

LamWire

Phone Service Customer Order Form

Section 1: Customer Information:

First Name: _____

Last Name: _____

Address: _____

City: _____

State: _____

Login Name: _____

Pin Number: _____

Email Address: _____

Contact Name: _____

MAC: _____ (To be filled in by LamWire Personnel)

Serial #: _____ (To be filled in by LamWire Personnel)

Section 2: Customer Service Options:

The Phone Service that I'm subscribing to is for



Residential Use



Small Business Use

Please Choose From the following LamWire Phone Plans



Unlimited US/Canada - \$24.99 (Residential) / 49.99 (Business) / month Unlimited calls to anywhere in US and Canada



Unlimited US/Canada/Asia - \$39.99 (Residential) / \$64.99 (Business) / month Unlimited calls to anywhere in US, Canada, and the following major areas in Asia: *Australia, China, Hong Kong, Japan, Malaysia, New Zealand, Singapore, South Korea, Taiwan* (Unlimited are for landline numbers only and doesn't include cellular destinations)



Unlimited US/Canada/Europe - \$39.99 (Residential) / \$64.99 (Business) / month Unlimited calls to anywhere in US, Canada, and the following major areas in Europe: *Austria, Belgium, Denmark, England, France, Germany, Ireland, United Kingdom, Italy, Netherlands, Norway, Spain, Sweden, Switzerland, Vatican City*. (Unlimited are for landline numbers only and doesn't include cellular destinations)



Unlimited World - \$54.99 (Residential) / \$79.99 (Business) / month Unlimited calls to anywhere in US, Canada, and the following major areas in Asia and Europe: *Australia, China, Hong Kong, Japan, Malaysia, New Zealand, Singapore, South Korea, Taiwan, Austria, Belgium, Denmark, England, France,*

Germany, Ireland, United Kingdom, Italy, Netherlands, Norway, Spain, Sweden, Switzerland, Vatican City.
(Unlimited are for landline numbers only and doesn't include cellular destinations)

Please Choose From the following Phone Number Assignment Options

LamWire will assign me a new telephone number with area code: _____ and city: _____

I would like LamWire to port over my existing number. I understand that it will take LamWire around 4 weeks to complete the port. The existing phone number I want to port is: _____

Section 3: Customer Payment Information:

Payment Type: Master Card Visa Discover American Express

Credit Card Number (Code): _____ Exp Date (MM/YY): _____

For your safety and security, LamWire requires that you enter your card's verification number. For Visa, Mastercard, or Discover, the 3-digit CVV code is printed on the back of your card. It appears after and to the right of your card number. For AMEX, the 4-digit CVV is printed on the front of your card. It appears after and to the right of your card number.

CVV Code (found in back of card): _____

Registered Address (Leave Blank if same as above):

Address: _____ City: _____ State: _____ Zip Code: _____

Registered Phone Number with Credit Card (XXX-XXX-XXXX): _____

Section 4: Customer Service Agreement:

I have read and understood the Terms and Conditions in the accompanying Customer Service Agreement.

Customer Name

Customer Signature

Date

LamWire TERMS AND CONDITIONS OF SERVICE

These Terms of Service constitute the agreement ("Agreement") between LamWire Communications Corp. ("we," "us" or "LamWire") and the user ("you," "user" or "Customer") of LamWire's enhanced Residential communications services or enhanced Small Business communications services and any related products or services ("Service"). This Agreement governs both the Service and any devices, such as an IP phone, Multimedia Terminal Adapter, Analog Telephone Adapter or any other IP connection device, ("Device" or "Equipment") used in conjunction with the Service. By activating the Service, you acknowledge that you have read and understood, and you agree, to the terms and conditions of this Agreement, and you represent that you are of legal age to enter this Agreement and become bound by its terms. If you have purchased Equipment from any LamWire retail dealer, you will be deemed a "Retail Customer" and will be governed by certain Retail Customer terms and conditions as set forth herein.

1. SERVICE

1.1 Term

Service is offered on a monthly basis for a term which begins on the date that LamWire activates your Service and ends on the day before the same date in the following month. Subsequent terms of this Agreement automatically renew on a monthly basis without further action by you unless you give LamWire written notice of non-renewal at least ten (10) days before the end of the monthly term in which the notice is given. You are purchasing the Service for full monthly terms, meaning that if you attempt to terminate Service prior to the end of a monthly term, you will be responsible for the full month's charges to the end of the then-current term, including without limitation unbilled charges, plus a disconnect fee, all of which immediately become due and payable. Expiration of the term or termination of Service does not excuse the Customer from paying all unpaid, accrued charges due in relation to the Agreement.

1.1.1 Early Termination Fee (Waived)

The Term of the phone service will be from the initial activation date of the service until 12 months from that activation date. If Customer cancels the Service for any reason or for convenience within twelve (12) months of the Activation Date, Customer will be charged an early termination fee of \$49.99 US dollars. The early termination fee becomes due and payable immediately upon cancellation and will be billed directly to Customer's credit card. If Customer has multiple lines, Customer will be charged an early termination fee of \$49.99 US dollars per line for each line cancelled. Customer will not be charged a disconnect fee for changing telephone numbers, while keeping the same number of lines.

1.1.2 Automatic Renewal of Service

After the 12 month term has elapsed, another 12 month term period will automatically be renewed unless specifically terminated by the customer at least 15 days prior to the end of the term.

1.2 Residential and Business Use of LamWire's Phone Services

1.2.1 Residential Use of Service and Device

If you have subscribed to LamWire's Residential services, the Service and Device are provided to you as a residential user, for your personal, residential, non-business and non-professional use. This means that you are not using them for any commercial or governmental activities, profit-making or non-profit, including but not limited to home office, business, sales, tele-commuting, telemarketing (including without limitation charitable or political solicitation or polling), autodialing, continuous or extensive call forwarding, fax broadcast, fax blasting or any other activity that would be inconsistent with normal residential usage patterns. This also means that you are not to resell or transfer the Service or the Device to any other person for any purpose, or make any charge for the use of the Service, without express written permission from LamWire in advance. You agree that your use of the Service and/or Device, or the use of the Service and/or Device provided to you by any other person for any commercial or governmental purpose will obligate you to pay LamWire's higher rates for commercial service on account of all periods, including past periods, in which you use, or used, the Service for commercial or governmental purposes. LamWire reserves the right to immediately terminate or modify the Service, if LamWire determines, in its sole discretion, that Customer's Service is being used for non-residential or commercial use.

1.2.2 Small Business Use of Service and Device - Prohibition on Resale

If you have subscribed to LamWire's Small Business services, the Service and Device are provided to you as a small business user. This means that you are not to resell or transfer the service or device to any other person for any purpose, without express written permission from LamWire in advance. You agree that the LamWire Small Business Plans do not confer the right to use the service for auto-dialing, continuous or extensive call forwarding, telemarketing (including without limitation charitable or political solicitation or polling), fax broadcasting or fax blasting. LamWire reserves the right to immediately terminate or modify the Service, if LamWire determines, in its sole discretion, that Customer's Service is being used for any of the aforementioned activities.

1.3 Lawful Use of Service and Device

1.3.1 Prohibited Uses

You agree to use the Service and Device only for lawful purposes. This means that you agree not to use them for transmitting or receiving any communication or material of any kind when in LamWire's sole judgment the transmission, receipt or possession of such communication or material (i) would constitute a criminal offense, give rise to a civil liability, or otherwise violate any applicable local, state, national or international law or (ii) encourages conduct that would constitute a criminal offense, give rise to a civil liability, or otherwise violate any applicable local, state, national or international law. LamWire reserves the right to terminate your service immediately and without advance notice if LamWire, in its sole discretion, believes that you have violated the above restrictions, leaving you responsible for the full month's charges to the end of the current term, including without limitation unbilled charges, plus a disconnect fee, all of which immediately become due and payable and may at LamWire's discretion be immediately charged to your credit card. You are liable for any and all use of the Service and/or Device by yourself and by any person making use of the Service or Device provided to you and agree to indemnify and hold harmless LamWire against any and all liability for any such use. If LamWire, in its sole discretion believes that you have violated the above restrictions, LamWire may forward the objectionable material, as well as your

communications with LamWire and your personally identifiable information to the appropriate authorities for investigation and prosecution and you hereby consent to such forwarding.

1.3.2 Use of Service and Device by Customers Outside the United States

While we encourage use of the Service within the United States to other countries, LamWire does not presently offer or support the Service to customers located in other countries except Canada. If you remove the Device to a country other than the United States or Canada and use the Service from there, you do so at your own sole risk, including the risk that such activity violates local laws in the country where you do so. You are liable for any and all such use of the Service and/or Device by yourself or any person making use of the Service or Device provided to you and agree to indemnify and hold harmless LamWire against any and all liability for any such use. Should the removal from the United States or Canada of the Device violate any export control law or regulation, you will be solely liable for such violation and agree to indemnify and hold harmless LamWire against any and all liability for such violation. LamWire reserves the right to terminate your Service immediately and without advance notice if it determines that you are using it outside the United States or Canada.

1.4 Loss of Service Due to Power Failure or Internet Service Outage or Termination or Suspension or Termination by LamWire

You acknowledge and understand that the Service does not function in the event of power failure. You also acknowledge and understand that the Service requires a fully functional broadband connection to the Internet (which is not provided by LamWire) and that, accordingly, in the event of an outage of, or termination of service with or by, your Internet service provider ("ISP") and/or broadband provider, the Service will not function, but that you will continue to be billed for the Service unless and until you or LamWire terminate the Service in accordance with this Agreement. Should there be an interruption in the power supply or ISP outage, the Service will not function until power is restored or the ISP outage is cured. A power failure or disruption may require the Customer to reset or reconfigure equipment prior to utilizing the Service. Power disruptions or failures or ISP outages will also prevent dialing to emergency service numbers including the 911 calling feature. Should LamWire suspend or terminate your Service, the Service will not function until such time as LamWire restores your Service (which may require payment of all invoices and reconnection fees owed by you or cure of any breach by you of this Agreement).

1.5 Copyright / Trademark / Unauthorized Usage of Device, Firmware or Software

The Service and Device and any firmware or software used to provide the Service or provided to you in conjunction with providing the Service, or embedded in the Device, and all Services, information, documents and materials on LamWire's website(s) are protected by trademark, copyright or other intellectual property laws and international treaty provisions. All websites, corporate names, service marks, trademarks, trade names, logos and domain names (collectively "marks") of LamWire are and shall remain the exclusive property of LamWire and nothing in this Agreement shall grant you the right or license to use any of such marks. You acknowledge that you are not given any license to use the firmware or software used to provide the Service or provided to you in conjunction with providing the Service, or embedded in the Device, other than a nontransferable, revocable license to use such firmware or software in object code form

(without making any modification thereto) strictly in accordance with the terms and conditions of this Agreement. You expressly agree that the Device is exclusively for use in connection with the Service and that LamWire will not provide any passwords, codes or other information or assistance that would enable you to use the Device for any other purpose. If you decide to use the Service through an interface device not provided by LamWire, which LamWire reserves the right to prohibit in particular cases or generally, you warrant and represent that you possess all required rights, including software and/or firmware licenses, to use that interface device with the Service and you will indemnify and hold harmless LamWire against any and all liability arising out of your use of such interface device with the Service. You shall not reverse compile, disassemble or reverse engineer or otherwise attempt to derive the source code from the binary code of the firmware or software.

1.6 LamWire Device

1.6.1 Damaged Device

You agree to pay for the full cost of the Device if it is damaged during your use or possession of the device.

1.6.2 Tampering with the Device or Service

You agree not to change the electronic serial number or equipment identifier of the Device, or to perform a factory reset of the Device, without express permission from LamWire in each instance which LamWire may deny in its sole discretion. LamWire reserves the right to terminate your Service should you tamper with the Device, leaving you responsible for the full month's charges to the end of the current term, including without limitation unbilled charges, plus a disconnect fee, all of which immediately become due and payable. You agree not to hack or disrupt the service or to make any use of the Service that is inconsistent with its intended purpose or to attempt to do so.

1.7 Theft of Service

You agree to notify LamWire immediately, in writing or by calling the LamWire customer support line, if the Device is stolen or if you become aware at any time that your Service is being stolen or fraudulently used. When you call or write, you must provide your account number and a detailed description of the circumstances of the Device theft or fraudulent use of Service. Failure to do so in a timely manner may result in the termination of your Service and additional charges to you. Until such time as LamWire receives notice of the theft or fraudulent use, you will be liable for all use of the Service using a Device stolen from you and any and all stolen Service or fraudulent use of the Service.

1.8 Return of Device

The Device may be returned to LamWire within fourteen (14) days of the termination of Service to receive a credit for the \$39.99 disconnect fee (\$49.99 CAD) (refer to section 4.6 of this document regarding termination fees), provided: (i) you have retained, and return along with the Device, proof of purchase and original packaging; (ii) contents are undamaged and in original condition, reasonable wear and tear excluded; (iii) all parts, accessories, documentation and packaging materials are returned; and (iv) equipment is returned with a valid return authorization number obtained from LamWire's customer care department. You are responsible for the cost and risk of return shipping of equipment. If you receive cartons and/or Devices that are visibly damaged, you must note the damage on the carrier's freight bill or receipt and keep a copy. In such event,

you must keep the original carton, all packing materials and parts intact in the same condition in which they were received from the carrier and contact LamWire's customer care department immediately. To obtain a return authorization number, you must contact billing@LamWire.com

1.9 Number Transfer on Service Termination

Upon termination of the Service, LamWire may, at its sole discretion, release a telephone number that was ported in from a previous service provider to LamWire by you and used in connection with your Service provisioned by LamWire to your new service provider, if such new service provider is able to accept such number, and provided that (i) your account has been terminated; (ii) your LamWire account is completely current including payment for all charges and disconnect fees; and (iii) you request the transfer upon terminating your account.

1.10 Service Distinctions

You acknowledge and understand that the Service is not a telephone service. Important distinctions (some, but not necessarily all, of which are described in this Agreement) exist between telephone service and the enhanced Service offering provided by LamWire. The Service is subject to different regulatory treatment than telephone service. This treatment may limit or otherwise affect your rights of redress before Federal, State or Provincial telecommunications regulatory agencies.

1.11 Ownership and Risk of Loss

You shall be deemed the owner of the Device, and bear all risk of loss of, theft of, casualty to or damage to the Device, from the time it is shipped to you until the time (if any) when it is returned by you pursuant to Section 1.8 and has been received by LamWire.

1.12 No 0+ Calling; May Not Support x11 Calling

LamWire's Service does not support 0+ calling (including without limitation collect, third party billing or calling card calling). LamWire's Service may not support 311, 511 and/or other x11 (other than 411, which are provided for elsewhere in this Agreement) services in one or more (or all) service areas.

1.13 Installation

LamWire will perform simple on-site installation of the device upon your request. However, LamWire will not be responsible for any damages to your facility or residence during the installation process. Furthermore, LamWire may charge you an installation fee of \$120 / hour if it determines that the installation involves further complications such as internal / external wiring changes.

1.14 Local Number Portability

LamWire will attempt to port over your existing phone number to your phone service for an additional \$15 (US dollars) one time service charge. This porting process will normally take but not limited to 5 weeks. LamWire will assign you a temporary number or phone extension for your use while the number is being ported. You acknowledge that LamWire does not guarantee the success of the port and in cases where the number cannot be ported successfully you will not hold LamWire responsible. Additionally once your existing phone number is ported, you must return possession of the temporary phone number or extension back to LamWire.

2. EMERGENCY SERVICES- 911 DIALING

2.1 Non-Availability of 911 Service

You acknowledge and understand that the Service does NOT support 911 access to emergency services. When dialing 911, you will reach the emergency police station at the city of Fremont, CA; however, they will not know where you're calling from. Therefore dialing 911 will result in any communication you may make being routed to the incorrect local emergency service provider. This is especially true when you're living outside of the city of Fremont, California area.

2.3 Service Outage

2.3.1 Broadband Service / ISP Outage or Termination / Suspension or Termination by LamWire You acknowledge and understand that service outages or suspension or termination of service by your broadband provider and/or ISP or by LamWire will prevent ALL Service, including 911 dialing.

2.3.2 Service Outage Due to Suspension of Your Account

You acknowledge and understand that service outages due to suspension of your account as a result of billing issues will prevent ALL Service.

2.3.3 Other Service Outages

You acknowledge and understand that if there is a service outage for ANY reason, such outage will prevent ALL Service. Such outages may occur for a variety of reasons, including, but not limited to those reasons described elsewhere in this Agreement.

2.3.4 Limitation of Liability and Indemnification

You acknowledge and understand that LamWire's liability is limited for any Service outage and/or inability to dial 911 from your line or to access emergency service personnel, as set forth in this document. You agree to defend, indemnify, and hold harmless LamWire, its officers, directors, employees, affiliates and agents and any other service provider who furnishes services to Customer in connection with this Agreement or the Service, from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without limitation, reasonable attorneys fees) by, or on behalf of, Customer or any third party or user of Customer's Service relating to the absence, failure or outage of the Service, including 911 dialing and/or inability of Customer or any third person or party or user of Customer's Service to be able to dial 911 or to access emergency service personnel.

3. CHANGES TO THIS AGREEMENT

LamWire may change the terms and conditions of this Agreement from time to time. Notices will be considered given and effective on the date posted. Agreement posted supercedes all previously agreed to electronic and written Terms of Service.

4. CHARGES / PAYMENTS / DEFAULT / TAXES / TERMINATION

4.1 Billing

You must give us a valid credit card number (Visa, MasterCard, Discover, American Express or any other issuer then-accepted by LamWire) when the Service is activated. LamWire reserves the right to stop accepting credit cards from one or more issuers. If

the card expires, you close your account, your billing address changes, or the card is cancelled and replaced owing to loss or theft, you must advise LamWire at once. We will bill all charges, applicable taxes and surcharges monthly in advance (except for usage-based charges, which will be billed monthly in arrears, and any other charges which LamWire decides to bill in arrears) to your credit card, including but not limited to: activation fees, monthly Service fees, international usage charges, advanced feature charges, equipment purchases, disconnect fees and shipping and handling charges. LamWire reserves the right to bill at more frequent intervals if the amount due at any time exceeds \$25. Any usage charges will be billed in increments that are rounded up to the nearest minute except as otherwise set forth in the rate schedules found on LamWire's website.

4.2 Billing Disputes

You must notify LamWire in writing within 7 days after receiving your credit card statement if you dispute any LamWire charges on that statement or such dispute will be deemed waived. Billing disputes should be notified to the following address:

Customer Care Billing Department
LamWire, Inc
P.O. Box 611975
San Jose, CA 95161-1975
or
billing@LamWire.com

4.3 Payment

LamWire accepts payments only by credit card as set forth in Section 4.1. Your initial use of the Service authorizes LamWire to charge the credit card account number on file with LamWire, including any changed information given LamWire if the card expires or is replaced, or if you substitute a different card, for LamWire charges as set forth in Section.

4.4 This authorization will remain valid until 30 days after LamWire receives your written notice terminating LamWire's authority to charge your credit card, whereupon LamWire will charge you the disconnect fee and any other outstanding charges and terminate the Service. LamWire may terminate your Service at any time in its sole discretion, if any charge to your credit card on file with LamWire is declined or reversed, your credit card expires and you have not provided LamWire with a valid replacement credit card or in case of any other non-payment of account charges. Termination of Service for declined or expired card, reversed charges or non-payment leaves you **FULLY LIABLE** to LamWire for **ALL CHARGES ACCRUED BEFORE TERMINATION** and for all costs incurred by LamWire in collecting such amounts, such as (but not limited to) collection costs and attorney's fees.

4.5 Termination/Discontinuance of Service

LamWire reserves the right to suspend or discontinue providing the Service generally, or to terminate your Service, at anytime in its sole discretion. If LamWire discontinues providing the Service generally, or terminates your Service in its discretion without a stated reason, you will only be responsible for charges accrued through the date of termination, including a pro-rated portion of the final month's charges. If your Service is

terminated for any stated reason, including without limitation violation of this Agreement, or because of any improper use of the Service or Device (such as, but not limited to, your attempts to hack, disrupt, or misuse the Service or your acts or omissions that violate any acceptable use policy of LamWire or of a third party provider to which LamWire is subject), you will be responsible for the full month's charges to the end of the current term, including without limitation unbilled charges, plus the disconnect fee set forth in Section 4.6, all of which immediately become due and payable.

4.6 Taxes

You are responsible for, and shall pay, any applicable federal, state, provincial, municipal, local or other governmental sales, use, excise, value-added, personal property, public utility or other taxes, fees or charges now in force or enacted in the future, that arise from or as a result of your subscription or use or payment for the Service or a Device. Such amounts are in addition to payment for the Service or Devices and will be billed to your credit card as set forth in this Agreement. If you are exempt from payment of such taxes, you shall provide LamWire with an original certificate that satisfies applicable legal requirement attesting to tax-exempt status. Tax exemption will only apply from and after the date LamWire receives such certificate.

4.7 Disconnect Fee

Customer will be charged a disconnect fee of \$39.99 (\$49.99 CAD) per voice line upon termination of Service for any reason or for convenience by Customer. The disconnect fee becomes due and payable immediately upon termination and will be billed directly to Customer's credit card. If Customer has multiple lines, Customer will be charged a disconnect fee of \$39.99 (\$49.99 CAD) per line for each line disconnected. To receive a credit for the disconnect fee, Customer must return the Device(s) undamaged and in original condition within fourteen (14) days of termination as set forth in Section 1.8. LamWire will not credit Customer if the Device(s) is damaged or not in its original condition as received by the Customer or if Customer has otherwise failed to comply fully with the requirements of Section 1.8. In the event Customer disconnects multiple lines, LamWire will issue Customer a credit for all disconnect fees upon receipt of all Devices (including without limitation Multimedia Terminal Adapters) in accordance with this Section and Section 1.8.

4.8.2 Payphone Charges

If you make use of LamWire's Toll Free Plus feature any toll free feature that may be offered by LamWire in the future, you acknowledge and agree that LamWire is entitled to recover from you any charges imposed on LamWire by payphone owners or operators, either directly or indirectly through LamWire's suppliers in connection with toll free calls made to your number, or any charges imposed on LamWire by its suppliers to recover such costs. LamWire may recover these amounts by means of a per-call charge, rounded up to the next cent, or in such other fashion as LamWire deems appropriate for the recovery of these costs.

4.9 Charges for Directory Calls

LamWire will charge 99 cents for each call made to LamWire directory assistance.

5. WARRANTY and LIABILITY LIMITATIONS / INDEMNIFICATION

5.1 Limitation of Liability

LamWire shall not be liable for any delay or failure to provide the Service, including 911 dialing, at any time or from time to time, or any interruption or degradation of voice quality that is caused by any of the following:

- 1.) act or omission of an underlying carrier, service provider, vendor or other third party;
- 2.) equipment, network or facility failure;
- 3.) equipment, network or facility upgrade or modification;
- 4.) force major events such as (but not limited to) acts of god; strikes; fire; war; riot; government actions;
- 5.) equipment, network or facility shortage;
- 6.) equipment or facility relocation;
- 7.) service, equipment, network or facility failure caused by the loss of power to Customer;
- 8) outage of Customer's ISP or broadband service provider;
- 9) act or omission of Customer or any person using the Service or Device provided to Customer; or
- 10) any other cause that is beyond LamWire's control, including without limitation a failure of or defect in any Device, the failure of an incoming or outgoing communication, the inability of communications (including without limitation 911 dialing) to be connected or completed, , or degradation of voice quality.

LamWire's aggregate liability for (i) any failure or mistake; (ii) any claim with respect to LamWire's performance or nonperformance hereunder or (iii) any LamWire act or omission in connection with the subject matter hereof shall in no event exceed Service charges with respect to the affected time period.

5.2 Disclaimer of Damages

IN NO EVENT SHALL LamWire, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS OR ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICES TO CUSTOMER IN CONNECTION WITH THIS AGREEMENT OR THE SERVICE BE LIABLE FOR ANY DIRECT, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF DATA, LOSS OF REVENUE OR PROFITS, OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE OR INABILITY TO USE THE SERVICE, INCLUDING INABILITY TO BE ABLE TO DIAL 911 OR TO ACCESS EMERGENCY SERVICE PERSONNEL THROUGH THE SERVICE. THE LIMITATIONS SET FORTH HEREIN APPLY TO CLAIMS FOUNDED IN BREACH OF CONTRACT, BREACH OF WARRANTY, PRODUCT LIABILITY, TORT AND ANY AND ALL OTHER THEORIES OF LIABILITY AND APPLY WHETHER OR NOT LamWire WAS INFORMED OF THE LIKELIHOOD OF ANY PARTICULAR TYPE OF DAMAGES.

5.3 Indemnification

Customer agrees to defend, indemnify, and hold harmless LamWire, its officers, directors, employees, affiliates and agents and any other service provider who furnishes services to Customer in connection with this Agreement or the Service, from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without

limitation, reasonable attorneys fees) by, or on behalf of, Customer or any third party or user of Customer's Service, relating to this Agreement, the Services, including 911dialing, or the Device. This paragraph shall survive termination of this Agreement.

5.4 No Warranties on Service

LamWire MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS OF THE SERVICE FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE OR ANY WARRANTY THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS. WITHOUT LIMITING THE FOREGOING, LamWire DOES NOT WARRANT THAT THE SERVICE WILL BE WITHOUT FAILURE, DELAY, INTERRUPTION, ERROR, DEGRADATION OF VOICE QUALITY OR LOSS OF CONTENT, DATA OR INFORMATION. NEITHER LamWire NOR ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS OR ANY OTHER SERVICE PROVIDER OR VENDOR WHO FURNISHES SERVICES OR PRODUCTS TO CUSTOMER IN CONNECTION WITH THIS AGREEMENT OR THE SERVICE WILL BE LIABLE FOR UNAUTHORIZED ACCESS TO LamWire'S OR CUSTOMER'S TRANSMISSION FACILITIES OR PREMISES EQUIPMENT OR FOR UNAUTHORIZED ACCESS TO, OR ALTERATION, THEFT OR DESTRUCTION OF, CUSTOMER'S DATA FILES, PROGRAMS, PROCEDURES OR INFORMATION THROUGH ACCIDENT, FRAUDULENT MEANS OR DEVICES OR ANY OTHER METHOD, REGARDLESS OF WHETHER SUCH DAMAGE OCCURS AS A RESULT OF LamWire'S OR ITS SERVICE PROVIDER'S OR VENDORS' NEGLIGENCE. STATEMENTS AND DESCRIPTIONS CONCERNING THE SERVICE OR DEVICE, IF ANY, BY LamWire OR LamWire'S AGENTS OR INSTALLERS ARE INFORMATIONAL AND ARE NOT GIVEN AS A WARRANTY OF ANY KIND.

5.5 No Warranties, or Limited Warranties, for Devices

If Customer received the Device new from LamWire and the Device included a limited warranty at the time of receipt, Customer must refer to the separate limited warranty document provided with the Device for information on the limitation and disclaimer of certain warranties. Remedies for breach of any such warranties will be limited to those expressly set forth in such documentation. If Customer's Device did not include a limited warranty from LamWire at the time of receipt, Customer agrees that it accepts its Device "as is" and that Customer is not entitled to replacement or OTHER THAN WARRANTIES AS TO THE DEVICE EXPRESSLY SET FORTH IN DOCUMENTATION PROVIDED WITH THE DEVICE, LamWire MAKES NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY, FITNESS OF THE DEVICE FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE OR ANY WARRANTY THAT THE, DEVICE OR ANY FIRMWARE OR SOFTWARE IS "ERROR FREE" OR WILL MEET CUSTOMER'S REQUIREMENTS. THE FOREGOING WILL NOT BE DEEMED TO

LIMIT ANY DISCLAIMER OR LIMITATION OF WARRANTY SET FORTH IN THE DOCUMENTATION PROVIDED WITH THE DEVICE.

5.6 No Third Party Beneficiaries

No provision of this Agreement provides any person or entity not a party to this Agreement with any remedy, claim, liability, reimbursement, or cause of action or creates any other third party beneficiary rights.

5.7 Content

You are liable for any and all liability that may arise out of the content transmitted by or to you or Users using the Services. You shall assure that your or User's use of the Services and content will at all times comply with all applicable laws, regulations and written and electronic instructions for use. LamWire reserves the right to terminate or suspend affected Services, and/or remove your or Users' content from the Services, if LamWire determines that such use or content does not conform with the requirements set forth in this Agreement or interferes with LamWire's ability to provide Services to you or others or receives notice from anyone that your or Users' use or Content may violate any laws or regulations. LamWire's actions or inaction under this Section shall not constitute review or approval of your or Users' use or Content. You will indemnify and hold LamWire against any and all liability arising from the content transmitted by or to you or to Users using the Services. A "User" means any person, whether authorized or unauthorized, using the Service and/or Device provided to you.

6. GOVERNING LAW / RESOLUTION OF DISPUTES

6.1 Mandatory Arbitration

Any dispute or claim between Customer and LamWire arising out of or relating to the Service or Device provided in connection with this Agreement shall be resolved by arbitration before a single arbitrator administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules (or, for Customers subscribing to service in Canada, a Canadian arbitration organization of LamWire's choosing). The arbitration shall take place in Fremont, California and shall be conducted in English. The arbitrator's decision shall follow the plain meaning of the relevant documents, and shall be final and binding. Without limiting the foregoing, the parties agree that no arbitrator has the authority to: (i) award relief in excess of what this Agreement provides; or (ii) award punitive or exemplary damages. Judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. All claims shall be arbitrated individually and Customer will not bring, or join any class action of any kind in court or in arbitration or seek to consolidate or bring previously consolidated claims in arbitration. CUSTOMER ACKNOWLEDGES THAT THIS ARBITRATION PROVISION CONSTITUTES A WAIVER OF ANY RIGHT TO A JURY TRIAL.

6.2 Governing Law

The Agreement and the relationship between you and LamWire shall be governed by the laws of the State of California (or, for Customers subscribing to service in Canada, applicable Canadian law) without regard to its conflict of law provisions. To the extent court action is initiated to enforce an arbitration award or for any other reason consistent with Section 6.1, you and LamWire agree to submit to the personal and exclusive jurisdiction of the courts located within the state of California (or, for Customers subscribing to service in Canada, courts sitting within the province of Ontario) and waive

any objection as to venue or inconvenient forum. The failure of LamWire to exercise or enforce any right or provision of the Agreement shall not constitute a waiver of such right or provision. If any provision of the Agreement is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the Agreement remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service or the Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred.

6.3 Entire Agreement

This Agreement and the rates for Services found on LamWire's website constitute the entire agreement between you and LamWire and govern your use of the Service, superseding any prior agreements between you and LamWire and any and all prior or contemporaneous statements, understandings, writings, commitments, or representations concerning its subject matter. No amendment to this Agreement shall be binding upon LamWire unless and until posted in accordance with Section 3 hereof.

6.4 Severability

If any part of this Agreement is legally declared invalid or unenforceable, all other parts of this Agreement are still valid and enforceable. Such invalidity or non-enforceability will not invalidate or render unenforceable any other portion of this Agreement.

7. PRIVACY

LamWire Service utilizes, in whole or in part, the public Internet and third party networks to transmit voice and other communications. LamWire is not liable for any lack of privacy which may be experienced with regard to the Service.

Last Updated: Aug 8, 2005