



Agenda Date: 04/26/2016

Agenda Item: 3.11

STAFF REPORT

Approved and Forwarded to the City Council:

Bryan Montgomery, City Manager

Date: April 18, 2016

To: Bryan H. Montgomery, City Manager

From: Deborah Sultan, Finance Director

Subject: Authorize the City Manager to Enter into an agreement with Telepacific for a Hosted PBX Telephone System.

Background and Analysis

The City's telephone system is an in-house PBX system made by Nortel. Nortel is no longer in business and support for the system is done by a third party vendor. With recent addition of the new police officers, the existing phone system does not have enough ports for all the new phones needed. Also, we have only twenty-three (23) outgoing lines, and at times staff has to wait to place an outgoing phone call. It became clear as we started adding phones that we need to consider a replacement phone system. We were able to add enough phones for the start of the police department on May 6th.

We looked at several options; expansion of our current system, an in-house Voice over IP (VOIP) system; and a hosted PBX system. The expansion of our current PBX system was problematic as only refurbished handsets are available and technical support is limited. In addition, we need to increase our internet from the current 10Mb/s to 100Mb/s to increase the number of outgoing phone lines. Installing a new in-house VOIP system has substantial upfront costs and requires staff to manage the system. The final option is a hosted PBX system. Telepacific has provided a proposal for a hosted PBX phone system that leverages our Internet connection through them and offers modern features and capacity. The proposal includes all new equipment, training, set up and maintenance of the system and upgrades the bandwidth to 100Mb/s. In addition, there are added features such as virtual fax machines, the ability to receive phone messages in staff's email and a fully expandable system that will help to improve staff efficiency.

The City is currently paying \$2,477 per month for internet and phone. The cost to increase just the internet bandwidth is \$3,102 per month if we expanded our current system. The cost to move to a Telepacific hosted PBX system is \$3,825 per month (including 100Mb/s Internet). Because we already have our traditional telephone service and internet with Telepacific the transition to the new system is far less interruptive to

staff than going with another vendor who would have to install new internet lines. The proposed PBX system is managed by Telepacific so we can be assured of call quality as they are responsible for the voice and Internet lines.

Fiscal Impact

The proposed contract calls for a fee of \$3,825 per month plus taxes and surcharges. This is an additional \$1,348 per month or \$16,176 annually. Staff has included the additional cost in the recommended fiscal year 2016-2017 Budget.

Recommendation and Alternatives

Staff recommends the Council authorize the City Manager to sign the attached agreement with Telepacific.

Attachments

1. Resolution and Proposed Agreement

RESOLUTION NO. __

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY
AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH
TELEPACIFIC COMMUNICATIONS FOR A HOSTED PBX SYSTEM**

WHEREAS, the City wishes to replace the current PBX telephone system; and

WHEREAS, the City currently uses Telepacific for telephone and internet services; and

WHEREAS, Telepacific has provided the City of Oakley a proposal to provide a hosted PBX system that includes equipment, training, installation, maintenance and upgrades to the internet bandwidth;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oakley authorizes the City Manager to execute the attached Agreement with Telepacific for hosted PBX services.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 26th of April, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

Kevin Romick, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date



Section 1 Customer Information	
Account Number (existing acct)	107798
Company Legal Name	City of Oakley
Doing Business As (DBA)	
Contact Name	Contact Title
Telephone Number	Fax Number
Service Address:	3231 Main St City Oakley
State CA	Zip Code 94561 E-mail

Section 2 TelePacific Services
TelePacific will provide Customer with the specified type and amount of Services at the rates, and terms and conditions listed below, and Customer shall accept and pay for Services under the Terms and Conditions to which Customer agreed on the Telecommunications Account Agreement that governs this Service Agreement.

Description of Services	Select Term Length (Yrs)	Quantity	Monthly Recurring Charge (MRC)	MRC Total
100M Tier 1 Access	5 Year	1	\$1,660.00	\$1,660.00
100M Tier 1 Port	5 Year	1	\$1,100.00	\$1,100.00
Internet	5 Year	1	\$100.00	\$100.00
Tier 1B Bandwidth Blast Promo	5 Year	1	(\$1,061.00)	(\$1,061.00)
BLC (CA-AT&T)	5 Year	7	\$57.18	\$400.26
Call Forward Always	5 Year	1	\$2.50	\$2.50
Tier 1 Equipment	5 Year	1	\$199.00	\$199.00
Non-Converged Network	5 Year	1	\$0.00	\$0.00
Cisco 24 Port PoE Switch	5 Year	4	\$55.00	\$220.00
Executive Seat	5 Year	73	\$25.00	\$1,825.00
Polycom Phone VVX 500	5 Year	69	\$11.00	\$759.00
Polycom IP 6000	5 Year	4	\$30.00	\$120.00
Polycom VVX Sidecar	5 Year	1	\$11.00	\$11.00
2,500 T-Pack Minute Bundle	5 Year	1	\$70.00	\$70.00
Business Communicator	5 Year	10	\$5.00	\$50.00
Hunt Group	5 Year	1	\$10.00	\$10.00
Music on Hold	5 Year	1	\$0.00	\$0.00
Hunt Group Extension	5 Year	2	\$0.00	\$0.00
Receptionist Dashboard	5 Year	1	\$80.00	\$80.00
Auto Attendant	5 Year	1	\$17.00	\$17.00
Virtual Fax	5 Year	7	\$10.00	\$70.00
Virtual User Feature Pack	5 Year	1	\$5.95	\$5.95
P-N: 100M Tier 1 Access Discount	5 Year	1	(\$175.00)	(\$175.00)
P-N: 100M Tier 1 Port Discount	5 Year	1	(\$444.33)	(\$444.33)
P-N: Internet Discount	5 Year	1	(\$25.00)	(\$25.00)
P-N: BLC (CA-AT&T) Discount	5 Year	7	(\$4.19)	(\$29.33)
P-N: Call Forward Always Discount	5 Year	1	(\$1.76)	(\$1.76)
P-N: Tier 1 Equipment Discount	5 Year	1	(\$199.00)	(\$199.00)
P-N: Cisco 24 Port PoE Switch Discount	5 Year	4	(\$24.44)	(\$97.76)
P-N: Executive Seat Discount	5 Year	73	(\$7.25)	(\$529.25)
P-N: Polycom Phone VVX 500 Discount	5 Year	69	(\$2.98)	(\$205.82)
P-N: Polycom IP 6000 Discount	5 Year	4	(\$13.13)	(\$52.52)
P-N: Polycom VVX Sidecar Discount	5 Year	1	(\$4.19)	(\$4.19)
P-N: 2,500 T-Pack Minute Bundle Discount	5 Year	1	(\$43.93)	(\$43.93)
P-N: Hunt Group Discount	5 Year	1	(\$0.49)	(\$0.49)
P-N: Receptionist Dashboard Discount	5 Year	1	(\$1.53)	(\$1.53)
P-N: Auto Attendant Discount	5 Year	1	(\$3.58)	(\$3.58)
P-N: Virtual User Feature Pack Discount	5 Year	1	(\$0.42)	(\$0.42)
SubTotal MRC:				\$3,825.00
LDAC, EUCC and EUCL Charges:				\$233.42
Total NRC:				\$200.00

Federal, State and Local Taxes and Other Charges will be applied in accordance with the definitions stated at http://www.insidetelepacific.com/rates/rates_telepacific.asp.

IN WITNESS WHEREOF each Party hereto has caused this Service Agreement to be executed by its duly authorized representative.

Agreed by: Customer Signature _____
 Customer Name (Print) _____
 Sales Representative Name _____
 Agreed by: Sales Manager Signature _____

Date _____
 Title _____
 Phone 209 941 3270
 Date _____



Telecommunications Account Agreement

Must include Service Agreement

This Telecommunications Account Agreement (referred to as "Agreement" or "TAA") is made by and between U.S. TelePacific Corp. and/or its affiliated companies ("TelePacific", also referred to as "our, us, we"), and the Customer described below ("Customer" also referred to as "you, I"), pursuant to the TelePacific Terms and Conditions, to which you agree and which are included in summary herein (available in full at www.insidetelepacific.com/terms/terms-gateway.asp).

Section 1 Customer Information	
Company Legal Name (Individual If Sole Proprietorship)	City of Oakley
Doing Business As (DBA)	
Legal Composition:	<input type="checkbox"/> Corporation <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> General Partnership <input type="checkbox"/> LLP <input type="checkbox"/> LLC State Organized: _____
Officer/Owner Name & Title	Deborah Sultan Finance Director
Officer/Owner Name & Title	Deborah Sultan Finance Director
Main Service Address:	3231 Main
City:	Oakley State: CA ZIP Code: 94561
Billing Address (if different):	
City:	State: ZIP Code:
Customer's E-mail Address:	sultan@ci.oakley.ca.us

Section 2 Terms and Conditions Summary
<p>This Agreement you are signing with TelePacific includes the Terms and Conditions set forth on our website at www.insidetelepacific.com (click on TERMS & CONDITIONS at the bottom of the page), which are incorporated by this reference into the Agreement. Please refer to our website for the full statement of the Terms and Conditions to which you are agreeing. The summary below is only a reference guide and is not meant to change any of the Terms and Conditions.</p> <ol style="list-style-type: none">1. General – This section defines the Services for which you are contracting, how the prices for those Services are determined, special conditions for rates and fees, such as expedite fees, how the rates, terms and conditions may be changed during the contract Term and any rights you have if those changes occur.2. Term, Billing and Payment - This section covers when the Agreement becomes effective, when the Term starts and renews, how additional Services, if any, are handled, how billing will occur and what is included, how a deposit may be required, what happens if you delay acceptance of the Services, when payment of Invoices is due, how Invoice disputes are handled, late payment fees, actions that may result from late payment or non-payment and the charge for returned checks.3. Customer Obligations – This section covers your responsibility for any of our property on your premises, for use of our Service and your message content, for compliance with our Acceptable Use Policy (which may change during the Term), for securing your own network against unauthorized use and access and that you have no right to rely on any oral or written statements of our employees contrary to the Customer Obligations Terms and Conditions. Also included is your responsibility to pay any 3rd party vendor charges and to arrange for disconnection and payment of charges related to the disconnection of any related services with your current carrier (s).4. Termination – This section states the rights and duties related to termination of Services or the Agreement, the renewal of the Term, the fees charged for cancellation of an order for Services before the commencement of a Term, how a "material breach" of the Agreement is handled, and whether a fee is incurred for termination of Services or the Agreement before the end of a Term and how it is calculated. <p style="text-align: right;">Continued on page 2</p>

Section 2 Terms and Conditions Summary, continued

5. Warranty, Disclaimer, Limitation of Liability and Indemnity – This section limits your rights to impose liability for certain damages on us, disclaims certain implied representations and warranties, provides credit allowances under certain conditions for interruptions of Service and outages that you may claim, and defines your obligations, and ours, with regard to indemnity and defense of certain claims.

6. Resolution of Disputes – This section **REQUIRES THE BINDING ARBITRATION OF ANY AND ALL DISPUTES AND WAIVES CERTAIN RIGHTS TO JURY TRIALS AND/OR CLASS ACTIONS.**

7. Miscellaneous Provisions – This section controls assignment and transfer of the Agreement and Services under it, the law applicable to the Agreement, the exclusion of any understanding or other agreements from what is contained in the Agreement and its exhibits, and any changes not signed by both you and us, what happens if any provision of the Agreement is found to be invalid or unenforceable, whether the headings of the sections and paragraphs are part of the Agreement, the effect of non-enforcement of any provision of the Agreement, how we will give notice under the Agreement to each other, and a time limitation for the bringing of an action under the Agreement.



8. Service Guarantee – This section provides you with an alternative to continuing with our Services under the Agreement under certain conditions.

Section 3 Acceptance

BY PLACING YOUR INITIALS IN THE SPACE(S) Provided, YOU ACKNOWLEDGE THAT YOU HAVE REVIEWED AND AGREED TO THE FOLLOWING ON THE DATE ENTERED BY YOU BELOW:

<input checked="" type="checkbox"/>	Initials	FULL TERMS AND CONDITIONS SET FORTH AT http://www.insidetelepacific.com/terms/terms-gateway.asp
<input type="checkbox"/>	Initials	CLOUD ADDENDUM SET FORTH AT http://www.insidetelepacific.com/addendums/TelePacific-Cloud-Services-Addendum.pdf
<input checked="" type="checkbox"/>	Initials	FAILOVER SERVICES ADDENDUM SET FORTH AT http://www.insidetelepacific.com/addendums/TelePacific-Failover-Services-Addendum.pdf
<input checked="" type="checkbox"/>	Initials	HPBX ADDENDUM SET FORTH AT http://www.insidetelepacific.com/addendums/TelePacific-HPBX-Addendum.pdf
<input type="checkbox"/>	Initials	MOBILE ADDENDUM SET FORTH AT http://www.insidetelepacific.com/addendums/TelePacific-Mobile-Services-Addendum.pdf
<input type="checkbox"/>	Initials	ONESECURE ADDENDUM SET FORTH AT http://www.insidetelepacific.com/addendums/TelePacific-OneSecure-Addendum.pdf
<input type="checkbox"/>	Initials	REMOTESTOR ADDENDUM SET FORTH AT http://www.insidetelepacific.com/addendums/TelePacific-RemoteStor-Addendum.pdf
<input checked="" type="checkbox"/>	Initials	GENERAL SERVICE LEVEL AGREEMENT (SLA) SET FORTH AT http://www.insidetelepacific.com/legal/legal-sla.asp
<input type="checkbox"/>	Initials	YOU CONSENT TO RECEIVING ELECTRONIC COMMUNICATIONS FROM TELEPACIFIC VIA THE EMAIL ADDRESS PROVIDED IN SECTION 1.

By signing below, the person signing on behalf of Customer personally represents and warrants to TelePacific that he or she has the authority and power to sign on behalf of Customer and bind Customer to this Agreement. TelePacific agrees to provide, and the Customer agrees to receive and pay for, those services at locations set forth on the Service Agreement (attached), including any services on subsequent Service Agreements and subsequent changes as long as those changes meet TelePacific's minimum requirements. **THIS AGREEMENT INCLUDES AN ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.** This Agreement shall become a binding contract upon execution by Customer and acceptance by TelePacific.

X	_____	_____
Agreed by:Customer Signature		Date
_____	_____	_____
Customer Name (Print)		Title
		
Sales Representative Name		Phone
X	_____	_____
Agreed by:Sales Manager Signature		Date



QUOTE: QUO-526727-032216

Name of Customer: City of Oakley

In addition to the Terms and Conditions to which Customer has agreed on the TAA, Customer and TelePacific agree to amend and modify the Terms and Conditions of the TAA as follows:

TelePacific Local & Long Distance Calling

The following per-minute rates for domestic outbound local and long distance calling apply to all TelePacific provisioned voice services

Call Type	Local (CA)		IntraLATA (CA)	Long Distance	
	Zone 1 & 2	Zone 3	IntraLATA Toll	IntraState	InterState
Billing Increments	60/6	60/6	30/6	30/6	30/6
First Minute	\$0.0500	\$0.0692	\$0.059	\$0.059	\$0.059
Additional Minute	\$0.0200	\$0.0200			

Other InterState	Rate
Billing Increments	30/6
Alaska	\$0.11
Guam	\$0.24
Hawaii	\$0.10

The following per-minute rates for domestic outbound long distance calling apply to all non-TelePacific provisioned voice services associated with TelePacific's Switched Long Distance service.

Call Type	IntraLATA (CA)	Long Distance	
	IntraLATA Toll	IntraState	InterState
Billing Increments	30/6	30/6	30/6
Per-Minute Rate	\$0.059	\$0.059	\$0.059

Other InterState	Rate
Billing Increments	30/6
Alaska	\$0.11
Guam	\$0.24
Hawaii	\$0.10

The following per-minute rates for inbound toll free calling apply to all TelePacific Toll Free services.

	IntraLATA (CA)	Long Distance	Per-call Fee for
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Call Type	IntraLATA Toll	IntraState	InterState	Calls Originating
Billing Increments	30/5	30/5	30/5	from a Payphone
Per-Minute Rate	\$0.059	\$0.059	\$0.059	\$0.65

Other InterState	Rate
Billing Increments	30/5
Alaska	\$0.25
Canada	\$0.31
Hawaii	\$0.22
Puerto Rico	\$0.31
US Virgin Islands	\$0.31

Each fractional call is rounded to the next whole cent for billing. For every voice channel in which TelePacific is the presubscribed outbound long distance carrier, a \$4 monthly recurring fee for the Long Distance Access

Fallover Services Addendum

By Initialing below you acknowledge that you have reviewed and agreed to the Fallover Services Addendum set forth at <http://www.insidetelepacific.com/addendums/TelePacific-Fallover-Services-Addendum.doc>

HPBX Addendum

By initialing below you acknowledge that you have reviewed and agreed to the HPBX Addendum set forth at <http://www.insidetelepacific.com/addendums/TelePacific-HPBX-Addendum.docx>



Letter Of Agency

1. Customer and Carrier Identification

Current Carriers _____

Contact Name and Title Deborah Sultan Finance Director

Company Legal Name (Customer) City of Oakley

Service Address (Street/City/State/Zip) 3231 Main Oakley CA 94561

Billing Address (Street/City/State/Zip) 3231 Main Oakley CA 94561

Other Company Names (DBA) _____

2. Billing Telephone Numbers

This authorization covers all customer numbers associated with the Billing Telephone numbers listed below:

3. Approval

Customer Service Records

To: Current Carrier(s) Listed Above.

Subject: The Customer Identified above hereby authorizes TelePacific Communications to act as its agent in dealing with local companies listed above for the purpose of generating a proposal for TelePacific Communications

Service Change

New Service

I, the undersigned, act on behalf of the company with respect to the telephone number(s) listed above. I authorize TelePacific Communications to act as our agent either to (1) change our telecommunications carrier from current carrier(s) or (2) initiate new service.

Local Service

IntraLata Toll:

Carrier: _____

InterLata Long Distance Service:

Carrier: _____

or

I want to retain my existing LD carrier on some or all of my telephone numbers.

Specify Intra and InterLata PIC for each telephone number on attachment.

I understand that only one telecommunications carrier may be designated as my primary interexchange carrier for any one telephone number for each (a) IntraLATA Toll and (b) InterLATA Long Distance services. I also understand that if I select no primary interexchange carrier (NO PIC), I will be unable to make IntraLATA Toll and/or InterLATA long distance calls except by using casual dialing. I understand that any change in my primary carrier selection may involve a charge.

(4) Agreement

Contact Name	Title
Customer Signature	Date

5. Primary Interexchange Carrier Selection Table

Telephone Number	Custom BL	IntraLATA			InterLATA		
		PIC	PIC Code	Active DateFreeze PIC	PIC	PIC Code	Active DateFreeze PIC

Letter of Agency

1. Customer and Carrier Identification

Current Carriers

Contact Name Deborah Sultan

Title Finance Director

Company Legal Name (Customer) City of Oakley

Service Address (Street/City/State/Zip) 3231 Main Oakley CA 94561

Billing Address (Street/City/State/Zip) 3231 Main Oakley CA 94561

Other Company Names (DBA)

2. Billing Telephone Numbers

This authorization covers all customer number associated with the Billing Telephone Numbers listed below:

3. Approval

Customer Service Records

To: Current Carrier(s) Listed Above.

Subject: The Customer Identified above hereby authorizes TelePacific Communications to act as its agent in dealing with local companies listed above for the purpose of generating a proposal for TelePacific Communications

Service Change

New Service

I, the undersigned, act on behalf of the company with respect to the telephone number(s) listed above. I authorize U.S. TelePacific Corp. and/or its affiliated companies and/or its agent Momentum Wholesale, LLC to act as our agent either to (1) change our telecommunications carrier from current carrier(s) or (2) initiate new service.

Local Service

IntraLATA (Local) Toll:

Carrier: _____

InterLATA Long Distance Service:

Carrier: _____

or

I want to retain my existing LD carrier on some or all of my telephone numbers

Specify Intra and InterLATA PIC for each telephone number on attachment

I understand that only one telecommunications carrier may be designated as my primary interexchange carrier for any one telephone number for each (a) IntraLATA Toll and (b) InterLATA Long Distance services. I also understand I have chosen TelePacific as my interexchange carrier.

4. Agreement

Contact Name

Title

Customer Signature

Date



TelePacific Hosted PBX Addendum

This Addendum amends and modifies the Telecommunications Account Agreement between TelePacific and Customer.

This Addendum governs both the TelePacific Hosted PBX Service ("Service") and any devices, such as handsets, routers, switches or any other IP connection device (which devices may sometimes be referred to herein as "Device" or "Equipment"), used in conjunction with the Service and it applies to all lines on each TelePacific account.

- 1 **Customer Premises Requirements.** The customer premises must have at minimum Cat 5 or Cat 6 cabling installed for each handset. This must include an uninterrupted cable run from your phone closet to each handset. TelePacific technicians cannot and will not validate whether a cable run is uninterrupted. If, at the time of install, your cabling is insufficient, TelePacific may have some options for additional hardware, such as an external power supply or an additional switch, at additional cost, that may resolve the issue, however these solutions are not guaranteed to work in every situation and cabling is the ultimate responsibility of you, the customer.
- 2 **EMERGENCY SERVICES - 911 & E911**
 - 2.1 **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 in locations where the emergency center is not equipped to receive your telephone number and address have basic 911. With basic 911, the local emergency operator 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 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.
 - 2.2 **Notify All Users.** You should inform any employees, guests and other third persons who may be present at the physical location where you utilize the Service of the important differences in and limitations of TelePacific 911 Dialing as compared with basic 911 or E911. The documentation that accompanies each handset that you receive from TelePacific will include a sticker concerning the potential non-availability of basic 911 or E911 (the "911 Sticker"). It is your responsibility, in accordance with the instructions that accompany each Device, 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 Device, or you require additional 911 Stickers, please contact our customer care department at 877-487-8722
 - 2.3 **Location of Service.** This Service is provided at a specific address provided by you to us to determine if Service can be provided at your new address, and so we may notify your new E911 operator. Service will only be provided at locations where E911 connectivity is available.
 - 2.4 **Service Outages.**
 - (a) **Service Outages Due to Power Failure or Disruption.** TelePacific does not supply a battery backup Device. Devices that do not have a battery backup cannot support 911 dialing in the 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 a Device prior to utilizing the Service, including 911 Dialing.
 - (b) **Service Outages Due to Internet Outage or Suspension or Disconnection of Broadband Service.** Service outages or suspensions or disconnections of service will prevent all Service, including 911 Dialing, from functioning.
 - (c) **Service Outage Due to Disconnection of Your TelePacific Account.** Service outages due to disconnection of your account will prevent all Service, including 911 Dialing, from functioning.

- (d) 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 ABOVE.
- 2.5 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.
- 2.6 Disclaimer of Liability and Indemnification. We do not have any control over whether, or the manner in which, calls using our 911 Dialing service are answered or addressed by any local 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 TELEPACIFIC, ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICES TO YOU IN CONNECTION WITH THE SERVICE, NOR THEIR 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 UNLESS SUCH CLAIMS OR CAUSES OF ACTION AROSE FROM OUR GROSS NEGLIGENCE, RECKLESSNESS OR WILLFUL MISCONDUCT. You shall defend, indemnify, and hold harmless TelePacific, 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.
- 2.7 International Locations. 911 Dialing will not be provided to locations outside the U.S. Calls to 911 from such locations will be routed to 911 operators stationed in the U.S. however, no emergency services will be provided to such international locations.
- 2.8 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, such as through a traditional telephone line. As referred to herein, "traditional service" or "traditional telephone" means telephone service provided over the public switched telephone network ("PSTN") as opposed to Hosted PBX service which is delivered in the form of data packets and referred to as voice over internet protocol ("VoIP") service.
- 3 Prohibited Uses.
- 3.1 Unlawful. You shall use the Service and the Device only for lawful purposes. We reserve the right to immediately disconnect your Service without notice, if, in our sole and absolute discretion, we determine that you have used the Service or the Device for an unlawful purpose. In the event of such disconnection, you will be responsible pursuant to Section 4(b) of the Terms and Conditions of the Agreement. If we believe that you have used the Service or the Device for an unlawful purpose, we may forward the relevant communication and other information, including your identity, to the appropriate authorities for investigation and prosecution. You hereby consent to our forwarding of any such communications and information to these authorities. In addition, TelePacific will provide information in response to law enforcement requests, lawful government requests, subpoenas, court orders, to protect its rights and property and in the case where failure to disclose the information may lead to imminent harm to you or other customers.
- 3.2 Inappropriate Conduct. You shall not use the Service or the Device in any way that is threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, or any similar behavior. We reserve the right to immediately disconnect your Service without notice, if, in our sole and absolute discretion, we determine that you have used the Service or the Device in any of the aforementioned ways. In the event of such disconnection, you will be responsible pursuant to Section 4(b) of the Terms and Conditions of the Agreement. If we believe that you have used the Service or

the Device in any of the aforementioned ways, we may forward the relevant communication and other information, including your identity, to the appropriate authorities for investigation and prosecution. You hereby consent to our forwarding of any such communications and information to these authorities. In addition, TelePacific will provide information in response to law enforcement requests, subpoenas, court orders, to protect its rights and property and in the case where failure to disclose the information may lead to imminent harm to you or other customers. Furthermore, TelePacific reserves all of its rights at law and equity to proceed against anyone who uses the Services illegally or improperly.

- 4 Copyright; Trademark; Unauthorized Usage of Device; Firmware or Software.
 - 4.1 Copyright; Trademark. The Service and Device and any firmware or software used to provide the Service or provided to you in conjunction with providing the Service, or embedded in the Device, and all Services, information, documents and materials on our websites are protected by trademark, copyright or other intellectual property laws and international treaty provisions. All of our websites, corporate names, service marks, trademarks, trade names, logos and domain names (collectively "Marks") are and will at all times remain our exclusive property. Nothing in this Agreement grants you the right or license to use any of our Marks.
 - 4.2 Unauthorized Usage of Device; Firmware or Software. You have not been granted any license to use the firmware or software used to provide the Service or provided to you in conjunction with providing the Service, or embedded in the Device, other than a nontransferable, revocable license to use such firmware or software in object code form (without making any modification thereto) strictly in accordance with the terms and conditions of this Agreement. You expressly agree that the Device is exclusively for use in connection with the Service and that we will not provide any passwords, codes or other information or assistance that would enable you to use the Device for any other purpose. We reserve the right to prohibit the use of any interface device that we have not provided to you. You hereby represent and warrant that you possess all required rights, including software and/or firmware licenses, to use any interface device that we have not provided to you. In addition, you shall indemnify and hold us harmless against any and all liability arising out of your use of such interface device with the Service. You shall not reverse compile, disassemble or reverse engineer or otherwise attempt to derive the source code from the binary code of the firmware or software.
- 5 Tampering with the Device or Service. You shall not change the electronic serial number or equipment identifier of the Device or to perform a factory reset of the Device without our prior written consent. We reserve the right to disconnect your Service if we believe, in our sole and absolute discretion, that you have tampered with the Device. In the event of such disconnection, you will remain responsible pursuant to Section 4(b) of the Terms and Conditions of the Agreement. You shall not attempt to hack or otherwise disrupt the Service or make any use of the Service that is inconsistent with its intended purpose.
- 6 Theft of Service. You shall not use the Service in a manner calculated to avoid TelePacific policies and procedures. You shall not obtain or use the Services in an improper manner. You shall notify us immediately, in writing or by calling our customer support line, if the Device is stolen or if you become aware at any time that your Service is being stolen, fraudulently used or otherwise being used in an unauthorized manner. When you call or write, you must provide your account number and a detailed description of the circumstances of the Device theft, fraudulent use or unauthorized use of Service. Failure to do so in a timely manner may result in the disconnection of your Service and additional charges to you. Until such time as we receive notice of the theft, fraudulent use or unauthorized use, you will be liable for all use of the Service using a Device stolen from you and any and all stolen, fraudulent or unauthorized use of the Service. TelePacific reserves all of its rights at law and equity to proceed against anyone who uses the Services illegally or improperly.
- 7 Ownership and Risk of Loss. TelePacific maintains ownership of the rented Device and you bear all risk of loss of, theft of, casualty to or damage to the Device, from the time it is shipped to you until the time (if any) when it is returned to us in accordance with this Agreement.
- 8 Return of Device. Customers must return rented Equipment that is installed at your premises by us or shipped to you by TelePacific or our authorized third party equipment vendor by arranging with us to remove the equipment from your premises upon termination of the Services within fourteen (14) days of the date you disconnected Services. We must receive the equipment in its original condition

- reasonable wear and tear excluded. You must return the equipment with the original packaging, accessories, and documentation. Failure to return rented Equipment may result in replacement fees applied to your account.
- 9 Music on Hold. You acknowledge that you are solely responsible for uploading licensed messages and/or music if you have chosen the Music on Hold option. TelePacific is not responsible for obtaining permission for your use of any music or other material that may be subject to licensing requirements.
 - 10 Service Distinctions. The Service is a VoIP service. Circumstances beyond our control may affect the Service, such as power outages, fluctuations in the internet, your underlying broadband service. TelePacific will act in good faith to minimize disruptions to your use of and access to Service.
 - 11 May Not Support x11 Calling. The Service does not support, including, without limitation, collect calls, third party billing calls, calling cards or 900 calls. The Service may not support 311, 511 and/or other x11 (other than certain specified dialing such as 911 and 411) services in one or more (or all) service areas.
 - 12 Third Party Applications. You may use only Broadsoft-approved third party applications in conjunction with your TelePacific Hosted PBX Service. Use of third party applications (including those that are Broadsoft-approved) will be at your own risk. TelePacific will not provide support or troubleshooting for any third party application. In addition, you may not develop or test third party applications with TelePacific Hosted PBX Service. TelePacific reserves the right to terminate any and all services if TelePacific determines, in its sole judgment, that (a) you have performed development or testing of a third party application with TelePacific Hosted PBX Service, or (b) a third party application used by you has caused harm, or has the potential to cause harm, to TelePacific's Hosted PBX platform or to other customers.
 - 13 Incompatibility with Other Services - Security Systems. The Service may not be compatible with security systems. You may be required to maintain a telephone connection through TelePacific or your local exchange carrier in order to use any alarm monitoring functions for any security system installed in your business. You are responsible for contacting the alarm monitoring company to test the compatibility of any alarm monitoring or security system with the Service.
 - 14 Local Number Portability (LNP). TelePacific will port your existing US-based telephone number to TelePacific's Hosted PBX platform, provided all documentation (including Letter of Authorization ("LOA") and current bill) has been completed and returned to TelePacific in a timely fashion. Due to porting requirements, TelePacific cannot accept any bills or LOAs older than thirty (30) days when processing an LNP request. Once the request has been processed, it can take up to thirty (30) days for the number to be moved to TelePacific. TelePacific will use its best efforts to work with you, the customer, and the losing carrier to schedule the port completion on a date that best meets your needs. Should the original cutover date need to be changed for any reason, TelePacific will work with the losing carrier to accommodate a maximum of three (3) change requests at no additional charge to you. Should further change requests become necessary, TelePacific may apply a Port Date Change Request Fee in the amount of two hundred dollars (\$200.00) for each additional change request.
 - 15 Remote Users. We define a "remote user" as any user operating its telephony equipment without any one of the following (a) a TelePacific provided circuit, (b) TelePacific managed router, (c) TelePacific managed power of Ethernet ("PoE") Switch, or (d) without an uninterrupted path from the TelePacific managed PoE Switch to their Device. For these users, TelePacific provides no quality of service guarantee, including those defined in the TelePacific Service Level Agreement (SLA) available on TelePacific's website: www.insidetelepacific.com. If a Device that is installed in a Remote User environment experiences any deficiencies in call quality, you acknowledge that TelePacific will first install or replace any non-TelePacific managed elements (circuit, managed router, managed PoE Switch), and/or require you to connect your phone directly to the managed PoE Switch (if not already), at your expense, before we can undertake any further troubleshooting steps.
 - 16 Entire Agreement. In the event of a conflict between the Terms and Conditions of the Agreement and the contents of this Addendum, the contents of this Addendum shall control.