



## Residential VoIP Service Agreement Terms and Conditions

**1. OVERVIEW.** The terms and conditions stated herein shall apply with respect to the provision of any and all telecommunications and related services ("Services") by Firefly Fiber Broadband ("Firefly") to Customer under the Retail Customer Sales Agreement ("Agreement") and are a summary of the terms and conditions applicable to the Agreement. See our "Terms and Conditions (Retail)" at <http://www.fireflyva.com> for the complete terms and conditions applicable to the Agreement.

**2. TERM AND TERMINATION.** The term of the Agreement shall commence upon the initial installation or activation of any Service and shall continue in full force and effect for the time period from month to month unless earlier terminated in accordance with the terms and provisions of the Agreement. Customer may terminate the Agreement on thirty (30) days' written notice to Firefly. Firefly may terminate the Agreement at any time upon written notice to Customer. Customer shall pay to Firefly, immediately upon demand, all sums then due and unpaid at the time of termination.

**3. RATES AND CHARGES.** The rates and charges for the Services are set forth in the Agreement, together with any and all of Firefly's tariffs, as applicable and as amended from time to time. With respect to any Service provided by Firefly to Customer for which a rate is not specified in the Rate Schedule, Firefly's standard retail rates shall apply. Firefly shall provide Customer with a current rate schedule for its standard retail rates at time of service activation from time to time and at the request of Customer. Customer shall make all payments when due as set forth in Section 5 below.

**4. TAXES AND SURCHARGES.** In addition to the rates and charges for the Service(s), Customer shall be responsible for payment of all local, state and federal taxes, fees and surcharges, however designated, imposed on or based upon the provision, sale, or use of the Services and any Equipment, excluding taxes based on Firefly's net income. Customer shall be responsible for the payment of all surcharges in effect from time to time, including but not limited to USF, PICC, and payphone surcharges, as required or permitted by applicable law, regulation or tariff and/or as specified on the Firefly website at [www.fireflyva.com](http://www.fireflyva.com)

**5. BILLING AND PAYMENT.** Billing for any Service shall commence immediately following delivery of the Service to Customer's service address(es). Customer will receive a bill on or about the 1st of each month for the prior month's usage-based Services (including pro-rata charges for new services added during the prior month) and in advance for the current month's monthly charges. All bills are due and payable upon receipt. If Customer's bill is not paid by the date which is thirty (30) days after the invoice date listed on the bill (the "Due Date"), Customer shall pay Firefly, in addition to the amount of the bill, a monthly late charge amount equal to 1.5% of the unpaid balance due (or such lesser amount as is the maximum amount permitted under applicable law). Customer must provide Firefly with written notice of any disputed charge(s) within thirty (30) days after the invoice date listed on the bill or shall be deemed to have waived its rights to dispute the charges. Customer shall pay the invoiced amount by the Due Date; provided that payment of an invoice shall not be deemed a waiver of Customer's rights to later dispute an invoice within the time period established in this Section. The dispute notice shall set forth in writing in reasonable detail the information concerning the disputed charges and reasons for the dispute. Firefly and Customer shall attempt in good faith to promptly resolve any objection to the invoiced amount. If the dispute is subsequently resolved in favor of Customer, Firefly shall issue a credit on Customer's subsequent invoice for the disputed amount. If Firefly initiates legal proceedings to collect any amount due hereunder and Firefly substantially prevails in such proceedings, then Customer shall pay the reasonable attorneys' fees and costs incurred by Firefly in prosecuting such proceedings and any appeals therefrom. In the event Customer fails to pay any invoice when due, or provide Firefly with a notice of dispute, Firefly shall notify Customer regarding its failure to pay such invoice. If after Firefly has provided such notice, Customer continues to fail to pay such invoice(s) within 5 days after such notice, Firefly may, in addition to any other rights and remedies available to Firefly, suspend service under this Agreement until all outstanding invoice(s) are paid in full. In addition, in such case Firefly may elect to terminate this Agreement, and shall be entitled to seek and exercise such rights and remedies that may otherwise be permitted hereunder or at law or in equity.

**6. CUSTOMER RESPONSIBILITIES.** In addition to all other Customer responsibilities as set forth in the Agreement, Customer shall be responsible for providing the following: (i) broadband Internet connectivity; (ii) all equipment, software, facilities and/or Internet Protocol ("IP") connectivity necessary to reach and interoperate with the Service and the Firefly network; and (iii) all other equipment, software and other facilities to be installed, including without limitation, routers, IP enabled phones and/or an analog terminal adapters.

**7. UNAUTHORIZED USE OF SERVICES.** Firefly shall have the right (but not the obligation) to take protective action against Customer in order to protect Firefly's network from any unauthorized use, which protective action may include, without limitation, the temporary blocking of Customer's traffic until the applicable problem is resolved (in Firefly's reasonable discretion). The Service does not support and Firefly will not accept 976/900 and such other call types in which charges are placed on an end-users bill and Firefly might be expected to act as a collection agent. Use of predictive dialers for more than five percent (5%) of all calls made is prohibited with Firefly's written consent.



**8. NO WARRANTY; LIMITATION OF LIABILITY.** FIREFLY AND ITS SUPPLIERS MAKE NO WARRANTIES ABOUT THE SERVICE PROVIDED HEREUNDER, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. FIREFLY AND ITS SUPPLIERS DO NOT AUTHORIZE ANYONE TO MAKE A WARRANTY ON FIREFLY'S BEHALF AND THE CUSTOMER MAY NOT RELY ON ANY STATEMENT OF WARRANTY AS A WARRANTY OF FIREFLY AND ITS SUPPLIERS. THE WARRANTY SET FORTH IN THIS SECTION IS THE SOLE AND EXCLUSIVE WARRANTY PERTAINING TO ANY SERVICES OR EQUIPMENT SOLD BY FIREFLY HEREUNDER, AND FIREFLY AND ITS SUPPLIERS MAKE NO OTHER WARRANTIES, REPRESENTATIONS OR GUARANTEES WITH RESPECT THERETO. THIRD PARTY PRODUCED ITEMS ARE PROVIDED AS IS AND WITHOUT WARRANTY. IN NO EVENT SHALL FIREFLY AND ITS SUPPLIERS (OR ITS AFFILIATES, EMPLOYEES, OFFICERS, DIRECTORS OR AGENTS) BE LIABLE TO THE CUSTOMER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF REVENUE, LOSS OF PROFITS, OR LOSS OF CUSTOMERS, CLIENTS OR GOODWILL ARISING IN ANY MANNER FROM THE AGREEMENT AND/OR THE PERFORMANCE OR NONPERFORMANCE HEREUNDER, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, AND REGARDLESS OF THE NATURE OF THE CLAIM OR FORM OF ACTION, WHETHER IN CONTRACT OR TORT INCLUDING NEGLIGENCE. FIREFLY'S ENTIRE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDIES WITH RESPECT TO ANY SERVICE PROVIDED TO CUSTOMER (INCLUDING WITHOUT LIMITATION WITH RESPECT TO THE INSTALLATION, DELAY, PROVISION, TERMINATION, MAINTENANCE, REPAIR, INTERRUPTION, OR RESTORATION OF ANY SUCH SERVICE) OR BREACH OF THE AGREEMENT, WHETHER IN AN ACTION FOR OR ARISING OUT OF BREACH OF CONTRACT, TORT, INCLUDING NEGLIGENCE, INDEMNITY OR STRICT LIABILITY, SHALL BE LIMITED TO A MAXIMUM OF A TOTAL AMOUNT OF ALL FEES PAID BY CUSTOMER TO FIREFLY IN THE MOST RECENT THREE MONTH PERIOD HEREUNDER. THE PROVISIONS OF THIS SECTION 8 CONSTITUTE AN ALLOCATION OF RISK BETWEEN THE PARTIES AND THE PRICE CHARGED CUSTOMER IS BASED ON SUCH ALLOCATION OF RISK. THE TERMS OF THIS SECTION 8 SHALL SURVIVE THE FAILURE OF AN EXCLUSIVE OR LIMITED REMEDY OR THE TERMINATION OF THIS AGREEMENT FOR ANY REASON. THIS SECTION 8 SURVIVES TERMINATION OF THE AGREEMENT. TO THE EXTENT THAT SUCH TERMS CONFLICT, THE TERMS OF THIS SECTION 8 CONTROL THE TERMS AND CONDITIONS SET FORTH AT [www.fireflyva.com](http://www.fireflyva.com) WITH RESPECT TO THE MATTERS SET FORTH HEREIN.

**9. CPNI.** Under federal law, Customer has the right, and Firefly has a duty, to protect the confidentiality of information about the amount, type, and destination of Customer's service usage (CPNI). Customer hereby consents to the sharing of Customer's CPNI or other personal information with Firefly, Inc. and its affiliates, agents and contractors, solely for the purpose of developing or bringing to Customer's attention any products and services, or in the event of any merger, sale of some or all of the company assets or acquisition as well as in any insolvency, bankruptcy or receivership proceeding in which CPNI or other personal information would be transferred as one of the business assets of the company. This consent survives the termination of Customer's Service and is valid until revoked by Customer. To remove this consent at any time, Customer must notify Firefly in writing at PO Box 359, Lovingson, VA 22949 Attn: Customer Service and provide the following information: (1) Customer name, (2) Service billing address, (3) telephone number including area code, and (4) service account number. Removing consent will not affect the Customer's current Service.

## **10. EMERGENCY SERVICES - 911 DIALING**

**YOU SHOULD BE AWARE THAT THERE ARE SOME CIRCUMSTANCES UNDER WHICH YOUR E911 SERVICE MAY NOT BE AVAILABLE OR MAY BE LIMITED IN SOME WAY. EXAMPLES OF THE LIMITATIONS OF YOUR E911 SERVICE WHEN COMPARED TO A TRADITIONAL TELEPHONE SERVICE ARE LISTED IN THIS SECTION. YOU ARE STRONGLY ADVISED TO FAMILIARIZE YOURSELF WITH THIS SECTION AND DISCUSS IT WITH YOUR FIREFLY FIBER BROADBAND REPRESENTATIVE IF THERE IS ANYTHING YOU FIND CONFUSING OR YOU DO NOT UNDERSTAND.**

**10.1 911 Dialing.** All of our customers have access to either basic 911 or Enhanced 911 (E911) service. With E911 service, when you dial 911, your telephone number and registered address are simultaneously sent to the local emergency center assigned to your location, and emergency operators have access to the information they need to send help and call you back if necessary. Customers have basic 911 in locations where the emergency center is not equipped to receive your telephone number and address. With basic 911, the local emergency operator(s) answering the call will not have your call back number or your exact location, so you must be prepared to give them this information. Until you give the operator(s) your phone number, he/she may not be able to call you back or dispatch help if the call is not completed or is not forwarded, is dropped or disconnected, or if you are unable to speak.

You authorize us to disclose your name and address to third-parties involved with providing 911 Dialing to you, including, without limitation, call routers, call centers and local emergency centers.

**10.2 Notify All Users.** **YOU SHOULD INFORM ANY CUSTOMERS, EMPLOYEES, GUESTS OR OTHER THIRD PERSONS WHO MAY BE PRESENT AT THE PHYSICAL LOCATION WHERE YOU UTILIZE THE SERVICE OF THE IMPORTANT DIFFERENCE IN, AND LIMITATIONS OF, FIREFLY FIBER BROADBAND 911 DIALING AS COMPARED WITH TRADITIONAL BASIC 911 OR E911.** The documentation that accompanies each piece of equipment you may purchase or lease will include a sticker concerning the potential non-availability of basic 911 or E911 (the "911 Sticker"). It is your responsibility to place the 911 Sticker as near as possible to each phone that you use with the Service. If you did



not receive a 911 Sticker with your Equipment, or you require additional 911 Stickers, please contact our customer care department at 833-473-3591 for more stickers at no additional cost.

**10.3 Location of Service.** This Service is provided at a specific permanent address and not available as a nomadic offering. Before you move to another location, you must notify Firefly Fiber Broadband to determine if service can be provided at your new permanent address. **If you attempt to use the Service without notifying Firefly Fiber Broadband and receiving our permission, emergency personnel may not be able to locate you to adequately respond to an emergency. Even with E911, emergency personnel may be dispatched at the address listed with us and not the address where you use the service if you fail to follow the requirements of this paragraph.**

**10.4 Confirmation of Activation Required.** Your 911 Dialing feature will not be activated for any phone line that you are using with the Service, UNLESS AND UNTIL YOU RECEIVE AN EMAIL FROM FIREFLY FIBER BROADBAND CONFIRMING THE 911 DIALING FEATURE HAS BEEN ACTIVATED FOR THAT PHONE LINE.

#### **10.5 Service Outages.**

**(a) Service Outages Due to Power Failure or Disruption.** Dependent upon your location, network backup power systems may be in place during the event of a power failure. The equipment provided may also provide limited battery backup. Consult with Firefly Fiber Broadband to determine whether or not your equipment has battery backup.

**i. Equipment with battery backup.** Battery backup on qualifying equipment is limited. Excessive use during a power outage will result in shortened life of the internal battery. The equipment may provide indication of low battery voltage. Customer should contact Firefly Fiber Broadband for instructions or replacement. Failure of network power backup systems or the internal backup system during a power failure or disruption will prevent all Service, including 911 dialing, from functioning.

**ii. Equipment without battery backup.** Equipment that does not have a battery backup cannot support 911 dialing in event of a power failure or disruption. If there is an interruption in the power supply, the Service, including 911 Dialing will not function until power is restored. Following a power failure or disruption, you may need to reset or reconfigure the equipment prior to utilizing the Service, including 911 Dialing.

**(b) Service Outages Due to Internet Outage or Suspension or Disconnection of Broadband Service or ISP Service.** Service Outages due to Internet Outage or Suspension or Disconnect of Broadband Service or ISP will prevent all Service, including 911 dialing, from functioning. You understand you must obtain your own Internet connection or obtain service from us (where available) to use the Service. We may not control your Internet access or the quality of your Internet connection. We are not responsible for problems caused by your Internet connection or for any third-party products or service, nor will we contact any third-party providers on your behalf.

**(c) Service Outage Due to Disconnection of Your Firefly Fiber Broadband Account.** Service outages due to disconnection of your account will prevent all Service, including 911 Dialing, from functioning.

**(d) Service Outages Due to ISP or Broadband Provider Blocking of Ports or Other Acts.** Your ISP or broadband provider or other third party may intentionally or inadvertently block the ports over which the Service is provided or otherwise impede the usage of the Service. In that event, provided that you alert us to this situation, we will attempt to work with you to resolve the issue. During the period that the ports are being blocked or your Service is impeded, and unless and until the blocking or impediment is removed or the blocking or impediment is otherwise resolved, your Service, including the 911 Dialing feature, may not function. You acknowledge that Firefly Fiber Broadband is not responsible for the blocking of ports by your ISP or broadband provider or any other impediment to your usage of the Service, and any loss of Service, including 911 Dialing, which may result. In the event you lose Service as a result of blocking of ports or any other impediment to your usage of the Service, you will continue to be responsible for payment of the Service charges unless and until you disconnect the Service in accordance with this Agreement.

**(e) Other Service Outages.** If there is a Service outage for any reason, such outage will prevent all Service, including 911 Dialing, from functioning. SUCH OUTAGES MAY OCCUR FOR A VARIETY OF REASONS, INCLUDING, BUT NOT LIMITED TO, THOSE REASONS DESCRIBED ELSEWHERE IN THIS AGREEMENT.

**10.6 Network Congestion; Reduced Speed for Routing or Answering 911 Dialing Calls.** There may be a greater possibility of network congestion and/or reduced speed in the routing of a 911 Dialing call made utilizing the Service as compared to traditional 911 dialing over traditional public telephone networks.

**10.7 Disclaimer of Liability and Indemnification.** We do not have any control over whether, or the manner in which, calls using your 911 Dialing service are answered or addressed by any emergency response center. We disclaim all responsibility for the conduct of local emergency response centers and the national emergency calling center. We rely on third parties to assist us in routing 911 Dialing calls to local emergency response centers and to a national emergency calling center. We disclaim any and all liability or responsibility in the event such third party data used to route calls is



incorrect or yields an erroneous result. **NEITHER FIREFLY FIBER BROADBAND NOR ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, OR AGENTS MAY BE HELD LIABLE FOR ANY CLAIM, DAMAGE, OR LOSS, AND YOU HEREBY WAIVE ANY AND ALL SUCH CLAIMS OR CAUSES OF ACTION, ARISING FROM OR RELATING TO OUR 911 DIALING SERVICE.** You shall defend, indemnify, and hold harmless Firefly Fiber Broadband, its officers, directors, employees, affiliates and agents and any other service provider who furnishes services to you in connection with the Service, from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without limitation, attorneys fees) by, or on behalf of, you or any third party relating to the absence, failure or outage of the Service, including 911 Dialing, incorrectly routed 911 Dialing calls, and/or the inability of any user of the Service to be able to use 911 Dialing or access emergency service personnel.

**10.8 Alternate 911 Arrangements.** If you are not comfortable with the limitations of the 911 Dialing service, you should consider having an alternate means of accessing traditional 911 or E911 services or disconnecting the Service.

**10.9 Non-exclusive, Non-transferable License; Retention of Rights.** The right to use any of the Service granted to the Customer is non-exclusive and non-transferable, and Customer shall prohibit use of the Service by any third party other than Customer for such Customer's internal business purposes. It is expressly understood that title to the Service, any trade names, trade dress, trademarks, service marks, commercial symbols, copyrightable material, designs, logos and/or any other intellectual property belong to Firefly Fiber Broadband or its underlying providers and does not pass to the Customer.

**11. Incompatibility with Security Systems.**

The Service may not be compatible with all security systems. You may be required to maintain a telephone connection through your local exchange carrier in order to use certain alarm monitoring functions for any security system installed in your home. You are responsible for contacting the alarm monitoring company to test the compatibility of any alarm monitoring or security system with the Service.

**12. NOTICES.** All notices and communications under the Agreement shall be in writing and shall be given by personal delivery, recognized national overnight courier service (i.e. Federal Express), by registered or certified mail, return receipt requested, or by facsimile transmission, addressed to the respective Party as set forth in the first page of the Agreement or to such other address as may be designated in writing by such Party. Notice shall be deemed given upon receipt.

**13. MISCELLANEOUS.** The Agreement, including this Summary of Standard Terms and Conditions, the Standard Terms and Conditions on [www.fireflyva.com](http://www.fireflyva.com) and all other schedules applicable to the Services purchased by the Customer, represents the entire agreement of the Parties with respect to the subject matter hereof and supersedes all other agreements, written or oral, between the Parties relating to the Service. Any modification to this Agreement shall be in writing signed by authorized representatives of both Parties. In case of any conflict between the provisions of these Standard Terms and any schedule (including any Additional Terms), the provisions of these Standard Terms shall take precedence unless otherwise indicated in the signed attached schedule. This Agreement and any amendment of the terms hereof, may be signed in counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. No term or provision herein shall be waived, and no breach or default excused, unless such waiver or consent is in writing and signed by the Party to which it is attributed. No consent by a Party to, or waiver of, a breach or default by the other, whether expressed or implied, shall constitute a consent to or waiver of any subsequent breach or default. If any provision of the Agreement shall be held to be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render the Agreement unenforceable, but rather the Agreement shall be construed as if not containing the invalid or unenforceable provision. The Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of Virginia, without regard to its conflict of laws principles. Each party consents to personal jurisdiction in the state and federal courts of the State of Virginia.

ACKNOWLEDGED AND AGREED:

\_\_\_\_\_ Address: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_