respective management, who will use commercially reasonable efforts to resolve the dispute by consulting with each other in good faith to reach an equitable

resolution satisfactory to both parties within thirty (30) days of the receipt of notice. Neither Party shall pursue or commence proceedings regarding the dispute in any court, administrative arbitral or other adjudicative body prior to engaging in such consultations and negotiations. In the event the dispute is not resolved, and the claim falls within the dollar limit allowed by applicable state law along with any other jurisdictional requirements, either Party may seek to have that dispute resolved in small claims court in any state in which Services are provided to the Customer by Vonage Business.

b. **Binding Arbitration.** If negotiations fail to resolve the dispute within thirty (30) calendar days, and/or small claims court is not a valid option due to the size or nature of the claim, all disputed claims (except for claims relating to intellectual property rights, indemnity, or confidentiality obligations, fraudulent or unauthorized use, theft, or piracy of service, or matters relating to injunctions or other equitable relief) must be resolved by binding arbitration before a single arbitrator in accordance with the rules of the American Arbitration Association (“AAA”) then in effect. This agreement to arbitrate is intended to be given the broadest possible meaning under Applicable Laws. The initiation of an arbitration dispute shall not otherwise prevent Vonage Business or Customer from terminating Services in accordance with the Terms.

c. **Notice.** A Party who intends to seek arbitration must first send to the other Party a written notice of dispute, which must describe the nature and basis of the dispute and set forth the specific relief sought. If an agreement to resolve the dispute is not reached, an arbitration proceeding may be commenced by downloading or copying a form from the AAA website (<http://www.adr.org>). The amount of any settlement offer made by Customer or Vonage Business shall not be disclosed to the arbitrator until after the arbitrator determines the amount, if any, to which Customer or Vonage Business is entitled.

d. **Location.** All hearings conducted as part of the arbitration shall take place at a location, convenient to Customer, based upon Customer’s billing address. If Customer claim is for \$10,000 or less, Customer or Vonage may request that the arbitration be conducted solely on the basis of documents submitted to the arbitrator or through a telephonic hearing. If either party objects, then the arbitrator shall proceed to an in-person hearing as established by the AAA Rules. If Customer claim is in excess of \$10,000, the right to a hearing will be determined by the AAA rules.

e. **Costs.** Each Party will be responsible for its own costs incurred in the arbitration, including arbitration filing fees and attorneys' or expert witness fees. The arbitrator's costs and expenses shall be shared equally between the Parties. If a Party elects to appeal an award, the prevailing Party in the appeal shall be entitled to recover all reasonable attorneys' fees incurred in that appeal.

f. **Waiver of Jury Trial.** Customer and Vonage Business agree that, by entering into this agreement, Customer and Vonage Business are waiving the right to a trial by jury. Customer and Vonage Business agree that the arbitrator may award relief only in favor of the individual Party seeking relief and only to the extent necessary to provide relief warranted by that Party's individual claim. The arbitrator may not award special, indirect, punitive, incidental or consequential damages. CUSTOMER AND VONAGE BUSINESS AGREE THAT CUSTOMER MAY BRING CLAIMS AGAINST VONAGE BUSINESS ONLY IN CUSTOMER'S INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING AND THAT CUSTOMER EXPRESSLY WAIVES ITS RIGHT TO BRING A CLASS ACTION SUIT. Customer and Vonage Business agree that the arbitrator may not consolidate more than one person's or entity's claims, and may not otherwise preside over any form of a representative or class proceeding.

Ver. E1.0, Effective January 7, 2016

Solutions

Solutions Overview

Cloud Services

Plans

Support

Phones

Partners

Channel Partner Program

Why Vonage Business

Request a Quote

Careers



1-877-862-2562

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Customer Name: City of Greenriver
Billing Address: 50 East 2nd
North Green River, WY, 82935
Contact Name: Brandon Corthell
Phone: (307) 872-0500
Email: bcorthell@cityofgreenriver.org
Fax:
Service Address: City Of Greenriver
50 East 2nd
North Green River, WY, 82935

Customer Sales Order

Created Date: 3/17/2016
Expiration Date: 4/17/2016
Sales Order #: SS019070
Prepared By: Greg Slater
Phone:
Fax:
Email: gregory.slater@vonage.com
Initial Service 36 Months
Term:
Requested Install
Date:

Summary of Charges: (Detail on next page)

Total Monthly Recurring Charges \$242.00 per month*
Total Non-Recurring Charges \$650.00*
Total Equipment Charges \$0.00 one time*
*plus applicable Taxes and Fees

PRODUCT NOTES (USE BY VONAGE ONLY):
Physical address for installation is required.



Customer Sales Order

Monthly Recurring Charges (MRC)

Qty	Product #	Description	Monthly Recurring Charges (MRC)	Ext Monthly Charges
10	V-3711	DID 20 Numbers	\$5.00	\$50.00
24	V-3747	Metered SIP Trunk	\$8.00	\$192.00
			Sub Total MRC*	\$242.00

*plus applicable Taxes and Fees

Non-Recurring Charges (NRC)

Qty	Product #	Description	Non-Recurring Charge (NRC)	Ext NRC
10	V-3711.a	Activation: DID 20 Numbers	\$5.00	\$50.00
24	V-3747.a	Activation: Metered SIP Trunk	\$25.00	\$600.00
			Sub Total NRC*	\$650.00

*plus applicable Taxes and Fees

Customer

Vonage Business Inc.

Signature

Signature

Printed Name of Authorized Signatory

Printed Name of Authorized Signatory

Title

Title

Date

Date

This Sales Order constitutes the valid and binding agreement between Vonage Business and the Customer identified above to purchase and use the Vonage Business products and services specified in this Sales Order. This Sales Order, together with any terms or conditions set forth in any applicable amendment, addendum, exhibit or schedule to this Sales Order, is subject to and governed by the Vonage Business Terms of Service set forth at <https://enterprise.vonage.com/terms> (the "Service Terms"), which include provisions relating to payment, collection, early termination, limitations of liability and E911 service, and which are hereby made part of and incorporated by this reference into the Sales Order. Any capitalized terms not otherwise defined in this Sales Order shall have the meaning ascribed to such terms in the Service Terms. The person whose signature appears above warrants that they are authorized to sign this Sales Order and to acknowledge and accept the Service Terms. Prices do not include applicable Taxes and Fees.

