

Terms and Conditions of Service

Thank you for choosing the TEKFINITY,LLC for your Internet needs. Once this service order is accepted by TEKFINITY,LLC, with offices 460 Main Ave S, Twin Falls, ID 83301 this Terms and Conditions Agreement and all documents referred to herein will constitute a binding agreement between you (“You”, “Customer”, “Subscriber”) and TEKFINITY,LLC (“We”, “Our”, “Us”) for Service(s). 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 USING THE SERVICE, YOU REPRESENT THAT YOU ARE OF LEGAL AGE TO ENTER INTO THIS AGREEMENT AND THAT YOU HAVE READ AND UNDERSTAND FULLY THE TERMS AND CONDITIONS OF THIS AGREEMENT.

TEKFINITY,LLC RESERVES THE RIGHT TO CHANGE THIS AGREEMENT AT ANY TIME BY POSTING CHANGES ONLINE AT LEAST 30 DAYS IN ADVANCE OF THE EFFECTIVE DATE OF ANY CHANGES. YOU ARE RESPONSIBLE FOR REGULARLY REVIEWING INFORMATION POSTED ONLINE IN THE ‘SUPPORT’ (<http://www.tek-finity.com/legal>) AREA TO OBTAIN TIMELY NOTICE OF SUCH CHANGES. YOUR NON-TERMINATION OR CONTINUED USE OF SERVICES AFTER CHANGES ARE POSTED CONSTITUTES YOUR ACCEPTANCE OF THIS AGREEMENT AS MODIFIED BY THE POSTED CHANGES.

This Agreement takes effect on the date on which you accept this Agreement and continues until your Broadband Internet Access subscription is terminated either by you or by TEKFINITY,LLC.

TEKFINITY,LLC is responsible to provide best-effort Internet connections and voice quality between the TEKFINITY,LLC provided wireless equipment and our Internet backbone. TEKFINITY,LLC is not responsible for download speeds from points anywhere further on the World Wide Web, as these are affected by several factors beyond our control. “Best-effort” as used herein is defined as remaining at the speeds advertised within the service plan purchased by the Customer throughout most of the Customer’s daily use. TEKFINITY,LLC reserves the right to interrupt those speeds if necessary for equipment upgrades and network maintenance, and will do its best to inform the Customer of any such interruptions ahead of time.

TEKFINITY,LLC shall have the unrestricted right to engage subcontractors in rendering Services under this Agreement.

TEKFINITY,LLC is also responsible for providing and maintaining a number of e-mail accounts for the customer as specified in the chosen service plan.

Customers are responsible for upholding the non-transferability and account security of their service. The customer is entirely responsible for any actions, damages, or costs incurred via their account, regardless of who is using that account.

Customer’s relationship with TEKFINITY,LLC is that of an independent contractor. Customer is not an agent of TEKFINITY,LLC, and Customer has no authority to obligate TEKFINITY,LLC by contract or otherwise.

Phone Service

As a condition of your use of Service, you warrant to TEKFINITY,LLC that You will use the Phone service in accordance to the OneVoice Terms and Conditions of Service.

Acceptable Use

As a condition of your use of Service, you warrant to TEKFINITY,LLC that You will use the service in accordance to the Broadband Internet Acceptable Use Policy of TEKFINITY,LLC.

The transfer of technology across national boundaries, including electronic transmission thereof, is regulated by the U.S. Government. Customer agrees not to export, import or re-export, (including, without limitation by way of electronic transmission) any technology transmitted through TEKFINITY,LLC Services without first obtaining any required export license or governmental approval. Customer agrees it will not directly or indirectly export or re-export such technology to any of those countries listed from time-to-time in supplements to Part 770 to Title 15 of the Code of Federal Regulations in Country Groups Q, S, W, Y or Z. The parties acknowledge that the foregoing lists are subject to regulatory change from time to time and Customer agrees to update the lists as appropriate.

TEKFINITY,LLC will cooperate fully with legal authorities in the investigation of suspected crimes or service abuses. Customer agrees to indemnify and hold harmless TEKFINITY,LLC, its agents and representatives, from any and all claims, costs, losses, damages, liabilities and expenses, including reasonable attorneys' fees for any reason whatsoever, including without limitation, any harm, injury, loss or damage incurred by TEKFINITY,LLC, or any other party, arising out of Customer's breach of this Lawful Use provision.

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 our Websites are protected by trademark, copyright or other intellectual property laws and international treaty provisions. All of our Websites, corporate names, service marks, trademarks, trade names, logos and domain names (collectively "marks") are and will at all times remain our exclusive property. Nothing in this Agreement grants You the right or license to use any of our marks.

You have not been granted 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 We will not provide any passwords, codes or other information or assistance that would enable You to use the Device for any other purpose. We reserve the right to prohibit the use of any interface Device that We have not provided to You. You hereby represent and warrant that You possess all required rights, including software and/or firmware licenses, to use any interface Device that We have not provided to You. In addition, You shall indemnify and hold us harmless 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.

You shall not change the electronic serial number or Equipment identifier of the Device or to perform a factory reset of the Device without our prior written consent. We reserve the right to terminate Your Service if We believe, in our sole and absolute discretion, that You have tampered with the Device. In the event of such termination, You will remain responsible for the full month's charges to the end of the current term, including, without limitation, unbilled charges, plus a termination fee, if applicable, all of which will immediately

become due and payable. You shall not attempt to hack or otherwise disrupt the Service or make any use of the Service that is inconsistent with its intended purpose.

You shall notify us immediately, in writing or by calling our Customer support line, if the Device is stolen or if You become aware at any time that Your Service is being stolen, fraudulently used or otherwise being used in an unauthorized manner. When You call or write, You must provide Your account number and a detailed description of the circumstances of the Device theft, fraudulent use or unauthorized 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 We receive notice of the theft, fraudulent use or unauthorized use, You will be liable for all use of the Service using a Device stolen from You and any and all stolen, fraudulent or unauthorized use of the Service.

Security

You can best control the risks associated with security, and are therefore solely responsible for maintaining such security. TEKFINITY,LLC will not be responsible for any disruption of service, corrupted files or viruses which affect the user of the Service. It is your responsibility to safeguard your system, through appropriate means (e.g. using commercially available software), from theft, unauthorized use or system corruption. Any detriment caused to the network as a result of your failure to properly secure Your System may result in the immediate termination of Your Service.

Service Availability

Due to the nature of the Service technology, TEKFINITY,LLC reserves the right to deem the Service unavailable to You up to, including, and after the installation. TEKFINITY,LLC assumes no liability whatsoever for any claims, damages, losses or expenses arising out of or otherwise relating to the unavailability of the Service in Your geographical area, for any reason, even where such unavailability occurs after installation of the Service.

Performance Levels

Speed is a function of the traffic experienced upon the wider network architecture of the Internet itself. TEKFINITY,LLC does not guarantee the maximum Service performance (throughput speeds) levels but will make every reasonable effort to ensure the highest possible quality of service is always delivered. You understand that any content that You may access through the Service may be subject to “caching” at intermediate locations on the Internet.

TEKFINITY,LLC Equipment

TEKFINITY,LLC will provide you the authorized Wireless equipment for use with your Service. Only TEKFINITY,LLC Consumer Premises Equipment (“CPEs”) are permitted and authorized to be connected to the Service. TEKFINITY,LLC will own the equipment installed at the Customer location, and will monitor and upgrade said equipment as TEKFINITY,LLC determines to be necessary and appropriate.

Your Equipment

It is Your responsibility to ensure that Your computer system meets the current minimum system requirements stated by TEKFINITY,LLC as being necessary to use the Service. From time to time, the computer equipment required to access and use the Service may change. Accordingly, Your computer equipment may cease to be adequate to access the Service. In such event, Your sole remedy will be to upgrade your computer equipment

or terminate this Service Agreement. Lesser equipment may perform adequately, but TEKFINITY,LLC cannot ensure acceptable System use.

(i) Windows System Desktop or Laptop Microsoft Windows NT 4.0/2000/XP/VISTA Pentium Processor 400 MHz, or equivalent 32 MB of memory (RAM) 75 MB of free hard drive space 256 colors at 800×600 resolution Ethernet card (NIC)

CD-ROM drive

(ii) Macintosh System MAC OS 8.0 and Open Transport 2.6 installed 32 MB of memory (RAM) 75 MB of free hard drive space 256 colors at 800×600 resolution Ethernet card (NIC) CD-ROM drive

IP Addresses

Internet Protocol (“IP”) addresses are not portable and are not assigned for independent administration or distribution. Customer understands that IP assignments are not guaranteed, and may be modified as required by TEKFINITY,LLC and/or the American Registry for Internet Numbers (ARIN).

Throughput Volume

Each account has a standard quota for disk space and data transfer Throughput Volume usage. At TEKFINITY,LLC’s discretion additional quota may be added to your account for a recurring fee, based on TEKFINITY,LLC’s then-current rates. Usage above Your quota limits will result in additional charges as described in the then-current TEKFINITY,LLC pricelist.

Term / Cancellation Policy

If Customer chooses to cancel the Service at any point after the order is placed, but before the Service has been activated, Customer will not be invoiced, will not be charged a processing fee. If Customer wishes to cancel the Service before Service has been activated, the customer is required to give TEKFINITY,LLC notice of his/her intent to cancel. This may be done through regular postal mail sent to TEKFINITY,LLC, 460 Main Ave S Twin Falls, ID 83301.

Termination does not affect your obligations under this Agreement, including your obligation to pay all fees for Services rendered prior to termination and any termination, processing and administration fees incurred as a result of such termination. TEKFINITY,LLC accounts must be paid in full before a cancellation will be considered complete.

In the event you upgrade Your TEKFINITY,LLC Service, You will be required to enter into a new Service Quote.

If all Equipment provided by TEKFINITY,LLC is not returned within 30 days of cancellation of Service You agree to pay TEKFINITY,LLC the greater of \$300 or the current replacement cost of the Equipment provided. You authorize TEKFINITY,LLC and its agents to charge the Equipment replacement charge to the credit card on file with TEKFINITY,LLC. If TEKFINITY,LLC is unable to obtain a charge authorization for the full amount due, You agree to provide alternative payment in the form of a money order, cashier’s check, or other certified bank check within 10 days of notification of the amount due. You bear all risk of loss of, theft of, casualty to or damage to the Equipment; from the time it is shipped to You until the time (if any) when it is returned to us in accordance with this Agreement.

Upon the termination of Your Service, We may, in our sole and absolute discretion, release to Your new Service provider the telephone number that You ported (transferred or moved over) to us from Your previous Service provider and used in connection with Your Service if; such new Service provider is able to accept such

number, Your account has been properly terminated, Your account is completely current, including payment for all charges and applicable termination fees, and You request the transfer upon terminating Your account.

If Customer chooses a Service that requires a minimum term commitment, and Service is terminated prior to the end of the contract term, Customer will pay a \$250 Early Termination Fee or the remaining portion of the contract, whichever is less.

Termination and Suspension

Inappropriate use or abuse of our services by Customers, as determined in the sole discretion of TEKFINITY,LLC, may result in account suspension, termination, and/or legal action. Inappropriate use or abuse of our services by others can be traced, documented, reported to appropriate authorities and may be prosecuted to the fullest extent of the law.

TEKFINITY,LLC may terminate your account immediately if it determines, in its sole discretion, that You have violated any of the provisions of the Agreement. TEKFINITY,LLC reserves the right to unilaterally terminate or suspend an account at any time, without providing a reason. In the event of termination, account holders are still responsible to pay any fees that are still owed to Us. The balance of any prepaid fees, after deducting all applicable charges and fees, will be refunded to the account holder on a pro-rated basis. Any penalties for criminal action will be deducted from amounts owed before refunds are provided.

Further, Service may be terminated by you or TEKFINITY,LLC for any reason effective at the end of a calendar month by providing written notice to the other party at least thirty (30) days prior to the requested termination date.

If Your Service is terminated, you will remain fully liable to us for all charges pursuant to this Agreement and any and all costs We incur to collect such amounts, including, without limitation, collection costs and attorney's fees.

Payment and Billing

Fees

Fees include, without limitation, set up fees, monthly service fees, and equipment fees and other applicable costs set forth in the Service Quote. TEKFINITY,LLC will invoice fees for Services and any equipment in advance. You agree to pay all federal, state or local taxes arising under this Agreement. During the first thirty (30) days of service, if the customer is having issues with the phone service and/or internet service and we cannot fix it, and the customer decides to cancel service, we will refund all monies paid to us (including installation cost). If you deem it necessary to re-terminate the circuit (move to new location) you will be responsible for additional TEKFINITY,LLC, Inc fees. TEKFINITY,LLC is not responsible for Service disruptions caused by re-termination. The recurring charge payable by Customer for the Services is as stated on a separate Service Quote. Other fees:

Charges for Directory Assistance calls (411) are \$0.99 each. Reactivation fee is \$30 minimum. Non-returned ATA fee is \$100.00 plus applicable taxes. Non-returned Internet equipment fee is \$300.00.

Payment Method and Timing

Accounts may be paid by electronic bank draft, money order, check or on-line credit card. Your TEKFINITY,LLC account will be considered delinquent if your payment is rejected for any reason. Accounts with returned electronic bank drafts or checks are subject to a \$25.00 processing fee per incident.

Payment terms: Payment shall be due 10 days after invoice date considered late if not received within 20 days of the invoice date. Payment is in advance of service delivery for that month.

Late Fees

Late fees are established to recover the costs of dealing with late payment situations. Late fees are in addition to all other fees, including, without limitation, return bank draft fees or checks provided for herein or in the Service Quote.

- 30 days late – The customer is subject to a late fee of \$8.50. The late fee charge is determined by the date payment is received in the TEKFINITY,LLC office.
- equipment

50 days late – The customer's service will be shut off. 60 days late – Customer's outstanding balance will be sent to collections. 75 days – TEKFINITY,LLC will call customer to inform them that we are going to come out to remove our equipment.

If the customer pays before the equipment is actually removed, there will be an additional reconnect fee of \$25 and automatic payment set-up will be required. If the customer pays after the equipment is removed, and desires to continue with TEKFINITY,LLC's service, customer will be charged a regular initial installation fee.

Moving / Reconnection Fee

Customer will not remove the Equipment from the Premises, modify the Equipment in any way, or connect the Equipment to any outlet other than the outlet to which the Equipment was initially connected to by the TEKFINITY,LLC installer. For such charges as TEKFINITY,LLC may determine, TEKFINITY,LLC may relocate the Equipment for Customer within the Premises at the Customer's request. If the Customer moves during the term of this Agreement and would like to relocate the Service, Customer must place a relocation request with TEKFINITY,LLC. This request must contain the requested date of service termination, plus the address and phone number of the new location, and, the prospective move-in date, and the requested transfer of Service date. Upon receipt of a request from Customer, TEKFINITY,LLC will suspend all monthly fees from the requested termination date until service relocation is completed. The maximum suspension will be thirty (30) days. Upon transfer of Customer's account, Customer agrees to continue to comply with all terms and conditions of this Agreement and the Service Quote. Billing cycle and service term will recommence upon activation of TEKFINITY,LLC Service at the new location. If TEKFINITY,LLC and its agents are unable to provide Service to Customer's new location, this Agreement shall terminate and applicable Early Termination fees shall be applied. If TEKFINITY,LLC has not yet received sufficient information from Customer to process the relocation order thirty (30) days after service termination, this Agreement is considered to be terminated by Customer, and Early Termination fees will apply.

Installation

TEKFINITY,LLC will provide installation services at the Customer premises at an agreed-upon price.

Access to Customer's Premises

Customer authorizes TEKFINITY,LLC, and its employees, agents, contractors, and authorized representatives to enter Customer's premises (the "Premises") in order to install, maintain, inspect, repair and remove the Equipment and/or Services. If Customer is not the owner of the Premises, upon request, Customer will supply TEKFINITY,LLC with the owner's name and address, evidence that the Customer is authorized to grant access to the Premises on the owner's behalf, and (if requested by TEKFINITY,LLC) written consent from the

owner of the Premises. This Agreement is contingent upon TEKFINITY,LLC's obtaining a right of entry onto the Premises.

Fee Changes

Customer acknowledges and agrees that TEKFINITY,LLC has the right to change its Service fees and to add new fees at any time, upon notice to Customer.

Customer Charges

Customer acknowledges that Customer may incur Customer-initiated charges while using the Services. For example, charges may be incurred as a result of Customer accessing certain information, or purchasing or subscribing to certain offerings, via the Internet. Customer agrees that all such charges, including all applicable fees and taxes, shall be paid by Customer and are not the responsibility of TEKFINITY,LLC.

Acceptance

The Customer agrees to all Terms of Service set out in this Agreement. Customer represents and warrants to TEKFINITY,LLC that Customer is of lawful age to enter into this Agreement and that (i) the Customer has the full right, power and authority to enter into this Agreement and to perform the acts required of Customer hereunder; (ii) the execution of this Agreement by Customer, and the performance by Customer of its obligations and duties hereunder, do not and will not violate any agreement to which Customer is a party or by which it is otherwise bound; and (iii) when accepted by such Customer, this Agreement will constitute the legal, valid and binding obligation of Customer, enforceable against Customer in accordance with its terms.

By providing TEKFINITY,LLC with your telephone number, cell phone number(s), or email address, you give your consent for TEKFINITY,LLC, or any of TEKFINITY,LLC's agents (including collection agents), to contact you at these numbers or email address, or any other phone number or email address that is later acquired for you, and, to leave live or pre-recorded messages, text messages, or emails to the extent that such are necessary to enforce any part of this agreement. For greater efficiency, calls may be delivered by an auto-dialer.

By using and accepting Service from TEKFINITY,LLC, Customer agrees to be legally bound by all of the Terms and Conditions of this Agreement and associated documents, the same as if Customer had signed this Agreement. These terms and conditions supersede all other written and oral communications or agreements with regard to the subject matter. Any waiver, modification or variation of these Terms and Conditions shall only be effective if in writing and/or in the form of a business contract signed by an authorized officer of TEKFINITY,LLC.

Authorization

As part of the installation process, modifications to the inside wiring in your house may be required, and you hereby consent to such modifications.

Customer Complaint Resolution

We are working to provide the best service possible and welcome your ideas on how we can improve the quality of our service. You can communicate your views to us by calling 208-736-0188.

Warranty/Limitation of Liability/Disclaimer of Liability

YOU ASSUME FULL RESPONSIBILITY FOR THE SELECTION OF THE SERVICES AND PRODUCTS TO ACHIEVE YOUR INTENDED PURPOSE. THE SERVICES AND ANY EQUIPMENT AND SOFTWARE PROVIDED TO YOU BY TEKFINITY,LLC ARE PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. TEKFINITY,LLC DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SERVICES OR PRODUCTS WILL MEET YOUR REQUIREMENTS OR THAT THE OPERATION OF THE SERVICES AND PRODUCTS WILL BE UNINTERRUPTED, ERROR-FREE, VIRUS-FREE. AND DEGRADATION OF VOICE QUALITY OR LOSS OF CONTENT, DATA OR INFORMATION. NEITHER TEKFINITY,LLC NOR ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS, OR ANY OTHER SERVICE PROVIDER OR VENDOR WHO FURNISHES SERVICES DEVICES, OR PRODUCTS TO CUSTOMER IN CONNECTION WITH THE SERVICE, WILL BE LIABLE FOR UNAUTHORIZED ACCESS TO OUR OR YOUR 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 TEKFINITY,LLC OR ITS SERVICE PROVIDER'S OR VENDORS' NEGLIGENCE. STATEMENTS AND DESCRIPTIONS CONCERNING THE SERVICE OR DEVICE, IF ANY, BY TEKFINITY,LLC OR TEKFINITY,LLC AGENTS OR INSTALLERS ARE INFORMATIONAL AND ARE NOT GIVEN AS A WARRANTY OF ANY KIND. SOME STATES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. THIS WARRANTY GIVES YOU SPECIFIC RIGHTS, WHICH VARY FROM STATE TO STATE.

LIMITED WARRANTY

TEKFINITY,LLC WARRANTS THAT IT WILL USE REASONABLE EFFORTS TO RENDER SERVICES PURSUANT TO THIS AGREEMENT IN A TIMELY, PROFESSIONAL AND WORKMANLIKE MANNER IN ACCORDANCE WITH TIMELINES ESTABLISHED HEREIN. ANY CLAIM FOR BREACH OF THE FOREGOING WARRANTY MUST BE BROUGHT WITHIN SIXTY (60) DAYS AFTER CUSTOMER'S ACTUAL DISCOVERY OF ANY DEFECT AND PRIOR TO THE EXPIRATION OF SIX (6) MONTHS FROM THE DATE THE APPLICABLE SERVICES WERE RENDERED. TEKFINITY,LLC WILL HAVE NO LIABILITY FOR ANY CLAIM MADE AFTER SUCH TIME. TEKFINITY,LLC DOES NOT WARRANT, HOWEVER, THAT YOUR USE OF ANY SERVICES WILL BE UNINTERRUPTED OR THAT THE OPERATION OF THE SERVICES WILL BE ERROR-FREE OR SECURE. TEKFINITY,LLC'S ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY IN CASE OF BREACH OF THIS WARRANTY SHALL BE, AT TEKFINITY,LLC'S SOLE OPTION, EITHER RETURN OF ALL OR A PORTION OF THE SERVICE FEES PAID FOR THE CURRENT MONTH OF SERVICE, OR REPLACEMENT OR REPAIR OF CONNECTION SERVICES OR PRODUCTS. THIS IS A LIMITED WARRANTY AND IS THE ONLY WARRANTY MADE BY TEKFINITY,LLC. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO LIMITATIONS MAY NOT APPLY TO YOU. IF ANY UNAUTHORIZED MODIFICATIONS ARE MADE TO THE EQUIPMENT OR SERVICES BY YOU DURING THE WARRANTY PERIOD, IF THE SERVICES OR PRODUCTS ARE SUBJECT TO ABUSE, ACCIDENT, IMPROPER USE, OR IF YOU BREACH THE TERMS OF THIS AGREEMENT, THEN THIS WARRANTY SHALL IMMEDIATELY BE TERMINATED.

LIMITATION OF LIABILITY

TO THE EXTENT PERMITTED BY LAW, YOU AGREE THAT TEKFINITY,LLC WILL NOT BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, LOSS OF USE, COMPUTER FAILURE OR MALFUNCTION, INTERRUPTION OF BUSINESS, LOSS OF GOODWILL, WORK STOPPAGE, TITLE, OR ANY OTHER DAMAGE OR LOSSES OF ANY KIND WHETHER UNDER THIS AGREEMENT OR OTHERWISE ARISING OUT OF OR RELATED TO THE AGREEMENT OR YOUR USE OF OR INABILITY TO USE TEKFINITY,LLC SERVICES, EVEN IF YOU ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. UNDER NO CIRCUMSTANCES WILL TEKFINITY,LLC BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY LOSS OR DAMAGE CAUSED BY RELIANCE ON DATA OR INFORMATION AVAILABLE FROM OR ON TEKFINITY,LLC SERVICES AND SYSTEMS. SOME STATES DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

WE WILL 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: AN ACT OR OMISSION OF AN UNDERLYING CARRIER, SERVICE PROVIDER, VENDOR OR OTHER THIRD PARTY; EQUIPMENT, NETWORK OR FACILITY FAILURE; EQUIPMENT, NETWORK OR FACILITY UPGRADE OR MODIFICATION; FORCE MAJOR EVENTS SUCH AS (BUT NOT LIMITED TO) ACTS OF GOD, ACTS OF NATURE, STRIKES, FIRE, WAR, RIOT, ACTS OF TERRORISM AND GOVERNMENT ACTIONS; EQUIPMENT, NETWORK OR FACILITY SHORTAGE; EQUIPMENT OR FACILITY RELOCATION; SERVICE, EQUIPMENT, NETWORK OR FACILITY FAILURE CAUSED BY THE LOSS OF POWER TO YOU; OUTAGE OF, OR BLOCKING OF PORTS BY, YOUR ISP OR BROADBAND SERVICE PROVIDER OR OTHER IMPEDIMENT TO USAGE OF THE SERVICE CAUSED BY ANY THIRD PARTY; ANY ACT OR OMISSION BY YOU OR ANY PERSON USING THE SERVICE OR DEVICE PROVIDED TO YOU; OR ANY OTHER CAUSE THAT IS BEYOND OUR 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 FORWARDED. OUR AGGREGATE LIABILITY UNDER THIS AGREEMENT WILL IN NO EVENT EXCEED THE SERVICE CHARGES WITH RESPECT TO THE AFFECTED TIME PERIOD.

OTHER THAN WARRANTIES AS TO THE DEVICE EXPRESSLY SET FORTH IN THE DOCUMENTATION PROVIDED WITH THE DEVICE AND THE RETAIL CUSTOMER LIMITED WARRANTY EXPRESSLY SET FORTH HEREIN, WE MAKE NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIM 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. DEVICE WARRANTIES DO NOT APPLY TO BUSINESS PLUS CUSTOMERS.

IN NO EVENT SHALL TEKFINITY,LLC'S AGGREGATE LIABILITY UNDER OR ARISING OUT OF THIS AGREEMENT EXCEED THE AMOUNTS PAID BY YOU FOR THE SERVICES IN THE TWELVE (12) MONTHS PRIOR TO THE INCIDENT GIVING RISE TO A CLAIM. NOTWITHSTANDING THE FOREGOING, SOME JURISDICTIONS MAY NOT ALLOW A LIMITATION ON LIABILITY FOR

NEGLIGENCE THAT CAUSES DEATH OR PERSONAL INJURY, AND TEKFINITY,LLC LIMITS ITS LIABILITY IN SUCH JURISDICTIONS ONLY TO THE DEGREE ALLOWED BY APPLICABLE LAWS.

TEKFINITY,LLC, ITS EMPLOYEES, AGENTS, SUPPLIERS, VENDORS AND DISTRIBUTORS MAKE NO WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, REGARDING THE QUALITY, ACCURACY, OR VALIDITY OF THE DATA AND/OR INFORMATION AVAILABLE ON ITS SYSTEMS, OR RESIDING ON OR PASSING THROUGH ITS NETWORKS, OR THAT TEKFINITY,LLC SERVICES WILL BE UNINTERRUPTED OR ERROR FREE. USE OF INFORMATION OBTAINED FROM OR THROUGH TEKFINITY,LLC IS AT YOUR OWN RISK. EXCEPT FOR THE PAYMENT OF FEES DUE BY CUSTOMER HEREUNDER, NEITHER PARTY WILL BE LIABLE FOR ANY FAILURE OR DELAY IN PERFORMANCE UNDER THE AGREEMENT WHICH MIGHT BE DUE, IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, TO ANY CONTINGENCY, DELAY, FAILURE, OR CAUSE OF ANY NATURE BEYOND THE REASONABLE CONTROL OF SUCH PARTY, INCLUDING WITHOUT LIMITATION ACTS OF NATURE, COURT OR GOVERNMENT.

IN NO EVENT WILL TEKFINITY,LLC, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS OR ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICES TO YOU IN CONNECTION 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 PERSONAL INJURY, WRONGFUL DEATH, PROPERTY DAMAGE, 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 ACCESS EMERGENCY SERVICE PERSONNEL THROUGH THE 911 DIALING SERVICE OR TO OBTAIN EMERGENCY HELP. 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 WE WERE INFORMED OF THE LIKELIHOOD OF ANY PARTICULAR TYPE OF DAMAGES.

CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR INDEPENDENT BACKUP OF ANY DATA FILES RESIDING ON TEKFINITY,LLC COMPUTERS OR NETWORKS. TEKFINITY,LLC RESERVES THE RIGHT TO REMOVE/DELETE ANY PERSONAL FILES AFTER AN ACCOUNT IS TERMINATED OR ASSOCIATED WITH PROHIBITED ACTIVITIES.

BY RECEIVING TEKFINITY,LLC SERVICES YOU EXPRESSLY AGREE THAT THE USE OF THE EQUIPMENT AND SOFTWARE IS AT YOUR SOLE RISK. WITH RESPECT TO THE EQUIPMENT AND SOFTWARE PROVIDED BY TEKFINITY,LLC, SUCH EQUIPMENT AND SOFTWARE ARE PROVIDED "AS IS," WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. TEKFINITY,LLC IS NOT RESPONSIBLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE INSTALLATION OR USE OF THE EQUIPMENT OR SOFTWARE.

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.

You will be liable for any and all liability that may arise out of the content transmitted by You or to any person, whether authorized or unauthorized, using Your Service or Device (each such person, a "User"). You shall assure that Your and Your User's use of the Service and content comply at all times with all applicable laws, regulations and written and electronic instructions for use. We reserve the right to terminate or suspend Your Services and remove Your or Your Users' content from the Service, if We determine, in our sole and absolute discretion, that such use or content does not conform to the requirements set forth in this Agreement or interferes with our ability to provide Services to You or others. Our action or inaction under this Section will not constitute any review or approval of Your or Users' use or content.

The provisions of this Agreement that by their sense and context are intended to survive the termination or expiration of this Agreement shall survive.

Indemnity

You agree to defend, indemnify and hold TEKFINITY,LLC its officers, directors, agents and employees harmless from any claims, losses and damages, including attorney's fees, resulting from your violation of any of the provisions of this Agreement or Your placement or transmission of any materials or content onto TEKFINITY,LLC servers or through its network, or from any and all use of Your account, with or without your knowledge or consent, or from all claims, damages, fines, penalties, costs and expenses (including, without limitation, attorney fees) related to any action taken by TEKFINITY,LLC as part of Our investigation of a suspected violation of this Agreement or as a result of its conclusion that a violation of this Agreement has occurred, or to Your use of or inability to use TEKFINITY,LLC Services, equipment, bundled software, Internet or VoIP, including, without limitation, 911 dialing.

Transferability and Assignment

You shall not sell, transfer or assign this Agreement. Customer's account and right to use TEKFINITY,LLC Services and system are not transferable without TEKFINITY,LLC's prior written consent. Customer agrees to protect its password and account and to keep them secure from unauthorized users and use, and to be solely responsible for the protection and security of Customer's password and account information.

Nature of Information

The Customer has been advised and acknowledges that the Internet may contain information, materials, and language that may be deemed adult in nature and inappropriate or offensive. The Customer is responsible for all information received, transmitted, and/or stored by the Customer and the Customer releases TEKFINITY,LLC from and agrees to indemnify TEKFINITY,LLC its officers, directors, agents and employees against any and all claims, losses or expenses relating to such information, materials and language. This indemnification shall survive any termination of this Agreement.

Notices

Notification of either party to this Agreement shall be effective upon receipt, or refusal of delivery, when deposited in the United States Mail, first class mail, certified or return receipt requested, postage prepaid, or when sent by a telefax, email, or a nationally recognized overnight delivery service, to the address of TEKFINITY,LLC set forth above or to the address of Customer set forth on TEKFINITY,LLC's records or such other address provided for such purposes.

Proprietary Rights

TEKFINITY,LLC grants Customer a non-exclusive, non-transferable license to use the products and Services provided hereunder. Title and property rights, including all intellectual property rights to such products and Services, is and shall remain with TEKFINITY,LLC, whether or not they are embedded in any product. Customer recognizes that the products and Services used hereunder constitute valuable trade secrets of TEKFINITY,LLC The Customer shall use their best efforts to protect and keep confidential any and all products and services used by Customer and shall not attempt to copy, examine, in any way alter, or reengineer, reverse engineer, tamper with, or otherwise misuse such products and services.

Jurisdiction/Venue/Choice of Law

You agree that exclusive jurisdiction for any claim or dispute with TEKFINITY,LLC or relating in any way to Your account or Your use of the Services resides in the courts of Idaho and that this Agreement shall be governed by Idaho law. You expressly consent to the exercise of personal jurisdiction in the courts of Idaho in connection with any such dispute. If an action at law or in equity is necessary to enforce or interpret the terms of this Agreement or compel performance thereof, the substantially prevailing party shall be entitled to reasonable attorney's fees and costs in addition to any other relief to which such party may be entitled.

Amendments

TEKFINITY,LLC may modify this Service Agreement from time to time, and your continued use of the Service following notice of such modification shall be deemed to be your acceptance of such modification. If You do not agree to any modification of this Service Agreement, You must immediately stop using the Service and notify TEKFINITY,LLC of Your desire to cancel the Service.

Information

You hereby acknowledge that TEKFINITY,LLC and its affiliates may retain and use any information, comments or ideas conveyed by You relating to the Service (including any products and services made available on the Service). This information may be used to provide You with better service. TEKFINITY,LLC may open and maintain a Customer file.

Entire Agreement

This Service Agreement, including the Service Quote and any and all other documents and TEKFINITY,LLC policies referenced herein, constitutes the entire agreement between TEKFINITY,LLC and you pertaining to the subject matter hereof. TEKFINITY,LLC's failure to insist upon or enforce strict performance of any provision of this Service Agreement shall not be construed as a waiver of any provision or right.

In the event that it is determined by a court of competent jurisdiction as a part of a final non-appealed judgment that any provision of these Terms and Conditions (or part thereof) is void, invalid, illegal, or otherwise unenforceable, such provision will be enforced as nearly as possible in accordance with the stated intention of the parties, while the remainder of the Service Agreement will remain in full force and effect.

BY YOUR USE AND ACCEPTANCE OF THE SERVICE, YOU ARE INDICATING THAT YOU ARE OF LEGAL AGE AND HAVE READ, UNDERSTOOD AND AGREED TO BE BOUND BY THE TERMS AND CONDITIONS OF THE AGREEMENT PRESENTED.