Voifinity Privacy Policy

This is an agreement (“Agreement”) between Voifinity LLC., a Limited Liability Company, (“Voifinity”), and you, an end user (“you” or “user”) of Voifinity’s VoIP Service (the “Service”) as described herein.

BY ESTABLISHING, ACTIVATING, USING, OR PAYING FOR THE SERVICE, YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTOOD THESE TERMS, YOU AGREE TO THE TERMS AND CONDITIONS IN THIS AGREEMENT, AND YOU REPRESENT THAT YOU ARE OF LEGAL AGE TO ENTER THIS AGREEMENT AND BECOME BOUND BY ITS TERMS, INCLUDING THOSE PERTINENT TO THE PRICES, CHARGES, AND CONDITIONS PROVIDED TO YOU IN ASSOCIATION WITH YOUR ENROLMENT, INCLUDING MARKETING MATERIALS AND THE VOIFINITY WEB-SITE, WHICH ARE INCORPORATED HEREIN BY REFERENCE.

This Agreement governs the Service and any devices such as VoIP phones, analog telephone adapters, terminal adapters, or computer operating software enabling the Service (each alone or all collectively known as “Equipment”), website, or software used in conjunction with the Service.

Service Description

Service Requirements

The Service requires Equipment, or software obtained through Voifinity or a third party, that allows you to place and receive calls by using your high-speed Internet connection. Voifinity does not provide or support your high-speed Internet connection, which you need to supply at your own expense. We recommend that your high-speed connection have a capacity of at least 120 Kbps upstream and downstream. Since the Service depends on your high-speed connection, the correct configuration of the Equipment, and an adequate power supply, Voifinity does not guarantee continuous availability. You acknowledge and understand that the Service will not function in the absence of electrical power or if there is an interruption of your high-speed Internet connection. A power failure may require you to reset or reconfigure your Equipment or other equipment in order to restore the Service.

Service Limitations

You understand and acknowledge that the Service may not be compatible with all non-voice communications equipment, including but not limited to, home security systems, medical monitoring equipment, fax machines, satellite television systems, and computer modems. You waive any claim against Voifinity for interference or disruption of such services and equipment.

Service Term

The Service is offered on a month-to-month basis (except for the Voifinity Basic plan, which can be used as and when needed by the consumer, as there is no monthly fee), beginning on the date Voifinity activates Service, and automatically renews on a monthly basis. You may cancel the Service at any time by contacting Voifinity according to the procedure described on the Voifinity web-site. If you cancel Service prior to the end of a monthly term, you will receive a prorated refund for the remainder of that month. You will be responsible for paying the months charges through the date of cancellation, including all applicable fees and usage charges. Expiration of the term or cancellation of Service does not excuse you from paying all unpaid, accrued charges due in relation to the Agreement.

Service Distinctions

The Service is not a telecommunications service, and important distinctions exist between telecommunications service and the Service. In addition, different regulatory treatment is applied to the Service as compared with telecommunications service, which may affect your rights before regulatory agencies.

Your Responsibility

You acknowledge and agree that you are fully responsible for all use on your account, and you accept full liability and responsibility for the actions of anyone who uses the Service via your account with or without your permission. You should safeguard your usernames and passwords, as well as the identifier of the Equipment (referred to as the “MAC address”) which Voifinity uses to authenticate usage on your account. Some of your calls may be transmitted over the public Internet, and you acknowledge that you are aware that the Internet is not a secure network, and that third parties may be able to intercept, monitor, or corrupt information you transmit over the Internet.

Use of Service

Resale and Transfer

You are expressly prohibited from reselling or transferring the Service, Equipment, and/or software to any other person for any purpose, without express written permission from Voifinity in advance.

Residential Use

The Service is intended for normal residential use. You are expressly prohibited from using the Service for auto dialling, telemarketing (including without limitation charitable or political solicitation or polling), continuous or extensive call forwarding, activities involving continuous connectivity, all types of broadcasting including fax or voicemail broadcast, fax or voicemail blasting, or any other activity that results in excessive usage inconsistent with normal residential or home office usage patterns. If Voifinity determines, in its sole discretion, that you are reselling the Service, allowing persons residing outside of your household to regularly use the Service, or that your Service is being used for any of the aforementioned activities, Voifinity reserves the right to immediately terminate without notice or modify the Service and to assess additional charges for each month in which excessive usage occurred.

Fair Usage Policy

The term unlimited, when referring to unlimited minute tariffs offered by Voifinity, is subject to our fair usage policy. Where service goes above and beyond what we believe to be “regular usage”, we reserve the right to issue notice of termination of service.

Network Integrity and Security

You are expressly prohibited from any use of the Service or any other action that, in Voifinitys sole discretion, is deemed to present a risk to the network integrity or security of Voifinity or its vendors, whether directly or indirectly. Voifinity, in its sole discretion, may terminate your Service without advance notice if it determines your actions could cause a network disruption or security breach.

Telephone Number

You may not sell any telephone number assigned by Voifinity (“Number”). Upon termination of the Service, Voifinity may, in its sole discretion, release a Number that was ported in from a previous service provider to Voifinity by you and used in connection with your Service provisioned by Voifinity to your new service provider, if such new service provider is able to accept such Number, provided that your entire account will be terminated upon the transfer of your number, that you have paid all charges due to Voifinity through the date of such transfer, and that you request the transfer to become effective upon termination your account.

Unlawful and Prohibited Use

You agree to use the Service only for lawful purposes. You are expressly prohibited from using the Service to transmit or receive any communication or material of any kind when in Voifinity’s sole judgement the transmission, receipt, or possession of such communication or material would constitute, or encourages conduct that would constitute, a criminal offence, give rise to a civil liability, or otherwise violate any applicable laws. You acknowledge that neither Voifinity nor its vendors are responsible for the content of the transmission that may pass through the Service. You are expressly prohibited from using the Service or Equipment for any abusive or fraudulent purpose, including using the Service in a way that interferes with our ability to provide the Service to you or other customers or avoids your obligation to pay for communications services. Voifinity, in its sole discretion, may terminate your Service without advance notice if it believes you have violated the aforementioned restrictions, or if you act in a manner that is threatening, obscene, harassing, or abusive to Voifinity personnel. You are liable for any and all use of the Service by any person using the Service provided to you and agree to indemnify and hold harmless Voifinity against any and all liability for any such use. If Voifinity, in its sole discretion, believes that you have violated the aforementioned restrictions, Voifinity may forward personally identifiable information to the appropriate authorities for investigation and prosecution and you hereby consent to such forwarding.

Theft of Service

You agree to notify Voifinity immediately if the Equipment is stolen or if you become aware at any time that your Service is being stolen or fraudulently used. You must provide a detailed description of the circumstances of the theft or stolen or fraudulent use of the Service and supply any additional documentation reasonably requested by Voifinity. Failure to do so in a timely manner may result in the termination of your Service and additional charges.

Copyright, Trademark, and Unauthorized Use

The Service and Equipment and any firmware or software used to provide the Service or provided to you in conjunction with providing the Service, or embedded in the Equipment, and all Services, information, documents, and materials on Voifinitys web-site are protected by copyright, trademark, or other intellectual property laws and international treaty provisions. All web-sites, corporate names, service marks, trademarks, trade names, logos, and domain names (collectively Marks) of Voifinity are and shall remain the exclusive property of Voifinity and nothing in this Agreement shall grant you the 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 you in conjunction with providing the Service, or embedded in the Equipment, other than a non-transferable, revocable license to use such firmware or software strictly in accordance with the terms and conditions of the Agreement, and that the Equipment is exclusively for use in connection with the Service.

Audit and Law Enforcement

Voifinity reserves the right to audit your use of the Service to enforce the provisions of this Agreement. Voifinity reserves the right to track and monitor your Service and usage subject to law and appropriate law enforcement processes. You acknowledge and agree that this Agreement is sufficient notice to you of such monitoring to the extent any notice is required under applicable United States Of America (USA) Law.

Charges and Payments

Prepay Call Credit Expiration

While we do not periodically expire Prepaid Call Credit we do reserve the right to close your account after 12 months of inactivity (no top-ups have been made and no calls have been placed or received). If we close your account due to inactivity, any unused calling credit will not be returned.

Billing

You must provide a valid credit or debit card number, pursuant to procedures specified on the Voifinity web-site, to activate service. You authorize Voifinity to charge automatically to your credit or debit card any amounts payable by you in connection with your use of the Service. Your right to use the Service is subject to any limits established by your credit or debit card issuer. Voifinity reserves the right to limit your daily prepaid top-ups to $100. Your charges/payments and credits issued will appear on an on-line billing statement that you may access from the Voifinity web-site. You give Voifinity permission to obtain authorization for use of your credit or debit card from your card issuer. If the card expires, your billing address changes, or your card is cancelled and replaced owing to loss or theft, you must advise Voifinity at once and provide Voifinity with updated, valid, non-expired billing information to pay your monthly invoices. It is your obligation to ensure that the account you provide to Voifinity has a sufficient balance or available credit to pay your Voifinity fees. Initial use of the Service authorizes Voifinity to charge the card account number on file with Voifinity, updated by any changed information related to card expiration, replacement, or substitution (this does not apply to pre-pay customers). This authorization remains valid until 30 days after Voifinity receives your notice to terminate. Voifinity’s authority to charge your card whereupon Voifinity will charge you for any outstanding charges and terminate the Service. Voifinity bills all charges and applicable taxes and fees monthly in advance (except for usage-based charges, which will be billed monthly in arrears, plus any other charges which Voifinity chooses to bill in arrears) to your card. At its sole discretion, Voifinity may choose to not bill you for a small monthly balance and instead allow that balance to roll into your next month’s charges, at no additional cost to you. Voifinity is not responsible for any overdraft or other charges imposed by your card issuer due to insufficient funds in your account. Voifinity reserves the right to bill at more frequent intervals if the amount due at any time exceeds $100. All charges will be billed or debited according to the rates and terms set forth in published materials and found on the Voifinity web-site.

Commencement of Billing

Billing will commence for any monthly plans upon the registration of Service via the Voifinity web-site.

Price and Price Changes

Prices and charges relating to the Service are posted on the Voifinity web-site. We may change the prices and charges for the Service from time to time. We may modify prices without providing advance notice.

Failure to Pay

We may suspend, restrict, or cancel the Services and this Agreement if you do not make payments for current or prior bills by the required due date. We may also take appropriate steps or require you to take certain action when you or Voifinity are or have been the target of fraud related to your account, including temporary suspension or termination of your account. Service suspension or cancellation will result in your loss of the number associated with the Service.

Late Payment Charge

We may add interest charges to any past-due amounts for pay monthly plans at the lower of 1.5% per month or the maximum rate allowed by law, prorated for each day payment is past due. Acceptance of late or partial payments (even if marked “Paid in Full” or with other restrictions) shall not waive any of our rights to collect the full amount of your charges for the Service. You agree to reimburse us for reasonable legal fees and any other costs associated with collecting delinquent or dishonoured payments. If charges cannot be processed through your credit or debit card, due to insufficient funds or for any other reason, we will charge you an additional $15.00.

Equipment Replacement

In its sole discretion, Voifinity may send you alternative Equipment to replace Voifinity purchased Equipment, which you claim is defective. If your original Equipment is not returned within thirty (30) days of your request for replacement Equipment, you will be billed for the cost of the replacement Equipment, and you understand and agree to this charge.

Taxes

You are responsible for, and must pay, any applicable taxes, VAT, governmental sales, use, excise, public utility, or other taxes and charges now in force or enacted in the future, that arise from or as a result of your subscription or use or payment for the Service or associated equipment. These amounts are in addition to payment for the Service or Equipment and will be billed to your credit or debit card as set forth in this Agreement. If you are exempt from payment of such charges, you must provide documentation satisfactory to us that you are exempt. Tax exemption will only apply from and after the date Voifinity receives and verifies this documentation.

Service Interruption

You acknowledge and agree that credit allowances for interruption of the Service will not be provided.

Billing Disputes

You must notify Voifinity within thirty (30) days after receiving your credit card or debit card statement if you dispute any Voifinity charges on that statement or such dispute will be deemed waived.

Service Cancellation

You may cancel the Service at any time by notifying Voifinity according to the procedures specified on the Voifinity web-site. You remain fully liable for accrued charges, taxes, and fees outstanding at the time of termination, and you authorize Voifinity to process these amounts to your credit or debit card.

Indemnification

You agree to defend, indemnify, and hold Voifinity, its affiliates, and agents and any other service provider who furnishes services to you or enables us to furnish services to you in connection with this Agreement or the Service, harmless from claims or damages relating to or arising out of the Service, the Equipment or its installation, or this Agreement, including, but not limited to, 911 Emergency Dialling or dialling associated with a security system.

You agree that Voifinity should not be and is not responsible for any third party claims against us that arise from your use of the Service. Further, you agree to reimburse us for all of our costs and expenses related to the defence of any such claims, including legal fees, unless such claims are based on our wilful misconduct or gross negligence. Notwithstanding the foregoing, your indemnification obligations related to 911 emergency dialling are more expansive, as described above.

911 Emergency Dialling

Voifinity does not currently provide 911 service to our members. Therefore, we suggest an alternative method of contacting the emergency services, such as a mobile phone, be always available.

Limitations of Liability

BY ENROLLING IN, ACTIVATING, USING, OR PAYING FOR THE SERVICE, YOU AGREE THAT YOU HAVE READ THIS AGREEMENT AND UNDERSTAND THE LIMITATIONS OF VOIFINITY SERVICE DESCRIBED HEREIN.

VOIFINITY’S LIABILITY TO YOU ON ACCOUNT OF ANY ACT OR OMISSION OF VOIFINITY RELATED TO THIS AGREEMENT SHALL BE LIMTED TO ACTUAL DAMAGE TO REAL OR TANGIBLE PERSONAL PROPERTY, OR BODILY INJURY OR DEATH, PROXIMATELY CAUSED BY VOIFINITY’S GROSS NEGLIGENCE. NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL VOIFINITY HAVE ANY LIABILITY TO YOU WHATSOEVER ON ACCOUNT OF ANY ACT OR OMISSION OF VOIFINITY RELATED TO 911 EMERGENCY DIALLING. UNDER NO CIRCUMSTANCES WILL YOU BE ENTITLED TO ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES, REGARDLESS OF THE FORM OF ACTION. VOIFINITY AND OUR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONTRACTORS, AND REPRESENTATIVES WILL HAVE NO LIABILITY WHATSOEVER FOR ANY DAMAGES OR MODIFICATIONS TO, OR LOSS OR DESTRUCTION OF, ANY OF YOUR SOFTWARE, FILES, DATA, OR PERIPHERALS. FURTHERMORE, IN NO CIRCUMSTANCES WILL THE AGGREGATE LIABILITY OF VOIFINITY OR ITS AFFILIATES ARISING WITH RESPECT TO THIS AGREEMENT EXCEED THE TOTAL AMOUNTS PAID UNDER THIS AGREEMENT BY YOU TO VOIFINITY IN THE TWELVE MONTHS IMMEDIATELY PRECEDING THE CLAIM.

Warranty Limitations

EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN THE MATERIALS ACCOMPANYING THE EQUIPMENT, WE MAKE NO WARRANTIES OF ANY KIND REGARDING THE SERVICE, EQUIPMENT, OR ANY OTHER EQUIPMENT AND EXPRESSLY DISCLAIM ANY IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT, OR ANY WARRANTIES THAT THE SERVICE WILL MEET CUSTOMER REQUIREMENTS. WE ALSO MAKE NO WARRANTY THAT THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE. WE DO NOT AUTHORISE ANYONE, INCLUDING BUT NOT LIMITED TO VOIFINITY EMPLOYEES, AGENTS, OR REPRESENTATIVES, TO MAKE A WARRANTY OF ANY KIND ON OUR BEHALF AND YOU SHOULD NOT RELY ON ANY SUCH STATEMENT.

Dispute Resolution by Binding Arbitration

IT IS IMPORTANT THAT YOU READ THIS ENTIRE SECTION CAREFULLY. THIS SECTION PROVIDES FOR RESOLUTION OF DISPUTES THROUGH FINAL AND BINDING ARBITRATION BEFORE A NEUTRAL ARBITRATOR INSTEAD OF IN A COURT BY A JUDGE OR JURY OR THROUGH A CLASS ACTION.

Any dispute or claim between you and Voifinity arising out of or relating in any way to the Service or the Equipment provided in connection with this Agreement shall be resolved by arbitration before a single arbitrator. The arbitrator’s decision shall be final and binding. In conducting the arbitration and making any award, the arbitrator shall be bound by and strictly enforce the terms of this Agreement and may not limit, expand, or otherwise modify its terms. Without limiting the foregoing, the parties agree that no arbitrator has the authority to award relief in excess of what this Agreement provides.

NO DISPUTE MAY BE JOINED WITH ANOTHER LAWSUIT, OR IN AN ARBITRATION WITH A DISPUTE OF ANY OTHER PERSON, OR RESOLVED ON A CLASS-WIDE BASIS. THE ARBITRATOR MAY NOT AWARD DAMAGES THAT ARE BARRED BY THIS AGREEMENT, INCLUDING PUNITIVE OR EXEMPLARY DAMAGES OR ATTORNEYS’ FEES. YOU AND VOIFINITY BOTH WAIVE ANY CLAIMS FOR AN AWARD OF DAMAGES THAT ARE EXCLUDED UNDER THIS AGREEMENT.

YOU ACKNOWLEDGE THAT THIS ARBITRATION PROVISION CONSTITUTES A WAIVER OF ANY RIGHT TO A JURY TRIAL.

Miscellaneous

General Provisions

This Agreement does not provide any third party with a remedy, claim, or right of reimbursement. Failure by Voifinity to enforce any provision(s) of this Agreement shall not be construed as a waiver of any provision or right. This Agreement, and all other aspects of the use of the Service and the Voifinity web-site, shall be governed by and construed in accordance with the laws of the United States Of America (USA), without regard to its choice of law rules. This governing law provision applies no matter where you reside, or where you use or pay for the Service. This Agreement constitutes the entire agreement between us and supersedes all prior agreements, understandings, statements, or proposals concerning the Service, including representations, whether written or oral. No written or oral statement, advertisement, or service description not expressly contained in the Agreement will be allowed to contradict, explain, or supplement it. Neither you nor Voifinity is relying on any representations or statements by the other party or any other person that are not included in this Agreement. If any provision in this Agreement is found to be invalid or unenforceable, the remaining provisions shall remain in full force and effect.

Events Beyond Our Control

Voifinity will not be responsible to you for any delay, failure in performance, loss, or damage due to fire, explosion, power blackout, earthquake, volcanic action, flood, the weather elements, strike, embargo, labour disputes, civil or military authority, war, acts of God, acts or omissions of carriers or suppliers, acts of regulatory or governmental agencies, or other causes beyond our reasonable control.

Assignment

We can assign all or part of our rights or duties under this Agreement without notifying you. If we do that, we have no further obligations to you. You may not assign this Agreement or the Service without our prior written consent.

Privacy

Voifinity Service utilizes, in whole or in part, the public Internet and third party networks to transmit voice and other communications. Voifinity is not liable for any lack of privacy which may be experienced with regard to the Service. In addition, Voifinity will provide personally identifiable customer and call detail information in response to lawful government requests, subpoenas, and court orders, as well as law enforcement requests. Please refer to our Privacy Policy applicable to you on the Voifinity web-site for additional information.

Notices

Voifinity primarily communicates with users of the Service via e-mail. E-mail from Voifinity is used to communicate important information about the Service, including billing and changes to the Service, much of which is time-sensitive. You acknowledge that e-mail from Voifinity constitutes official notice from Voifinity and that you are required to read in a timely manner all e-mail messages sent to the e-mail address specified by you at the time of registration for the Service in order to avoid any potential disruption of the Service. You also acknowledge that you are responsible for notifying Voifinity of any changes in your e-mail address.

Survival

The provisions of this Agreement relating to indemnification (including those relating to 911 Emergency Dialling), limitations on liability, warranty limitations, billings, and your obligations to pay for the Service provided, including any additional usage charges, shall survive any termination of this Agreement or termination of the Service.

Non-Waiver

Failure by Voifinity to insist upon strict performance of any terms or conditions of this Agreement or failure or delay to exercise any rights or remedies provided herein or by law shall not release you from any of the warranties of obligations of this Agreement, and shall not be deemed a waiver of any right of Voifinity to insist upon strict performance hereof or any of its rights and remedies.

Changes to this Agreement

Voifinity may change this Agreement from time to time. Any changes will be posted at the Terms of Service section of the Voifinity web-site, currently located at [www.voifinity.com](http://www.voifinity.com). Notice will be considered received by you and any such changes will become binding and effective on the date the changes are posted to the Voifinity web-site, except in the case of changes to the prices or charges, when we will comply with our notice commitments described above. IF YOU CONTINUE TO BE ENROLLED IN, USE, OR PAY FOR THE SERVICE AFTER ANY CHANGES IN THE PRICES, CHARGES, TERMS, OR CONDITIONS, YOU AGREE TO THE CHANGES.

This agreement was last updated at 13:00 (EST) on Wednesday 17th June, 2009