



New Era Broadband Services

## **Acceptable Use Agreement – Data Section**

### Usage

The main purpose of New Era Broadband Services Internet Service is to facilitate communication utilizing the Internet. It is New Era Broadband Services' intention to allow all New Era Broadband Services users complete access to everything the Internet has to offer with minimal or no interference.

New Era Broadband Services has developed this Terms and Conditions document. It is intended to provide a guide to New Era Broadband Services' views on what constitutes appropriate and inappropriate use of New Era Broadband Services access to the Internet and to inform New Era Broadband Services customers of what actions we may take, with or without notice, in the event that New Era Broadband Services becomes aware of inappropriate use of New Era Broadband Services service. The agreement will help New Era Broadband Services system administrators deal with complaints from users of New Era Broadband Services or other Internet connected systems and determine when action must be taken.

Use of the Internet services that are provided by New Era Broadband constitutes acceptance of these policies and It is expected that all New Era Broadband Services customers will follow the policies set forth herein. Protection of New Era Broadband Services technical resources and New Era Broadband Services' ability to continue to provide high-quality service to its customers, compliance with existing laws and regulations, and the protection of New Era Broadband Services' reputation as a service provider are all contributing factors to the policies outlined below.

Access to New Era Broadband Services' Internet Service is provided subject to the following terms and conditions:

### 1. Warranties/Disclaimers

New Era Broadband Services Internet service is provided on an "as is, as available" basis. No warranties, express or implied, including, but not limited to, those of merchantability or fitness for a particular purpose, are made with respect to New Era Broadband Services or any information or software therein. You release New Era Broadband Services from and New Era Broadband Services shall have no liability or responsibility for any direct, indirect, incidental, or consequential damages suffered by you in connection with your use of or inability to use the New Era Broadband Services services including, but not limited to, damages from loss of data resulting from delays, non-deliveries, misdeliveries, or service interruptions, or due to inadvertent release or disclosure of information sent by you even if the same is caused by New Era Broadband Services' own negligence. Without limiting the generality of the foregoing, New Era Broadband Services disclaims to the full extent permitted by applicable law any responsibility for (and under no circumstances shall be liable for) any conduct,

content, goods, and services available on or through the Internet or the New Era Broadband Services services. In no event shall New Era Broadband Services aggregate liability exceed the amount paid by you to New Era Broadband Services for the New Era Broadband Services services. Use of any information obtained via New Era Broadband Services Internet service is at the user's risk. New Era Broadband Services specifically disclaims any responsibility for the accuracy or quality of information obtained through its services. New Era Broadband Services shall have no liability or responsibility for any damages occurred by the home owner, occupant, business or business owner by equipment owned and/or installed by New Era Broadband Services employees, agents or representatives for the expressed purpose of delivering Internet services to the home or business. New Era Broadband Services will be held without fault for unintentional damages resulting from the installation process of said equipment. Liability is limited to the individual employee, agent or representative, and then only in the case of criminal activity or malicious intent.

## 2. Security

The customer is responsible for all use of customer's account(s) and confidentiality of password(s), including choosing safe passwords and ensuring file protections are set correctly. New Era Broadband Services will suspend access or change access to customer's account(s) immediately upon notification by customer that customer's password has been lost, stolen, or otherwise compromised. New Era Broadband Services is not liable for any usage and or charges prior to New Era Broadband Services making the necessary account alteration. Electronic mail on this system is as private as we can make it. New Era Broadband Services customers are reminded that no computer system can be considered safe from intrusion. E-mail may pass through many computer systems and should not be considered a secure means of communication unless encrypted, and even encrypted information is only as secure as the encryption method utilized.

## 3. Personal Files

New Era Broadband Services is not responsible for customer's personal files residing on New Era Broadband Services. Customer is responsible for independent backup of customer's data that is stored on New Era Broadband Services. New Era Broadband Services reserves the right to delete customer's personal files after one or both parties terminates the service agreement between New Era Broadband Services and customer.

## 4. Non-Transferability of Account

The right to use New Era Broadband Services Internet service is not transferable. Use of New Era Broadband Services accounts is expressly limited to the individual or business whose name appears on the account and dependents of the account holder living at the same address. A customer may use no more than one log-in session per account at any time. If a customer has multiple accounts, the customer is limited to one log-in session per account at any time.

## 5. Network Address Ownership

Any network address assignments issued by New Era Broadband Services (i.e., Class C address space) are the property of New Era Broadband Services and are considered to be loaned to its customers. In the event service with New Era Broadband Services is discontinued for any reason, such addresses will revert to New Era Broadband Services.

## 6. Compliance with All Laws

Customer agrees to use the service in a manner consistent with any and all applicable laws and regulations. Reproduction or transmission of any material in violation of any local, state, U.S. , or international law or regulation is prohibited. Customer agrees that any material to be reproduced or transmitted on New Era Broadband Services service through customer's account(s) does not violate or infringe any copyright, trademark, patent, statutory, common law, or proprietary rights of others or contain anything obscene, libelous, or threatening. Software intended to facilitate any such violations or infringements may not be stored on New Era Broadband Services. Customer shall defend, indemnify, and hold harmless New Era Broadband Services from and against any claims, liabilities, and expenses, including attorneys fees, resulting from customer's use of the New Era Broadband Services service or customer's account in an unlawful manner or otherwise in violation of or contrary to customer's agreement with New Era Broadband Services or New Era Broadband Services Acceptable Use Policies. At New Era Broadband Services' discretion, New Era Broadband Services may revoke customer's access to New Era Broadband Services services or accounts for inappropriate usage.

## 7. Unacceptable Conduct

The following types of conduct are grounds for immediate suspension of service pending investigation by New Era Broadband Services and may result in termination of the account(s) if the investigation determines the customer to have originated or transmitted these types of traffic. In addition, New Era Broadband Services reserves the right, where feasible, to implement technical mechanisms that block multiple postings by a New Era Broadband Services customer as described in (a) and (b) below before such postings are forwarded: (a) Posting a single article or substantially similar articles to an excessive number of newsgroups (i.e., more than 20) or continued posting of articles that are off-topic (e.g., off-topic according to the newsgroup charter, or the article provokes complaints from the regular readers of the newsgroup for being off-topic). (b) Sending unsolicited mass e-mails (i.e., to more than 25 users) that provoke complaints from the recipients. (c) Engaging in either (a) or (b) from a provider other than New Era Broadband Services and using an account on New Era Broadband Services as a mail drop for responses, or to draw attention to a Web site housed within New Era Broadband Services networks. (d) Continued harassment of other individuals on the Internet after being asked to stop by those individuals and by New Era Broadband Services. (e) Mail bombing (i.e., sending large volumes of unsolicited e-mail to individuals or to individual business accounts). (f) Impersonating another user or otherwise falsifying one's user name in e-mail, Usenet postings, on Internet Relay Chat (IRC), or with any other Internet service. (This does not preclude the use of nicknames in IRC or the use of anonymous re-mailer services.) (g) Privacy violations: Attempts, whether successful or not, to gain access to any other system or users' private data without express consent of the user. (h) Use of IRC bots or clone bots on New Era Broadband Services, whether on IRC servers controlled by New Era Broadband Services or by other parties. An IRC bot is a program that runs and is connected to an IRC server 24 hours a day, automatically performing certain actions. (i) Network unfriendly activity: Attempts to interfere with the regular workings of New Era Broadband Services systems or network connections or that adversely affect the ability of other people or systems to use New Era Broadband Services services or the Internet, including, but not limited to: Any unauthorized attempts by a user to gain root access or access to any account not belonging to that user on this or any other New Era Broadband Services system; Any use of this or any other New Era Broadband Services system as a staging ground to disable other systems.

## 8. Excess Use of System or Network Resources

New Era Broadband Services account descriptions in some cases may specify limits on bandwidth, CPU, and disk use for certain types of customers and use up to these limits is included in the price for that type of customer. In the event New Era Broadband Services determines that a customer is exceeding the bandwidth, CPU, and/or disk use limits, the customer will be notified by e-mail. If the excess use continues for more than 48 hours after such notification, the customer may be requested to upgrade to a Web hosting service agreement or to modify the activity creating the excess use. If excessive bandwidth, CPU, or disk space use is determined by New Era Broadband Services to adversely affect New Era Broadband Services ability to provide service for all customers, immediate action may be taken to alleviate the problem. In such event, the customer will be notified by e-mail as soon as practicable.

## 9. Compliance with Rules of Other Networks

Any access to other networks connected to New Era Broadband Services Internet service must comply with the rules for that other network as well as with New Era Broadband Services' rules.

## 10. Monitoring/Privacy

New Era Broadband Services reserves the right to monitor any and all communications through or with New Era Broadband Services facilities. Customer agrees that New Era Broadband Services is not considered a secure communications medium for the purposes of the Electronic Communications Privacy Act, and that no expectation of privacy is afforded. It may become necessary for New Era Broadband Services employees to examine system accounting logs and other records to determine if privacy violations or other network unfriendly activities have occurred. New Era Broadband Services also reserves the right to access a customer's mailbox or other files stored on New Era Broadband Services systems to resolve system problems or mail system errors.

## 11. Cooperation with Authorities

New Era Broadband Services reserves the right to cooperate with law enforcement and other authorities in investigating claims of illegal activity, including, but not limited to, illegal transfer or availability of copyrighted material, postings or e-mail containing threats of violence, or other illegal activity.

## 12. Confidentiality of Personal Subscriber Information

New Era Broadband Services will not release a customer's personal subscriber information, nor a customer's billing information, to any third party except upon presentation of a valid court order of a government or entity within our jurisdiction. Customer agrees that New Era Broadband Services judgment as to the validity of any court order of subpoena shall be considered proper and final.

## 13. New Era Broadband Services' Right to Suspend or Cancel Account

New Era Broadband Services reserves the right to suspend or cancel service to a customer at any time and without notice, for any reason, including, but not limited to, refusal or failure to pay for services provided or by sole judgment of New Era Broadband Services that the customer may be performing activities harmful to New Era Broadband Services or its customers, employees, vendors, business relationships, or any other users of the Internet.

#### 14. Right to Damages

New Era Broadband Services reserves the right to collect damages (software, hardware, and man hours) if any harm is done to New Era Broadband Services and or equipment installed at the premise that requires repair or reconfiguration of any kind due to negligence or abuse of the customer.

#### 15. Other Remedies/Non-Waiver

Nothing contained in these policies shall be construed to limit action New Era Broadband Services may take or remedies available to New Era Broadband Services in any way with respect to any of the described conduct. New Era Broadband Services reserves the right to take any additional actions New Era Broadband Services may consider appropriate with respect to such conduct, including without limitation taking action to recover the costs and expenses of identifying offenders and removing them from the New Era Broadband Services service, and levying cancellation charges to cover New Era Broadband Services costs in the event of disconnection of dedicated access for the causes outlined above. In addition, New Era Broadband Services reserves at all times all rights and remedies available to New Era Broadband Services with respect to such conduct at law or in equity. Non-enforcement of any policy or rule herein does not constitute consent or waiver, and New Era Broadband Services reserves the right to enforce such policy or rule at its sole discretion.

#### 16. New Era Broadband Services' Right to Change Service

New Era Broadband Services reserves to right to change without notice the New Era Broadband Services service, including, but not limited to, access procedures, hours of operation, menu structures, commands, documentation, vendors, and services offered.

#### 17. Abuse of Network Resources

To assure the highest quality and availability of resources possible for our customers, all users agree to use and maintain any computer, appliance, system or attachment accessing the network in a responsible manner. This includes the continual use of up to date anti-virus, anti-Spam, anti-Spyware software and a firewall on the computers, appliances, systems or attachments accessing the network via the customers connection. If New Era Broadband Services determines that any computer, appliance, system or attachment accessing the network via the customer's connection is causing a degradation of services because of virus, trojan, Spam-bot or malware of any type, the customers access to the network can be denied. If such access is denied, it will not be reinstated until such time as the customer shows significant evidence that the condition of the offending computer, appliance, system or attachment has been corrected. Furthermore a residential or business account is provided expressly for the use of the residence or business at which it is installed. Any redistribution, rebroadcast or sharing of that signal with other residences or businesses is in violation of these Terms and Conditions and New Era Broadband Services reserves the right to suspend and or retrieve our equipment without refund of any fees for services paid in advance.

#### 18. Changes; Notices

Except where expressly prohibited by law, the Customer agrees to accept notices to this agreement electronically, either by email or by web site posting. Notices to Customer of any changes to these "Terms and Conditions" shall be considered given by posting to the New

Era Broadband Services Facebook and/or Twitter accounts. Notice will be considered received by Customer, and such changes will become binding on Customer, on the date posted to the New Era Broadband Services social media accounts and no further notice by New Era Broadband Services is required.

#### 19. Rebroadcast (relay)

New Era Broadband reserves the right to utilize the location of your residence or business to further the objective of our network, and install additional equipment for the purpose of providing service to one or more other customers that can be serviced from equipment installed at your location. By having New Era Broadband service installed, you agree to provide the space and the electrical power for this equipment. New Era Broadband reserves the right to provide (at our option) backup electrical power for this equipment. If such backup electrical power is installed by New Era Broadband Services, it will be available to power your customer premise equipment as well. We reserve the right to place a small self supported cabinet on the exterior of your home to accommodate and support our additional equipment.

### **Acceptable Use Agreement – VoIP Section**

#### 1. VoIP Service

1.1 Term Service is offered on a calendar-month basis, for an initial term that begins on the date that New Era Broadband Services activates your Service and ends on the last day of the month of your activation. Subsequent terms of this Agreement automatically renew on a monthly basis without further action by you unless you give New Era Broadband Services notice of non-renewal at least ten [10] days before the end of the monthly term in which the notice is given. If you 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 and any and all outstanding charges. Customer is responsible for, and shall pay, any applicable federal, state, 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 Customer's 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 account.

1.1.1 Residential Use of Service and Device If you have subscribed to New Era Broadband Services' Residential services, the Service and Device are provided to you and your household 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. If you fail to comply with these limitations, New Era Broadband Services reserves the right to immediately terminate or modify the Service, if New Era Broadband Services determines, in its sole discretion and in accordance with applicable law and/or the rules and regulations of appropriate state and federal regulatory bodies, that Customer's Service is being used for non-residential or commercial use.

1.1.2 Small Business Use of Service and Device - Prohibition on Resale. If you have subscribed to New Era Broadband Services' 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. You agree that the New Era Broadband Services Small Business Plans are for ordinary and usual office voice communications and do not confer the right to use the service for auto-dialing, continuous or

extensive call forwarding, telemarketing, fax broadcasting, fax blasting, or any type of automated or continuous use. New Era Broadband Services reserves the right to immediately terminate or modify the Service, if New Era Broadband Services determines, in its sole discretion, that Customer's Service is being used for any of the aforementioned activities, in accordance with applicable law regarding such terminations.

1.1.3 Bundled Service: You acknowledge and agree that the Services are offered on a bundled basis (including data, local, toll, and long distance services) and cannot be separated. You acknowledge that these services (data, local, toll, and long distance) are not available individually and that in order to maintain each of the services in the bundle, one must maintain the others on the same service line. Should you wish to change any of these services provided by New Era Broadband Services, You will terminate your Service with New Era Broadband Services.

1.1.4 Equipment Non-Return Fee : You will be charged an equipment non-return fee per Device obtained from New Era Broadband Services upon termination of Service for any reason regardless of if such termination is by New Era Broadband Services or you. The equipment non-return fee becomes due and payable immediately upon termination and will be billed directly to your credit card. If you have multiple Devices, you will be charged an equipment non-return fee per Device for each Device belonging to New Era Broadband Services in your possession. To receive a credit for the equipment non-return fee, you must return the Device(s) undamaged and in original condition within fourteen (14) days of termination. New Era Broadband Services will not credit you if the Device(s) is damaged or not in its original condition as received by you. In the event you disconnect multiple lines, New Era Broadband Services will issue you a credit for all equipment non-return fees upon receipt of all Devices (e.g., Multimedia Terminal Adapters, etc.) in accordance with this Section. Further, New Era Broadband Services reserves the right to charge you for any power cables, network cables or other incidental equipment (Equipment) provided to you in addition to the Device should such Equipment not be returned.

## 1.2 Lawful Use of Service and Device

1.2.1 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 New Era Broadband Services' sole judgment the transmission, receipt or possession of such communication would constitute a criminal offense, give rise to a civil liability, or otherwise violate any applicable local, state, national or international law. New Era Broadband Services reserves the right to terminate your service immediately and without advance notice if New Era Broadband Services, in its sole discretion, believes that you have violated the above restrictions, or any Applicable Tariff term, leaving you responsible for the full month's charges to the end of the current term, including without limitation unbilled charges, plus an equipment non-return fee, all of which immediately become due and payable, as may be permitted under Applicable Law. You are liable for any and all use of the Service and/or Device by any person making use of the Service or Device provided to you and agree to indemnify and hold harmless New Era Broadband Services against any and all liability for any such use that fails to comply with this Section 1.20.1. If New Era Broadband Services, in its sole discretion believes that you have violated the above restrictions, New Era Broadband Services may forward the objectionable material, as well as your communications with New Era Broadband Services and your personally identifiable information to the appropriate authorities for investigation and prosecution.

1.3 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, New Era Broadband Services does not presently offer or support the Service to customers located in other countries. If you

remove the Device to a country other than the United States and use the Service from there, you do so at your own risk, including the risk that such activity violates local laws in the country where you do so. You are liable for any and all use of the Service and/or Device by any person making use of the Service or Device provided to you. Transport or sale of the Device outside of the United States may result in a violation of US or foreign technology import/export laws or rules; compliance with which is your sole responsibility.

1.4 Loss of Service Due to Power Failure: You acknowledge and understand that the Service does not function in the event of power failure. Should there be an interruption in the power supply to your Device or at any point in your transmission path, the Service will not function until power is restored. A power failure or disruption may require the Customer to reset or reconfigure equipment including your Device or any connecting equipment in your transmission path prior to utilizing the Service. Power disruptions or failures will also prevent dialing to emergency service numbers including any 911 calling feature that may be activated in or accessed by your Service.

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 Customer in conjunction with providing the Service, or embedded in the Device, and all Services, information, documents and materials provided or offered by New Era Broadband Services and on New Era Broadband Services' 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 New Era Broadband Services are and shall remain the exclusive property of New Era Broadband Services and nothing in this Agreement shall grant you the right to right or license to use 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 Customer in conjunction with providing the Service, or embedded in the Device, other than a nontransferable, revocable license to use such firmware or software (without making any modification thereto) strictly in accordance with the terms and conditions of this Agreement, and that the Device is exclusively for use in connection with the Service. If you decide to use the Service through an interface device not provided by New Era Broadband Services, which New Era Broadband Services 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 New Era Broadband Services against any and all liability arising out of your use of such interface device with the Service.

1.6 Tampering with the Device: 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 New Era Broadband Services in each instance. Doing so shall constitute a violation of this Agreement.

1.7 Theft of Service: You agree to notify New Era Broadband Services immediately, by calling the New Era Broadband Services customer service line, if the Device or Service is stolen or if you suspect or become aware at any time that your Service is being stolen or fraudulently used. You will be liable for all use of the Service using a Device or Access Code stolen from you and any and all stolen Service or fraudulent use of the Service until New Era Broadband Services is informed of the theft.

1.8 Delivery or Warranty of Device; Ownership of the Device: If Customer receives cartons and/or Devices that are visibly damaged, please note the damage on the carrier's freight bill or receipt and keep a copy. Keep the original carton, all packing materials and parts intact and contact New Era Broadband Services' customer care department immediately. Warranty



coverage varies depending on the type of Device that Customer chooses. Please refer to the New Era Broadband Services warranty materials included in the packaging of your Device(s). If Customer purchased the Device new from New Era Broadband Services and the Device included a limited warranty at the time of purchase, Customer must refer to the separate limited warranty document for information on the limitation and disclaimer of certain warranties. If Customer's Device did not include a limited warranty from New Era Broadband Services at the time of purchase, Customer agrees that it accepts its Device "as is" and that Customer is not entitled to replacement or refund in the event of any defect. You understand that any Device provided by New Era Broadband Services for use with the Service is and remains the exclusive property of New Era Broadband Services unless purchased in full by you. Nothing in these terms should be construed to confer any title, rights of ownership, or other property rights onto you, the Customer.

1.9 Number Transfer on Service Termination: New Era Broadband Services may, solely at the Company's discretion, release the telephone number that was ported in to New Era Broadband Services by you and used in connection with your Service provisioned by New Era Broadband Services to your new service provider, if such new service provider is able to accept such number, upon your termination of the Service, and provided (i) your account has been terminated; and (ii) you request the transfer upon terminating your account.

1.10 Service Distinctions: You acknowledge and understand that the Service has different technical limitations than a traditional telephone service. Technical differences exist between traditional telephone service and this Service offering provided by New Era Broadband Services. The Service may be subject to different regulatory treatment than traditional or wireline phone service. This treatment may limit or otherwise affect your rights and responsibilities before Federal and State regulatory agencies.

## 2. Emergency Services - 911 Dialing

2.1 Differences in Availability and Operation of Emergency Dialing Service ("911" or "E911"): You acknowledge and understand that the Service does NOT function or connect the same way as traditional copper, fiber or wireline telecommunications support for traditional 911 or E911 access to emergency services. The 911/E911 Services offered by the Company in conjunction with these services are available only on New Era Broadband Services-provided or other approved Devices as described herein, and only in specific areas, as specified by the Company, but you acknowledge and understand that 911-type dialing is NOT automatic. When ordering the service, you must separately activate such 911-type dialing capabilities by specifically requesting them at the time of service activation or thereafter, subject to New Era Broadband Services, governmental and/or industry technical approval, availability and restrictions, with specific confirmation from New Era Broadband Services, as described herein. Such request must contain specific information as requested, and as may be modified by New Era Broadband Services in its sole discretion from time to time, and must be accompanied by your acceptance of the specific term, conditions and responsibilities attendant thereto, including but not limited to maintenance and communication to New Era Broadband Services in advance of any changes in information relating to the physical location for which the 911-type capabilities may be activated, and/or authorized login, passwords and authorized users on the account.

New Era Broadband Services 911 dialing cannot be used in conjunction with any "Soft Phone" ("download") application. You agree to inform any household residents, guests and other third persons who may be present at the physical location where you utilize the Service as to the non-availability of traditional 911 or E911 dialing from your New Era Broadband Services Service and Device(s). If you activate New Era Broadband Services 911-type dialing service, you agree to inform any household residents, guests and other third persons who may be

present at the physical location where you utilize the Service as to the important differences and limitations of New Era Broadband Services 911 dialing service as compared with traditional 911 or E911 dialing, as set forth in this Agreement, including without limitation the conspicuous posting on the device of any caution or warning materials as may be appropriate, and you agree to make reasonable efforts and use reasonable judgment in informing them of the proper and specific operation and requirements of the Service, if available, and/or to restrict third parties' access to the Service for any purpose.

**2.2 Description of 911-Type Dialing Capabilities - Activation Required:** You acknowledge and understand that 911-type dialing is NOT automatic. You acknowledge and understand that you cannot dial 911 from this line unless and until you have received a confirming email regarding service activation generally and a primary number assignment associated with the geographic location you have provided and agree to maintain. Once you have received a confirming email that such limited 911 dialing has been successfully activated according to this Agreement and any amendments hereto that may be posted from time to time on the New Era Broadband Services website, you may dial 911 as needed, provided that all other Service requirements, including but not limited to, power supply, broadband internet connection, internet service provider login or "timing out" (even with an automatic restart that may cause a reassignment by your internet service provider of a different session-based internet address), and Service login are activated, operational and uninterrupted for the entire duration of the call. When you dial 911 from your designated physical location, your call is routed from the New Era Broadband Services network to the Public Safety Answering Point (PSAP) or to local emergency service personnel designated for the address that you listed at the time of activation and confirmation. New Era Broadband Services can only route 911-type calls within certain geographic areas, from New Era Broadband Services-provided devices and IP phone primary number assignments designated by New Era Broadband Services as geographically appropriate, as locations within such areas may be confirmed by New Era Broadband Services upon service activation. You acknowledge and understand that any 911-type calls made from any physical or geographical location other than the physical location designated and associated with the account, regardless where a caller or third party desires or requires emergency assistance, will fail. WHEN YOU DIAL 911 ON YOUR PHONE UTILIZING NEW ERA BROADBAND SERVICES VOIP SERVICE, YOUR CALL MAY BE ROUTED TO A DIFFERENT DISPATCHER THAN THAT USED FOR TRADITIONAL 911 DIALING. THE DISPATCHER WILL BE LOCATED AT EITHER THE PUBLIC SAFETY ANSWERING POINT (PSAP) OR WILL BE LOCAL EMERGENCY SERVICE PERSONNEL DESIGNATED FOR THE ADDRESS YOU LISTED AT THE TIME YOU REGISTERED FOR THE SERVICE. As described herein, this 911-type dialing currently is NOT the same as traditional 911 or E911 dialing, and at this time, does not necessarily include all of the capabilities of traditional 911 dialing. Note, in particular, that certain features of "E911" may not be available in your area or technically feasible via this Service. While certain call-back capabilities, if they are available, may function on this Service, any interruption before, during or after any call -- in power supply, broadband internet connection, internet service provider login or "timing out" (even with an automatic restart that may cause a reassignment by your internet service provider of a different session-based internet address), or Service login may cause these features to fail.

### 2.3 Service Outage:

**2.3.1 Power Outage:** You acknowledge and understand that 911 dialing, like the Service as a whole, does not function in the event of a power failure. Should there be an interruption in the power supply, the Service and 911 dialing will not function until power is restored. A power failure or disruption may require the Customer to reset or reconfigure equipment, connections

or logins, prior to utilizing the Service or 911 dialing.

2.3.2 Broadband Service Outage: You acknowledge and understand that service outages or interruptions by your broadband provider will prevent ALL Service including 911 dialing. Even a brief interruption in your broadband internet connection may cause the Service and 911 calling to fail until Customer resets or reconfigures equipment, connections or logins.

2.3.3 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, including 911 dialing.

2.3.4 Other Service Outages: You acknowledge and understand that if there is a service outage for ANY reason, such outage will prevent ALL Service, including 911 dialing. Such outages may occur for a variety of reasons, including, but not limited to, those reasons described elsewhere in this Agreement.

2.3.5 Limitation of Liability and Indemnification: You acknowledge and understand that the Company'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, and applicable Tariffs. YOU AGREE TO DEFEND, INDEMNIFY, AND HOLD HARMLESS NEW ERA BROADBAND SERVICES, 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, REASONABLE ATTORNEY FEES) BY, OR ON BEHALF OF, YOU OR ANY THIRD PARTY OR USER OF THE SERVICE RELATING TO THE FAILURE OR OUTAGE OF THE SERVICE, INCLUDING THOSE RELATED TO 911 DIALING.

2.4 Requires Activation: You acknowledge and understand that 911 dialing does not function unless you have successfully activated the 911 dialing feature on your account, and until such later date that such activation has been confirmed to you through a confirming email, and until you have carefully reviewed the email and, if indicated, have responded to any informational errors or discrepancies in such email, and, if applicable, such errors, if any, are corrected and the corrections confirmed in writing by New Era Broadband Services. YOU ACKNOWLEDGE AND UNDERSTAND THAT YOU CANNOT DIAL 911 FROM THIS LINE UNLESS AND UNTIL YOU HAVE RECEIVED A CONFIRMING EMAIL. You agree to carefully review the confirmation email for any errors in your account information, and understand and acknowledge that New Era Broadband Services relies exclusively on you to provide and review the correct information for providing your Service.

2.5 Failure to Designate the Correct Physical Address When Activating 911 Dialing: IF YOU DO NOT CORRECTLY IDENTIFY THE ACTUAL LOCATION WHERE YOUR NEW ERA BROADBAND SERVICES EQUIPMENT WILL BE LOCATED AT THE TIME YOU REGISTER FOR THE SERVICE, 911 COMMUNICATIONS MAY BE MISDIRECTED TO AN INCORRECT LOCAL EMERGENCY SERVICE PROVIDER.

2.6 Requires Re-Activation if You Change Your Number: You acknowledge and understand that 911 dialing does not function if you change your phone number unless and until you have successfully activated the 911 dialing feature following the instructions from the "Dial 911" link on your dashboard, and until such later date that such activation has been confirmed to you through a confirming email. 911 dialing must be re-activated. Although you may have activated 911 dialing with your former New Era Broadband Services phone number, you must separately activate 911 dialing for any new number.

2.7 Change of Physical Location of Equipment: 911 DIALING WILL NOT FUNCTION CORRECTLY IF YOU MOVE YOUR New Era Broadband Services EQUIPMENT TO A LOCATION OTHER THAN THAT PROVIDED WHEN YOU REGISTERED FOR THE

SERVICE. IN SUCH EVENT, IN ORDER TO HAVE 911 CALLING ROUTED CORRECTLY, YOU MUST UPDATE YOUR SERVICE ADDRESS IN ACCORDANCE WITH THE INSTRUCTIONS ON THE New Era Broadband Services VOIP SERVICE WEBSITE.

2.8 Requires Re-Activation if You Move: You acknowledge and understand that 911 dialing does not function properly or at all if you move or change the physical location of your equipment to a different street address. Failure to provide the current and correct physical address and location of your New Era Broadband Services equipment will result in any 911 dialing you may make being routed to the incorrect local emergency service provider

2.9 Possibility of Network Congestion and/or Reduced Speed for Routing 911: Due to the manner in which it is technically possible to provide the 911 dialing feature for New Era Broadband Services VoIP Service at this time, you acknowledge and understand that there is a greater possibility of network congestion and/or reduced speed in the routing of a 911 communication made utilizing your equipment as compared to traditional 911 dialing over traditional public telephone networks. You acknowledge and understand that your call may be routed to a different dispatcher than that used for traditional 911 dialing. The dispatcher will be located at either the public safety answering point (PSAP) or will be local emergency service personnel designated for the address you listed at the time you registered for the service. You acknowledge and understand that there may be a greater possibility that the general telephone number for the local emergency service provider will produce a busy signal or will take longer to answer, as compared to those 911 calls routed to the 911 dispatcher(s) who are specifically designated to receive incoming 911 calls using traditional 911 dialing.

2.10 Automated Number Identification: At this time in the technical development of New Era Broadband Services 911 dialing, it may or may not be possible for the Public Safety Answering Point (PSAP) and the local emergency personnel to identify your phone number when you dial 911. New Era Broadband Services' system is configured in most instances to send the automated number identification information; however, the phone system routes the traffic to the PSAP and the PSAP itself must be able to receive the information and pass it along properly, and they are not yet always technically capable of doing so. You acknowledge and understand that PSAP and emergency personnel may or may not be able to identify your phone number in order to call you back if the call is unable to be completed, is dropped or disconnected, or if you are unable to speak to tell them your phone number and/or if the Service is not operational for any reason, including without limitation those listed elsewhere in this Agreement.

2.11 Automated Location Identification: At this time in the technical development of New Era Broadband Services 911 Dialing, it may not be possible to transmit identification of your service address that you have listed to the Public Safety Answering Point (PSAP) and local emergency personnel for your area when you dial 911. You acknowledge and understand that you may need to state the nature of your emergency promptly and clearly, including your location, as PSAP personnel will NOT have this information. You acknowledge and understand that PSAP and emergency personnel may not be able to find your location if the call is unable to be completed, is dropped or disconnected, if you are unable to speak to tell them your location, and/or if the Service is not operational for any reason, including without limitation those listed elsewhere in this Agreement.

2.12 Alternative 911 Arrangements: YOU ACKNOWLEDGE THAT THIS SERVICE IS NOT OFFERED AS A PRIMARY LINE OR LIFELINE SERVICE. YOU SHOULD ALWAYS HAVE AN ALTERNATIVE MEANS OF ACCESSING TRADITIONAL E911 SERVICES.

2.13 No compatibility with other equipment: All non-voice communications equipment, including but not limited to, home security systems that are set up to make automatic phone calls, fax machines, modems and medical monitoring devices, are not compatible with the

Service. By accepting this Agreement, you waive any claim against New Era Broadband Services for interference with or disruption of such systems due to the Services

### 3. Warranty and Liability Limitations / Indemnification

3.1 Limitation of Liability: New Era Broadband Services 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 majeure 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; or 8.) any other cause that is beyond New Era Broadband Services' control, including without limitation the failure of an incoming or outgoing communications, the inability of communications to be connected or completed, including 911 dialing, or degradation of voice quality. New Era Broadband Services' liability for any failure or mistake shall in no event exceed Service charges with respect to the affected time period.

3.2 No Consequential Damages: In no event shall New Era Broadband Services, 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 incidental, indirect, special, punitive, exemplary or consequential damages, or for any damages, including but not limited to loss of data, loss of revenue or profits, or 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, products liability, tort and any and all other theories of liability and apply whether or not New Era Broadband Services was informed of the likelihood of any particular type of damages.

3.3 Indemnification: Customer agrees to defend, indemnify, and hold harmless New Era Broadband Services, 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 911 dialing, or the Device. This paragraph shall survive termination of this Agreement.

3.4 No Warranties on Service: New Era Broadband Services makes no warranties, express or implied, including but not limited to, any implied warranties of merchantability or fitness of the Service or the Device for a particular purpose. New Era Broadband Services does not warrant that the Service will be without Service failure, delay, interruption, error, and degradation of voice quality or loss of content, data or information. Neither New Era Broadband Services 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 New Era Broadband Services' 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 New Era Broadband Services' or its service provider's or vendors' negligence. Statements and descriptions concerning the Service or Device, if any, by New Era Broadband Services or New Era Broadband Services' agents or installers are informational and are not given as a warranty of any kind.

3.5 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.

3.6 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. New Era Broadband Services reserves the right to terminate or suspend affected Services, and/or remove Your or Users' content from the Services, if New Era Broadband Services determines that such use or content does not conform with the requirements set forth in this Agreement or interferes with New Era Broadband Services' 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. New Era Broadband Services' actions or inaction under this Section shall not constitute review or approval of Your or Users' use or Content. You will indemnify and hold New Era Broadband Services 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.

#### 4. Governing Law / Resolution of Disputes

4.1 Mandatory Arbitration: Any dispute or claim between Customer and New Era Broadband Services 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. 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 a punitive or certified class action to 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.

4.2 Governing Law: The Agreement and the relationship between you and New Era Broadband Services shall be governed by the laws of the State of New York without regard to its conflict of law provisions. You and New Era Broadband Services agree to submit to the personal and exclusive jurisdiction of the courts located within New York. The failure of New Era Broadband Services to exercise or enforce any right or provision of the Agreement shall not constitute a waiver of such right or provision. 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. 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.

#### 5. Privacy

New Era Broadband Services Service may utilize, in whole or in part, the public Internet and third party networks to transmit voice and other communications. New Era Broadband Services is not liable for any lack of privacy that may be experienced with regard to the Service. Please refer to our Privacy Policy at [www.newerabroadband.com](http://www.newerabroadband.com) for additional information.

**FINAL. Entire Agreement**

This Agreement, the accompanying work order, any Terms and Conditions or other rules now or hereafter specified by New Era Broadband Services for the Service, public disclosures and/or any applicable tariff(s) on file with the applicable state utility commission or FCC shall constitute the entire agreement between New Era Broadband Services and Customer with respect to the subject matter hereof, and supersedes all previous written agreements between New Era Broadband Services and Customer with respect to the services provided hereunder. Acceptance of the Service shall constitute acceptance of the terms and conditions herein.