

## Washington Parish Communications District

805 Pearl Street  
Franklinton, Louisiana 70438  
(985) 839-5625

### Memorandum of Understanding For the Remittance of 9-1-1 Fees

This Memorandum of Understanding (“MOU”), effective as of the last date set forth on the signature pages hereto, is entered into by and among \_\_\_\_\_ (VoIP Service Provider) and The Washington Parish Communications District (hereinafter referred to as “Communications District”) (each individually, a “Party” and collectively, the “Parties”), and sets forth the entire understanding of the Parties relating to the remittance by \_\_\_\_\_ (VoIP Service Provider) or any of its affiliates of 9-1-1 service related fees within the jurisdictional boundaries of the Communications District, i.e. Washington Parish, Louisiana and the acceptance and use by the Communications District of such 9-1-1 fees.

#### **A. General Considerations:**

1. \_\_\_\_\_ (VoIP Service Provider) is a provider of interconnected Voice over Internet Protocol (“VoIP”) services to subscribers with 9-1-1 provisioned addresses in the Communications District (“Subscribers”). Pursuant to the Federal Communications Commission’s (“FCC”) First Report and Order in WC Docket Nos. 04-36 and 05-196, released June 3, 2005 (the “9-1-1Order”), \_\_\_\_\_ (VoIP Service Provider) is required to transmit 9-1-1 dialed calls to an appropriate Public Safety Answering Point (“PSAP”) and to also provide automatic number identification (“ANI”) and the caller’s registered location information (“Registered Location”), unless the PSAP is not able to receive such ANI or Registered Location.
2. A regime for cost recovery for 9-1-1 services has been established in the State of Louisiana, which is codified at LSA-R.S. 33:9101 et seq. and in other special acts (“Existing Rules”). \_\_\_\_\_ (VoIP Service Provider) does not believe that nomadic VoIP service is addressed in the Existing Rules, but consistent with the intent of the Existing Rules, \_\_\_\_\_ (VoIP Service Provider)’s desires to begin collecting 9-1-1 fees from its subscribers in the Parish at a rate of \$1.00 per access line of service per month (“9-1-1 Fee”), and remitting such fees to the Communications District. For purposes of this MOU, “subscribers” shall be all \_\_\_\_\_ (VoIP Service Provider)’s subscribers who list the physical location of their primary use location within the jurisdictional boundaries of the Communications District.

#### **B. Specific Commitments:**

1. This MOU shall remain in effect in perpetuity, or until terminated by either Party upon thirty (30) days prior written notice to the other Party, whichever is the first to occur. The foregoing notwithstanding, the MOU shall terminate immediately upon the occurrence of any of the following

events: (a) a binding legal determination is made by a court or other legal or regulatory body of competent jurisdiction that \_\_\_\_\_ (VoIP Service Provider)'s \_\_\_\_\_ payments made hereunder are not authorized or permissible; (b) \_\_\_\_\_ (VoIP Service Provider) or any of its affiliates becomes expressly subject to a different 9-1-1 fee remittance regime, regardless of whether such obligation arises by virtue of a new statutory provision, interpretation or reinterpretation of the Existing Rules, or otherwise; or (c) \_\_\_\_\_ (VoIP Service Provider) becomes legally prohibited from passing through 9-1-1 recovery costs to its end users, or is otherwise prevented from recovering such costs.

2. In order to ensure that the 9-1-1 Fee remittance made by \_\_\_\_\_ (VoIP Service Provider) hereunder will be used solely to support the existing 9-1-1 system, the Parties agree that any and all 9-1-1 Fee remittance by \_\_\_\_\_ (VoIP Service Provider) under this MOU is made solely for the purpose of such support, shall be made directly to and placed directly in the Communications District's operating funds, and shall not be placed in the general fund of the state or used for non-9-1-1 related expenditures.

3. Communications District agrees that any and all 9-1-1 Fees remitted by \_\_\_\_\_ (VoIP Service Provider) hereunder shall be expended in a reasonable manner to compensate the 9-1-1 System (which includes certain "communications enhancements" as that term is described in the Existing Rules) that have received (or may receive) \_\_\_\_\_ (VoIP Service Provider)'s emergency calls, and acknowledges that such distribution is an essential condition of \_\_\_\_\_ (VoIP Service Provider)'s agreement to make 9-1-1 Fee remittances to the Communications District. Accordingly, in the event that any money remitted by \_\_\_\_\_ (VoIP Service Provider) hereunder is not distributed in its entirety to the Communications District 9-1-1 System, \_\_\_\_\_ (VoIP Service Provider)'s obligation to remit 9-1-1 related fees hereunder or in any other manner to the Communications District, whether directly or indirectly, shall cease.

4. If any of \_\_\_\_\_ (VoIP Service Provider)'s third party suppliers (such as \_\_\_\_\_ (VoIP Service Provider)'s underlying carrier or database provider) are obligated to pay 9-1-1 related fees with respect to \_\_\_\_\_ (VoIP Service Provider)'s services provided in the Communications District, and it is claimed that \_\_\_\_\_ (VoIP Service Provider) is liable for such fees on a pass through basis or otherwise, or such third party asserts that \_\_\_\_\_ (VoIP Service Provider) is liable for such fees and \_\_\_\_\_ (VoIP Service Provider) pays such fees (including without limitation paying such fees under protest), any such payments will be deducted from any amount due hereunder.

5. Every Subscriber shall be liable for the 9-1-1 Fee imposed under this Subsection until it has been paid to \_\_\_\_\_ (VoIP Service Provider). The duty of \_\_\_\_\_ (VoIP Service Provider) to collect the 9-1-1 Fee shall commence on the next Subscriber billing cycle following the effective date of this MOU. The 9-1-1 Fee shall be added to and may be stated separately in the billing by \_\_\_\_\_ (VoIP Service Provider) to the Subscriber.

(a) \_\_\_\_\_ (VoIP Service Provider) shall have no obligation to take any legal action to enforce the collection of the 9-1-1 Fee. However, upon receipt of written request (but no more frequently than annually), \_\_\_\_\_ (VoIP Service Provider) shall provide the Communications District with a list of the amount uncollected 9-1-1 Fees, together with the names and addresses of those subscribers who carry a balance that can be determined by \_\_\_\_\_ (VoIP Service Provider) to be delinquent in the payment of the 9-1-1 Fee. The 9-1-1 Fee shall be collected at the same time as \_\_\_\_\_ (VoIP Service Provider)'s fees are collected in accordance with the regular billing practice of \_\_\_\_\_ (VoIP Service Provider) .

(b) Good faith compliance by \_\_\_\_\_ (VoIP Service Provider) with this provision shall constitute a complete defense to any legal action or claim which may result from \_\_\_\_\_ (VoIP Service Provider)'s determination of nonpayment and/or the identification of Subscribers in connection therewith.

(c) The amounts collected by \_\_\_\_\_ (VoIP Service Provider) attributable to the 9-1-1 Fee may be payable by \_\_\_\_\_ (VoIP Service Provider) on a monthly basis, but shall be remitted no less frequently than quarterly.

(d) The form attached hereto as Exhibit "A" shall be completed and filed with the Communications District, together with a remittance of the amount of 9-1-1 Fee collected payable to the Communications District.

(e) \_\_\_\_\_ (VoIP Service Provider) shall maintain records of the amount of the 9-1-1 Fee collected for a period of at least twelve months from date of collection. The Communications District may, at its expense and subject to \_\_\_\_\_ (VoIP Service Provider)'s reasonable confidentiality/Subscriber privacy concerns, require an annual audit of \_\_\_\_\_ (VoIP Service Provider)'s books and records with respect to the collection and remittance of the 9-1-1 Fee.

(f) From the gross receipts to be remitted to the Communications District, \_\_\_\_\_ (VoIP Service Provider) shall be entitled to retain as an administrative fee, an amount equal to one percent thereof.

### **C. General Representations:**

1. The Parties acknowledge and agree that \_\_\_\_\_ (VoIP Service Provider)'s remittance of 9-1-1 Fees hereunder is consistent with applicable statute, rule, regulation and law, and that \_\_\_\_\_ (VoIP Service Provider)'s remittances described herein and collection of such sums from its subscribers discharges any and all responsibility \_\_\_\_\_ (VoIP Service Provider) may have related to 9-1-1 Fees remittance. In support of this representation, Communications District agrees that it will reasonably and in good faith cooperate with \_\_\_\_\_ (VoIP Service Provider) in the event that \_\_\_\_\_ (VoIP Service Provider) either now or in the future seeks to obtain an advisory opinion in a form reasonably acceptable to \_\_\_\_\_ (VoIP Service Provider) from the Office of the Attorney General for the State of Louisiana which provides that in the opinion of the Office of the Attorney General, remittance by \_\_\_\_\_ (VoIP Service Provider) as set forth hereunder does not contravene and is consistent with applicable law.

2. The Parties understand and agree that the magnitude, timing and other specific attributes of the payments to be made by \_\_\_\_\_ (VoIP Service Provider) hereunder have been specifically agreed upon in connection with the Parties' respective considerations and analyses of the laws and regulations of the State of Louisiana and, therefore, that the arrangements set forth herein are not applicable or appropriate for use in any other jurisdiction. This MOU is intended to relate only to the specific matters referred to herein. Except with respect to enforcement of the specific terms of this MOU or as otherwise set forth herein, no Party shall be deemed to have approved, accepted, agreed or consented to any principal or precedential determination, or be prejudiced or bound thereby in any legal proceeding. This MOU is not intended to have and shall not have any precedential effect on 9-1-1 recovery fees applied to services provided by third parties, regardless of the extent to which those services resemble services provided by \_\_\_\_\_ (VoIP Service Provider).

3. For the purposes of this Agreement, the Communications District acknowledges that \_\_\_\_\_ (VoIP Service Provider) represents and asserts that neither \_\_\_\_\_ (VoIP Service Provider) nor any of its affiliates is a telecommunications service provider; and that nothing in this Agreement shall be construed or interpreted to the contrary. However, in recognition of the value to \_\_\_\_\_ (VoIP Service Provider) of being interconnected with the Communication District's 9-1-1 System and with the understanding that the payments made by \_\_\_\_\_ (VoIP Service Provider) hereunder are intended by both Parties to help defray the costs of providing such

interconnection and ancillary services incurred by the Communications District, \_\_\_\_\_ (VoIP Service Provider) agrees to remit 9-1-1 fees in the amount, and consistent with the terms set forth under the Existing Rules and this MOU; provided that doing so shall in no way indicate or otherwise suggest that \_\_\_\_\_ (VoIP Service Provider) is or represents itself as being a telecommunications service provider. Further, \_\_\_\_\_ (VoIP Service Provider) shall be under no obligation to make any such payments for any period during which the Communications District:

- (i) fails or refuses to provide any 9-1-1 interconnection or ancillary service to \_\_\_\_\_ (VoIP Service Provider), or
- (ii) provides such 9-1-1 interconnection or ancillary services to \_\_\_\_\_ (VoIP Service Provider) on terms that are less favorable than the terms afforded to any other user of such 9-1-1 interconnection or ancillary services in the Communications District, including without limitation any local exchange carrier.

**D. Miscellaneous:**

1. This MOU is binding upon the Parties hereto, and their respective employees, agents, shareholders, officers, directors, officials, representatives, delegates, executors, administrators and trustees (in their representative capacities). Communications District represents and warrants that it has authority to enter into this MOU and to bind the Communications District to the terms hereof.

2. The Parties agree that the 9-1-1 Fee remittances made by \_\_\_\_\_ (VoIP Service Provider) hereunder are intended to, and shall, fully discharge any obligation that \_\_\_\_\_ (VoIP Service Provider) or any of its affiliates may arguably have to pay 9-1-1 related fees, for the period during which this MOU remains effective.

3. No provision of this MOU is intended, nor shall any be interpreted, to provide any person not a party to this MOU with any remedy, claim, liability, reimbursement, or cause of action or create any other third party beneficiary right(s).

4. Neither Party may assign or transfer its rights or obligations under this MOU, in whole or in part, without the written consent of the other Party, except that \_\_\_\_\_ (VoIP Service Provider) may assign its rights and obligations hereunder: (a) to any subsidiary, parent company, or affiliate; (b) pursuant to any sale or transfer of substantially all of the business; or (c) pursuant to any financing, merger, or reorganization. The benefits and obligations of this MOU shall inure to the successor entity for any assignment permitted under this paragraph.

5. Except as required by law, neither of the Parties will issue any public report or statement or otherwise release any information pertaining to the matters contemplated by this MOU without the prior written consent of the other Party.

6. This MOU, and any documents specifically referenced therein, constitutes the entire understanding between the Parties, supersedes all previous representations, understandings or agreements.

7. This MOU shall not be modified, amended or in any way altered except by an instrument in writing signed by authorized representatives of both Parties. By signing below, the Parties acknowledge their respective understanding to the provisions contained within this MOU.

8. This agreement shall be construed and/or interpreted under the laws of the State of Louisiana. If any clause herein is found to be invalid or against public policy, then only the clause or clauses found invalid shall be stricken, and all other clauses shall remain binding on the parties.

\_\_\_\_\_ (VoIP Service Provider)

By:  
Name:  
Title:  
Date

Washington Parish Communications District

By:  
Name:  
Title:  
Date