

**TERMS AND CONDITIONS OF SERVICE
FOR
QUAIL VALLEY TELECOM, LLC, D/B/A FROG ("FROG")
FIBER INTERNET ACCESS SERVICES - RESIDENTIAL**

Frog provides its Residential Fiber-based Internet Access Services (the "Internet Services") on the condition that its customers ("Customers") comply with the documents listed immediately below this paragraph (the "Customer Agreements"). These Customer Agreements contain important information regarding Customers' rights and responsibilities. Except for the Customer Service Order, (i) Frog may amend the Customer Agreements from time to time in Frog's sole discretion and without notice to Customers; and (ii) a current copy of all Customer Agreements that Customers may access at any time will be maintained on the Website. Please review them carefully from time to time.

- Terms and Conditions of Service (this document, also referred to herein as this "Agreement"). This document contains the general terms and conditions governing, and information about, the Internet Services and Customers' use of the Internet Services, including Frog's policies relating to such matters as billing and customer service.
- Customer Service Order(s). This document identifies the specific Internet Services purchased, pricing, and any other unique terms and conditions applicable to the Internet Services purchased. Customer may have been provided with a copy of its Customer Service Order when Frog initiated or last serviced Customer's account. Customer also may obtain a copy of its Customer Service Order by contacting Frog during normal business hours.
- Acceptable Use Policy. This document governs Customers' permitted and prohibited uses of Frog's Internet Services.
- Privacy Policy. This document explains what information and data that Frog collects from or about its Customers, and how Frog stores and uses such information.

By signing the Customer Service Order or using the Internet Services, Customer accepts (in other words, makes legally binding) the above Customer Agreements and confirms that, by doing so, Customer is not violating the terms of any agreement Customer has with another provider of services.

<p>This document contains a binding "arbitration clause," WHICH SAYS THAT CUSTOMER AND FROG AGREE TO RESOLVE DISPUTES THROUGH ARBITRATION. THE ARBITRATION PROVISION REQUIRES THAT DISPUTES BE RESOLVED IN INDIVIDUAL ARBITRATIONS. IN ARBITRATION, THERE IS NO JUDGE OR JURY AND THERE IS LESS DISCOVERY AND APPELLATE REVIEW THAN IN COURT.</p>

Capitalized terms used in this Agreement have specific meanings that are contained in Section 20 below (if not defined where used for the first time). By accepting or using the Internet Services, Customer and Frog agree as follows:

1. Term of Agreement and Customer Service Orders; Early Termination

1.1 Term (Duration) of Agreement. This Agreement applies for so long as Customer has access to use or uses the Internet Services.

1.2 Term (Duration) of Customer Service Orders. Each Customer Service Order shall specify the duration of Internet Services (the "Initial Service Term"), provided that absent such a specified Initial Service Term, the Initial Service Term shall be deemed to be one year commencing on the Service Commencement Date. Unless specified otherwise in a Customer Service Order, the Initial Service Term automatically shall extend for additional consecutive 30-day periods (each a "Renewal Service Term", and together with the

Initial Service Term, the “Term”) until either party provides the other with at least 30 days’ prior notice that the Customer Service Order will terminate at the end of the then-current Term. Any failure or refusal on Customer’s part to be ready to receive Internet Services on the Service Commencement Date shall not change the Term or relieve Customer of its to pay all applicable Service Charges.

1.3 Early Termination of Customer Service Order Without Cause (for Convenience). Notwithstanding anything to the contrary in this Agreement, Customer may terminate a Customer Service Order, in whole or in part, at any time during the Term, by (a) providing Frog with at least 30 days’ prior notice; (b) paying Frog all Service Charges payable through the date of termination; (c) paying Frog the Termination Charges; and (d) returning to Frog all Frog Equipment. If the date of termination is not specified in Customer’s termination notice, or if such notice is received by Frog less than 30 days prior to the termination date proposed in such notice, then the actual date of termination shall be 30 days after Frog’s receipt of such notice.

1.4 Termination of Customer Service Order for Cause. Any Customer Service Order may be terminated, in whole or in part, prior to the end of its Term, by (a) either party if the other breaches any material provision of any Customer Agreement and fails to fully cure such breach within 30 days after receiving notice from the non-breaching party that reasonably details the breach claim so that the breaching party can understand the breach claim and provide a cure; (b) Frog upon notice of a Payment Default; (c) either party upon notice if the other becomes insolvent, becomes involved in liquidation proceedings, is adjudicated bankrupt, makes an assignment for the benefit of creditors, invokes any provision of Laws for general relief from its debts, initiates any proceeding seeking general protection from its creditors, or is removed or delisted from a trading exchange; (d) after entering into such Customer Service Order, Frog discovers that the costs to deliver the Internet Services to the Service Location requires a material increase in the Service Charges and Customer does not agree to pay such additional Service Charges by executing a revised Customer Service Order or otherwise accepting such increased costs in a manner acceptable to Frog; or (e) after entering into such Customer Service Order, Frog is unable to secure and retain at a reasonable expense suitable equipment, facilities and other rights sufficient to enable Frog to provide Internet Services to the applicable Service Location (such as access rights, pole attachments, conduit access, access to peer networks, interconnection rights, colocation rights, transmission capacity, etc.) to serve the Service Location. Alternatively, instead of exercising its termination rights under this Section, Frog may suspend Internet Services under the affected Customer Service Order, and/or require a deposit, advance payment, or other satisfactory assurance of performance as a condition of continuing to provide the Internet Services. Frog’s suspension of Internet Services under this Section does not affect Customer’s obligation to continue paying for such Internet Services, and Frog may require Customer to pay reconnect or other charges before restarting the suspended Internet Services.

1.5 Events Upon Termination. Upon the expiration or any earlier termination of a Customer Service Order, Frog will disconnect the terminated Internet Services and all rights and duties of the parties under such Customer Service Order (and this Agreement as it applies to such Customer Service Order), shall cease, except as follows: (a) Customer’s obligation to pay any unpaid Service Charges and Termination Charges, as applicable; (b) Customer will provide Frog access to retrieve all Frog Equipment; (c) Frog may delete all of Customer’s data, files, electronic messages or other information stored on Frog systems, without notice to Frog or any end user; and (d) Sections 1.3, 1.5, 2.3, 3, 5, 6, 7 through 11, and 14 through 20 of this Agreement shall survive such expiration or termination.

2. Purchase and Installation of Internet Services

2.1 Customer Service Orders. Customer only may obtain the right to use Internet Services by submitting a Customer Service Order for each Service Location. Each Customer Service Order is deemed accepted and becomes binding on the parties when (a) Frog signs the Customer Service Order; (b) Frog begins providing the Internet Services specified in the Customer Services Order; or (c) Frog begins installing the Internet Services described in the Customer Service Order, whichever first occurs. All Customer Service Orders are subject to the terms of the Customer Agreements.

2.2 Availability of Facilities. Certain Internet Services may not be available in all service areas and Frog may decline to provide any requested Internet Services in its sole discretion. Frog's ability to provide Internet Services depends upon Frog securing and retaining at a reasonable expense suitable equipment, facilities and other rights sufficient to enable Frog to provide Services to the applicable Service Location (such as access rights, pole attachments, conduit access, access to peer networks, interconnection rights, colocation rights, transmission capacity, etc.) to serve the Service Location.

2.3 Access. Customer shall, at no cost to Frog, secure and maintain all necessary rights of access to Service Locations to allow Frog 24x7 access to (a) survey and inspect such Service Locations to determine suitability; (b) design, install, access, repair, maintain, upgrade, replace and remove the Frog Equipment; and (c) provide the Internet Services during the Term. Frog will exercise its rights of access during normal business hours whenever reasonably practicable, except in the event of emergencies (outages, imminent failures, system damage, etc.). If Customer owns or controls a Service Location, Customer hereby grants to Frog permission to enter the Service Location to allow Frog to fulfill its obligations and exercise its rights under the Customer Agreements. If a Service Location is not owned or controlled by Customer, Customer will obtain, at Customer's sole cost and subject to Frog's reasonable approval, an appropriate right of access. If neither party is able to obtain such right of access, then Frog may decline Customer's request for Internet Services at such Service Location, or terminate or amend the affected Customer Service Order with respect to the Service Location that Frog cannot access, without any liability to Customer.

2.4 Service Location Site Review. Frog may perform an installation review of each Service Location prior to installation of the Internet Services to determine serviceability or the need to extend Frog's network equipment and other facilities to provide the Internet Services at the Service Location. Upon request, Customer will provide Frog with accurate site and/or physical network diagrams or maps at each Service Location, including electrical and other utility service maps, to assist Frog with this review. If during this review, Frog determines that additional work or expenditures are required to enable Frog to deliver the Internet Services to the Service Location, Frog will notify Customer of such situation, including any potential delay in installation and any additional Service Charges in excess of the amounts previously specified in the applicable Customer Service Order. Customer will have three business days from receipt of Frog's notice to accept or reject any of Frog's proposed changes to the applicable Customer Service Order. If Customer does not accept all such proposed Customer Service Order changes within such period, then either party may terminate, without further liability to the other, the Customer Service Order with respect to the affected Service Location.

2.5 Service Location Preparation. Customer is responsible for necessary preparations at the Service Location(s) so that Frog can deliver and install the Frog Equipment and provide the Internet Services during the Term, including the relocation of Customer equipment, furniture and furnishings as necessary to access the Frog Equipment or Internet Services. Customer shall provide Frog with an adequately sized, reasonably secure (locked), environmentally-controlled space and such electricity as is required for such installation, operation and maintenance of the Frog Equipment at each Site Location at Customer's sole cost.

2.6 Installation. The parties shall agree upon installation dates and times, which shall be during normal weekday business hours unless otherwise agreed. Frog may perform installation or maintenance on weekends or times other than during normal business hours, subject to Customer's payment of additional Service Charges based on Frog's increased costs of such non-routine installation or maintenance. Customer's authorized representative must be present during installations. Frog will use commercially reasonable efforts to make the Internet Services available by the requested Service Commencement Date (if any is set forth in the Customer Service Order), but Customer acknowledges that there are many factors that can cause a delay in installation, including obtaining necessary regulatory approvals/permits for construction, obtaining right-of-way and access approvals, delays caused by vendors (such as equipment suppliers, installation contractors, other network providers, etc.). If the installation or maintenance of Internet Services at a Service Location is or becomes, in Frog's sole determination, hazardous or dangerous to Frog's employees or network, the public, or property, including due to the suspected presence of asbestos or other hazardous materials, then Frog may refuse to install or maintain such Internet Services or stop providing Internet Services until such time as the condition is remedied or an alternative Service Location is designated that is not hazardous or dangerous. Customer shall bear any additional costs Frog

incurs arising from any such hazardous or dangerous conditions. In no event will Frog be liable for any damages whatsoever resulting from a delay in meeting the requested Service Commencement Date. If Frog is unable to install the Internet Services in accordance with the agreed upon schedule as a result of any condition that is not attributable to Frog, then Customer is responsible to pay Frog's then-current rates for additional installation trips and additional costs incurred as a result of such condition. Frog will repair any damage to the Service Location caused by Frog to its condition immediately prior to such damage.

2.7 Customer Equipment. Customer is responsible for providing, connecting, maintaining, repairing, operating and replacing all Customer Equipment. Frog shall have no obligation to install, operate, maintain or replace any Customer Equipment or equipment or devices used by end-users of the Internet Services. All Customer Equipment must be fully compatible with the Internet Services. Customer shall be responsible to pay all charges for Frog to troubleshoot or attempt to maintain, repair or replace any Customer Equipment if the trouble report results from such Customer Equipment.

2.8 Frog Equipment. Frog Equipment is and shall remain the property of Frog regardless of where installed within the Service Location, and is not, and shall not be deemed to be, affixed to or a fixture of real property. Frog may remove, modify or replace the Frog Equipment at any time in Frog's sole discretion. Customer shall not, and Customer shall not permit any other person to, (a) move, rearrange, disconnect, remove, attempt to repair, or otherwise tamper with the Frog Equipment; or (b) use the Frog Equipment for any purpose other than for use of the Internet Services and as permitted by the Customer Agreements. Frog will use commercially reasonable efforts to maintain the Frog Equipment in good operating condition at Frog's cost. Customer is responsible for any maintenance, repair or replacement costs for the Frog Equipment due to any condition that is not attributable to Frog or its Related Parties (such as theft, vandalism, fire, other providers, other tenants, earthquake, or other casualty). Customer shall not take any action that would directly or indirectly impair Frog's title to the Frog Equipment, or expose Frog to any claim, lien, encumbrance or legal process.

2.9 Frog Software and Other Proprietary Materials. If any Proprietary Materials are provided to Customer, Frog hereby grants to Customer a limited, personal, non-exclusive, non-sublicensable, and non-transferable license to use such Proprietary Materials, in object code form only with respect to Frog Software, for the sole and limited purpose of using the Internet Services for Customer's internal business purposes during the Term. Customer shall not (a) copy, move, reverse engineer, alter, modify, misuse, decompile, disassemble, translate, tamper with, or attempt to learn the source code of any Proprietary Materials; (b) use Proprietary Materials for the benefit of any third party; or (c) remove any markings or labels from the Proprietary Materials (such as ownership or manufacture indicia, serial numbers, etc.). Upon termination of a Customer Service Order, the license to use any Proprietary Materials in connection with such Customer Service Order automatically shall terminate and Customer shall destroy any copies of the Frog Software (to the extent that Customer reasonably is able to do so) in Customer's possession. The Proprietary Materials shall remain the sole and exclusive property of Frog or its suppliers and are not fixtures of any Service Location. Except for the limited license granted above, Customer will acquire no title, interest or right (including intellectual property rights) in or to the Proprietary Materials.

3. Service Charges, Invoicing and Payment Terms

3.1 Service Charges; Invoices. Customer is required to pay all Service Charges when due and payable. Unless otherwise specified in a Customer Service Order, Frog invoices for (a) monthly recurring charges specific to the Internet Service(s) in advance on a monthly basis; (b) construction and installation fees prior to the Service Commencement Date; and (c) all other fees, including non-recurring, usage based, or one-time charges incurred after the Service Commencement Date, monthly in arrears. If Frog fails to invoice Customer for any Service Charge payable under the Customer Agreements in a timely manner or as otherwise required by this Section, such failure shall not constitute a waiver of such Service Charges, and Customer shall pay such Service Charges upon receipt of Frog's invoice. Frog has the right to increase Service Charges after the Initial Service Term upon 30 days' prior notice to Customer. Customer is responsible for all charges attributable to Customer for Internet Services provided, even if incurred as the result of fraudulent or unauthorized use of the Internet Services. Frog may, but is not obligated to, detect

or report unauthorized or fraudulent use of Internet Services to Customer. Frog reserves the right to restrict, suspend or discontinue providing any Internet Services if Frog suspects fraudulent use thereof.

3.2 Taxes, Surcharges and Fees; Increases. Customer must pay all applicable taxes, fees, or surcharges imposed on, or that Frog may pass through to Customer or charge in connection with, the Internet Services (including equipment provided), including applicable federal, state, and local sales, use, property, excise, telecommunications, or other taxes, franchise fees, federal and state universal service fund fees, and other state or local governmental charges or regulatory fees (regardless of how designated or when first imposed), excluding only income taxes measured on Frog's net income (collectively, "Taxes"). Customer may claim tax-exempt status by supplying Frog with a copy of Customer's current and valid tax exemption certificate or other documentation, in which case Frog will apply the tax exemption to Customer's account on a going forward basis. To the extent such documentation is invalid for any reason, Customer will pay or reimburse Frog for any Taxes payable or liability incurred in connection with such invalidity, including interest and penalties due to Frog's reliance. Customer hereby consents to allow Frog to disclose such written documentation to any governmental authority. Customer's Taxes-exempt status does not relieve Customer of its obligation to pay Taxes as they may not be governed by Customer's tax standing. If Laws change, including new Taxes being imposed or charges that increases the costs or other terms of Frog's delivery of Internet Services, or, if there are increases to any access or facility charges, such as pole attachment or conduit charges applicable to any facilities that Frog uses to provide Internet Services, Frog may pass through to Customer any such increased fees or costs, but only to the extent of the actual increase. If such increase materially increases the Service Charges payable under a Customer Service Order, then Customer may, within 30 days after notification of such increase (which may be via an invoice showing such increase), terminate the affected Internet Service without an obligation to pay Frog any applicable Termination Charges, provided that Customer notifies Frog at least 30 days prior to the requested termination date. If Frog determines, in its sole discretion, that offering or providing Internet Service, or any part thereof, has become impracticable for legal or regulatory reasons or reasonable business circumstances, then Frog may terminate any affected Customer Service Order without liability by providing Customer with at least 30 days' prior notice or such other notice that is required by Laws.

3.3 Payment. Customer shall pay all Service Charges within 30 days after the date appearing on the invoice. The due date for payment of Service Charges will not be extended while Customer awaits reimbursement, subsidy, discount or credit from any third party or government entity, and Customer shall be required to pay all Service Charges regardless of the status of any such reimbursement, subsidy, discount or credit. All payments not received by their due date are subject to a monthly administrative fee of \$50, or the maximum amount allowed by Laws, whichever is less. Frog may charge a reasonable service fee for all rejected payments, including returned checks and bank card, credit card or other charge card charge-backs. Customer is responsible for all expenses, including reasonable attorneys' fees and collection costs, incurred by Frog in collecting any unpaid amounts due under this Agreement.

3.4 Credit Card Payments. Frog may accept certain credit card payments for Service Charges. By providing Frog with a credit card number and related information, Customer is authorizing Frog to charge the card for all Service Charges generated under the Customer Agreements, until (a) this Agreement expires or is terminated; (b) Customer provides Frog with 60 days prior notice to stop charging the credit card. Customer will provide Frog with updated credit card or alternate payment information on a timely basis prior to the expiration or termination of the credit card on file or if such credit card limit is or will be insufficient to cover payment. If Frog is unable to charge the credit card for any reason, then Customer will pay all amounts due, including any late payment charges or bank charges, upon demand by Frog. Frog may limit the option to pay by credit card to specific Internet Services and may discontinue acceptance of credit card payments in whole or in part upon at least 30 days prior notice to Customer.

3.5 Payment Disputes. Customer may dispute any portion of an invoice in good faith by notifying Frog in reasonable detail as to the basis for the dispute at any time prior to 30 days after receipt of Frog's invoice (which Customer shall be deemed to have received four business days after the date on such invoice unless Customer reasonably can demonstrate otherwise), and the parties shall use commercially reasonable efforts to promptly resolve such dispute. If the parties fail to mutually resolve the dispute within 30 days after Customer's notice, all disputed amounts immediately shall be due and payable. Under no

circumstances may Customer submit a billing dispute to Frog later than 30 days following Customer's receipt of the invoice. Nothing herein shall be construed as a basis for withholding payment of any portion of an invoice that is not disputed in good faith, and Customer has no right to set-off any amount due under an undisputed invoice. Customer will pay the disputed portions of an invoice promptly following the resolution of such dispute.

3.6 Credit Approval and Deposits. Frog's obligation to deliver Internet Services may be subject to credit approval. If requested, Customer will provide Frog with credit information and hereby authorizes Frog to make inquiries and receive information about Customer's credit history from third parties and store this information in Customer's records. Customer hereby covenants that all credit information that Frog provides will be complete and accurate. Frog may, in its sole discretion, decline to provide Internet Services based on an unsatisfactory credit history. Frog may require Customer to provide a deposit in an amount not to exceed two-months' of monthly recurring Service Charges as a condition to providing or continuing to provide the Internet Services. Unless required by Laws, such deposit shall not bear or accrue interest and shall be held as security for payment of Service Charges. Upon full payment of all Service Charges due, upon expiration or termination of this Agreement, and/or earlier at any time in Frog's discretion, Frog will return any portion of the deposit not applied to such Service Charges.

4. Internet Service Standards and Support

4.1 Internet Service Standards. Except as specified otherwise in a Customer Service Order, (a) Frog will use commercially reasonable efforts to provide the Internet Services 24 hours per day, seven days per week; and (b) Frog will provide the Internet Services in accordance with its then-current service level agreement (if any and as applicable), which Customer may access via the Website. Except as provided in the foregoing sentence, Frog makes no representation or guarantee regarding the availability or speed of the Internet Services, as actual speeds may vary, and Internet Service interruptions may occur, due to both network and non-network factors. Internet Services may be unavailable from time-to-time either for scheduled or unscheduled maintenance, technical difficulties, or for other reasons beyond Frog's reasonable control. Temporary service interruptions or outages for such reasons, as well as service interruptions or outages caused by Customer or its Related Parties, or by a Force Majeure Event, shall not constitute Frog's failure to perform its obligations under this Agreement.

4.2 Support. Frog and Customer may exchange contact information for inquiries and remote problem support for the Internet Services. All such support shall be provided only to the designated point of contact or as Frog otherwise agrees. If Frog requests, Customer will provide routine operational support for the Frog Equipment located at a Service Location, including "eyes and ears" inspections, performing reboots, etc. Frog does not support Customer Equipment or any third party hardware or software used in conjunction with third party services. If Customer initiates a service call that requires an on-site response, and Frog reasonably determines that the cause of such service call is not due to a problem arising from Frog's network or the Frog Equipment, then Customer shall pay Frog's then-current standard service rates for such service call. Frog has the right, but not the obligation, to (a) monitor, record, and maintain oral communications with Customer regarding Customer's account or Internet Services for the purpose of service quality assurance, or as otherwise not prohibited under Laws; and (b) monitor any postings or transmissions made in connection with the Internet Services to the extent not prohibited by Laws.

5. Confidentiality

Customer shall maintain in confidence, and not to disclose to third parties or use, except for such use as is expressly permitted in the Customer Agreements, the Proprietary Materials, the terms of any Customer Service Order, or any non-public information that Frog provides Customer that is marked as "confidential" or with words of similar import or that a reasonable person would presume to be non-public information (such as pricing proposals, dispute/workout conditions, etc.). Customer shall not issue a press release, public announcement or other public statement regarding any Customer Service Order without Frog's prior consent.

6. Disclaimer of Warranties

CUSTOMER ASSUMES ALL RESPONSIBILITY FOR USE OF THE INTERNET SERVICES AND PROPRIETARY MATERIALS, AND USES THE SAME AT ITS OWN RISK. EXCEPT AS SPECIFICALLY SET FORTH OTHERWISE IN A CUSTOMER AGREEMENT, THE INTERNET SERVICES AND PROPRIETARY MATERIALS ARE PROVIDED "AS IS, WHERE IS AND WITH ALL FAULTS", AND WITHOUT REPRESENTATION, WARRANTY, COVENANT OR INDEMNITY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR USE OR PURPOSE, NON-INFRINGEMENT, OR COMPATIBILITY, AND ALL OF THE FOREGOING ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT NOT PROHIBITED BY LAWS. FROG DOES NOT WARRANT THAT THE INTERNET SERVICES OR PROPRIETARY MATERIALS WILL BE UNINTERRUPTED, ERROR-FREE, FREE OF LATENCY OR DELAY, ARE SECURE OR WILL PREVENT UNAUTHORIZED ACCESS BY THIRD PARTIES, OR OTHERWISE WILL MEET CUSTOMER'S NEEDS. NO ADVICE OR INFORMATION GIVEN BY FROG OR ITS RELATED PARTIES SHALL CREATE ANY WARRANTY OR GUARANTEE.

FROG EXERCISES NO CONTROL OVER AND HAS NO RESPONSIBILITY OR LIABILITY WHATSOEVER FOR THE APPLICATIONS OR CONTENT TRANSMITTED OR ACCESSIBLE THROUGH THE INTERNET SERVICES. NO MINIMUM TRANSMISSION SPEED IS GUARANTEED AT ANY TIME. EXCEPT AS SPECIFICALLY SET FORTH IN THE CUSTOMER AGREEMENTS, FROG DOES NOT WARRANT THAT ANY INTERNET SERVICE, FROG EQUIPMENT OR FROG SOFTWARE WILL PERFORM AT A PARTICULAR SPEED, BANDWIDTH OR THROUGHPUT RATE.

7. Limitation on Damages and Liability

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE CUSTOMER AGREEMENTS OR OTHERWISE, NEITHER PARTY SHALL BE LIABLE TO THE OTHER, ANY END USER, OR ANY THIRD PARTY, FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, RELIANCE, OR PUNITIVE DAMAGES (INCLUDING FOR LOST BUSINESS, DATA, REVENUE, PROFITS, OR GOODWILL) ARISING IN CONNECTION WITH THE CUSTOMER AGREEMENTS OR THE PROVISION OF INTERNET SERVICES, INCLUDING ANY SERVICE IMPLEMENTATION DELAYS OR FAILURES, UNDER ANY THEORY OF TORT, CONTRACT, WARRANTY, STRICT LIABILITY, MISREPRESENTATION, OR NEGLIGENCE, EVEN IF THE PARTY HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES, OR IF SUCH DAMAGES FAIL OF THEIR ESSENTIAL PURPOSE. THIS SECTION SHALL NOT APPLY TO ANY PAYMENT OBLIGATIONS UNDER THE CUSTOMER AGREEMENTS. FROG'S MAXIMUM LIABILITY TO CUSTOMER UNDER THE CUSTOMER AGREEMENTS SHALL NOT EXCEED THE AMOUNT, EXCLUDING ANY ONE-TIME SERVICE CHARGES, PAID OR PAYABLE BY CUSTOMER TO FROG UNDER THE APPLICABLE CUSTOMER SERVICE ORDER TO WHICH SUCH CLAIM RELATES FOR THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO SUCH CLAIM. FROG IS NOT LIABLE FOR ANY LOSSES OR DAMAGES ARISING AS A RESULT OF THE UNAVAILABILITY OF THE INTERNET SERVICES, INCLUDING THE INABILITY TO CONNECT WITH EMERGENCY RESPONDERS, SECURITY SYSTEMS, REMOTE MEDICAL SYSTEMS, OR OTHER MONITORING SERVICE PROVIDERS.

8. Sole Remedies

Customer's sole and exclusive remedies are set forth in the Customer Agreements. To the extent that any exclusions, disclaimers or limitations may not apply in the state in which the Internet Service is provided, or Laws do not allow the exclusion or limitation of implied warranties or the limitation or exclusion of incidental, consequential or other damages, then the liability of Frog and its Related Parties is limited to the maximum extent permitted by Laws.

9. Indemnification

Unless prohibited under Laws, Indemnitor will, at its sole expense, defend, indemnify and hold harmless Indemnitee from and against all damages, losses, costs and liabilities of any nature whatsoever incurred by Indemnitee resulting from third party Claims arising out of or relating to (a) Indemnitor's misuse of the

Internet Services; (b) Indemnitor's failure to comply with Laws or the Customer Agreements; or (c) personal injury or tangible property damage caused by Indemnitor's negligence or willful misconduct. Indemnitor shall promptly (1) notify Indemnitor of any Claim for which it is requesting indemnification and tender the defense; and (2) provide all reasonably available facts, circumstances, documents and particulars of the Claim and reasonably assist where requested to enable Indemnitor to defend, settle, and indemnify for such Claim. Indemnitor shall have sole control over such defense, investigation, and settlement negotiations, but shall not settle any claim without first obtaining Indemnitor's prior consent where the settlement of such claim (i) results in any admission of guilt on the part of Indemnitor; (ii) imposes any obligation or liability on Indemnitor; or (iii) has a judicially binding effect on Indemnitor, in each case, other than monetary liabilities for which Indemnitor is indemnified by Indemnitor under this Section.

10. Arbitration

10.1 General. This Agreement requires the use of arbitration to resolve disputes and otherwise limits the remedies available to Customer in the event of a dispute. Subject to the "Exclusions" set forth below, the parties shall arbitrate all Claims arising out of or relating to the Customer Agreements. Notwithstanding the foregoing, either party may bring an individual action on any matter or subject in small claims court. The arbitrator of any Claim brought under or in connection with the Customer Agreements shall not have the power to award injunctive relief, which may only be sought in an appropriate court of law. No Claim subject to arbitration under this Agreement may be combined with a claim subject to resolution before a court of law. Because the Services concern interstate commerce, the Federal Arbitration Act ("FAA"), and not any state arbitration Laws, shall govern the arbitrability of all Claims.

10.2 Notice of Arbitration. A party who intends to seek arbitration must first send to the other a written notice of intent to arbitrate, entitled "**Notice of Intent to Arbitrate**" (the "Arbitration Notice") at such party's then current notice/contact address. The Arbitration Notice must describe in reasonable detail the nature and basis of the Claim and the specific relief sought. If the parties are unable to resolve the Claim within 30 days of receipt of the Arbitration Notice, after using good faith efforts to do so, then either party may commence an arbitration proceeding, in which all issues are for the arbitrator to decide (including the scope of the arbitration clause), but the arbitrator shall be bound by the terms of this Agreement. The arbitration shall be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, "Arbitration Rules") of the American Arbitration Association ("AAA"), as modified by this Agreement, and the arbitration shall be administered by the AAA.

10.3 Costs and Appeals. EACH PARTY SHALL BEAR THE COST OF ANY ARBITRATION FILING FEES AND ARBITRATOR'S FEES THAT SUCH PARTY INCURS, INCLUDING ATTORNEYS FEES OR EXPERT WITNESS COSTS UNLESS OTHERWISE REQUIRED UNDER LAWS. If the arbitrator's award exceeds \$75,000, then either party may appeal such award to a three-arbitrator panel administered by the AAA and selected according to the Arbitration Rules, by filing a written notice of appeal within 30 days after the date of entry of the arbitration award. The appealing party must provide the other party with a copy of such appeal concurrently with its submission of the appeals notice to AAA. The three-arbitrator panel must issue its decision within 120 days of the date of the appealing party's notice of appeal. The decision of the three-arbitrator panel shall be final and binding, except for any appellate right which may exist under the FAA. The parties may agree that arbitration will be conducted solely on the basis of the documents submitted to the arbitrator, via a telephonic hearing, or by an in-person hearing as established by Arbitration Rules. The arbitration and all related proceedings shall be conducted in the location mutually convenient to and agreed upon by the parties.

10.4 Costs and Appeals. BY AGREEING TO THIS ARBITRATION PROVISION, THE PARTIES ARE WAIVING THEIR RIGHT TO A TRIAL BY JUDGE OR JURY. CLAIMS MAY ONLY BE BROUGHT IN A PARTY'S INDIVIDUAL CAPACITY AND NOT ON BEHALF OF, OR AS PART OF, A CLASS ACTION OR REPRESENTATIVE PROCEEDING. Unless the parties agree otherwise in writing, the arbitrator may not consolidate proceedings or more than one person's claims and may not otherwise preside over any form of representative or class proceeding. If this specific paragraph is found to be unenforceable, then the entirety of these arbitration provisions shall be void with respect to the specific Claim in issue.

10.5 Severability. If any clause within these arbitration provisions is found to be illegal or unenforceable, that specific clause will be severed from these arbitration provisions, and the remainder of the arbitration provisions will be given full force and effect. NOTWITHSTANDING ANYTHING TO THE CONTRARY, IF SOME OR ALL OF THESE ARBITRATION PROVISIONS IS DETERMINED TO BE UNENFORCEABLE FOR ANY REASON, OR IF A CLAIM IS BROUGHT THAT IS FOUND BY A COURT TO BE EXCLUDED FROM THE SCOPE OF THESE ARBITRATION PROVISIONS, BOTH PARTIES AGREE TO WAIVE, TO THE FULLEST EXTENT ALLOWED BY LAWS, ANY TRIAL BY JURY. For purposes of the foregoing sentence only, in the event such waiver is found to be unenforceable, it shall be severed from this Agreement and deemed void without affecting the remaining arbitration provisions.

10.6 Exclusions from Arbitration. THE FOLLOWING CLAIMS WILL NOT BE SUBJECT TO ARBITRATION: (A) ANY INDIVIDUAL ACTION BROUGHT BY A PARTY THAT IS WITHIN THE JURISDICTION OF A COURT THAT IS LIMITED TO ADJUDICATING "SMALL CLAIMS"; (B) CLAIMS INVOLVING A PARTY'S INTELLECTUAL PROPERTY RIGHTS; AND (C) CLAIMS REGARDING UNAUTHORIZED USE OR RECEIPT OF SERVICES.

11. Notices

Unless specifically provided otherwise in this Agreement, all notices, approvals, consents, authorizations and other communications that are required or permitted by this Agreement shall be in writing and delivered by any nationally reputable courier that tracks and provides proof of delivery (but not by facsimile, email or other electronic means). The party sending a notice shall have the burden to prove receipt or rejection. Rejected notices shall be deemed delivered. Notices shall be sent to the contact person and address listed in the applicable Customer Service Order (as updated by a party from time to time in writing to the other), with a copy to Frog at Quail Valley Telecom, LLC, d/b/a Frog, 114 South Park Avenue, Suite D, Winter Park, FL 32789 Attn: Michael Voll.

12. Force Majeure Events

Notwithstanding anything to the contrary in the Customer Agreements, neither party shall be liable to the other for any delay, failure in performance, loss, or damage to the extent caused by a Force Majeure Event.

13. Assignment

Customer shall not assign any rights or delegate any duties (directly or indirectly, by operation of law, change of control or otherwise) under this Agreement or any Customer Service Order to any other person or entity without first obtaining consent from Frog, and any assignment or transfer in violation of this Section shall be voidable at Frog's election. Frog may perform its obligations and exercise its rights under the Customer Agreements through any Related Party.

14. Severability

If any provision of the Customer Agreements are held by a governmental or quasi-governmental authority to be unenforceable, unreasonable or overbroad, then (a) the parties desire that such governmental or quasi-governmental authority enforce such provision to the maximum extent it is deemed to be reasonable and not overbroad; (b) the parties desire that such governmental or quasi-governmental authority modify such provision so that it is enforceable as nearly as possible to the intent of the original provision; (c) thereafter the parties shall cooperate in good faith to amend such provision so that it is enforceable and meets the intent of the original provision as nearly as possible; and (d) the remainder of the affected Customer Agreement shall be unaffected and shall continue in full force.

15. Waivers

Failure, neglect, or delay by a party to enforce the provisions of any Customer Agreement or its rights or remedies at any time, will not be construed as a waiver of the party's rights under any Customer Agreement and will not in any way affect the validity of the whole or any part of any Customer Agreement or prejudice the party's right to take subsequent action. Exercise or enforcement by either party of any right or remedy under a Customer Agreement will not preclude the enforcement by the party of any other right or remedy under a Customer Agreement or to which the party is entitled by Laws to enforce.

16. No Third Party Beneficiaries

This Agreement constitutes an agreement solely among the parties hereto, and is not intended to and will not confer any rights, remedies, obligations or liabilities, legal or equitable, on any person or entity other than the parties hereto and their respective permitted successors or assigns, or otherwise constitute any person or entity a third party beneficiary under or by reason of this Agreement.

17. Scope of Agreement; Modifications

The Customer Agreements constitute the entire agreement between the parties with respect to, and supersedes all other agreements relating to, the subject matter contained herein, except for any separate Confidentiality or Nondisclosure Agreement signed by the parties. A party's waiver of enforcement of any of the terms or conditions of this Agreement will be effective against such party only if contained in a written instrument signed by an authorized representative of such party. The waiver of a party's breach of any Customer Agreement or failure to perform any covenant, condition or obligation shall not constitute or be construed to be a waiver of any succeeding breach or failure. The relationship between the parties is that of independent contractors, and not one of principal and agent, joint venture or partnership. Only specifically authorized representatives of Frog may make modifications to any Customer Agreement. This Agreement can be modified or changed only by a written instrument signed by the authorized representatives of both parties.

18. Governing Law; Claims Limitation; Waiver of Jury Trial

The Customer Agreements shall be subject to, and in the performance of their respective obligations under the Customer Agreements the parties shall comply with, all Laws and such compliance shall be deemed not to constitute a breach of this Agreement. Unless otherwise specified in a Customer Agreement, nothing in this Agreement shall operate as a waiver of a party's rights under all Laws and all rights and remedies of the parties shall be cumulative. This Agreement shall be governed by the laws of the State in which the Service Location is located, other than such Laws that would result in the application of the laws of a jurisdiction other than such State. The parties hereby submit to the *in personam* jurisdiction of such State and waive any objection to improper venue in the applicable Federal and State courts. **TO THE EXTENT NOT PROHIBITED BY LAWS, EACH PARTY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO, AND SHALL NOT REQUEST, A TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY A PARTY AGAINST THE OTHER REGARDING ANY MATTER ARISING OUT OF OR RELATED TO THE CUSTOMER AGREEMENTS.**

19. Order of Precedence of Customer Agreements

In the event of a conflict among the terms of this Agreement, the Privacy Policy, the Acceptable Use Policy, and a Customer Service Order, the following documents shall control in the following order of precedence: (a) the Privacy Policy; (b) the Acceptable Use Policy; (c) the terms of this Agreement; and (d) a Customer Service Order.

20. Rules of Construction and Definitions

For all purposes of this Agreement, except as otherwise provided herein or unless the context clearly requires otherwise: (a) all Section headings (captions) are for convenience of reference only and shall not affect the interpretation or construction of this Agreement; (b) unless otherwise specifically noted, the

word “including” and its correlative terms means inclusion without limitation; (c) unless specified otherwise in this Agreement, where this Agreement requires or contemplates approval, acceptance, authorization, waiver, amendment, change or consent be given by a party, such actions shall be in writing and signed by an authorized signatory of such party, and shall not unreasonably be withheld, conditioned or delayed; and (d) because each party has had reasonable opportunity to review this Agreement with its own legal counsel, the rule of construction under which ambiguities are resolved against the drafting party shall not apply. When capitalized in this Agreement, the following terms have the following meanings:

“Customer Equipment” means any and all equipment, devices and facilities (including the wiring/cabling located within Customer’s leased or owned space) supplied by Customer for use in connection with the Internet Services.

“Customer Service Order” means Customer’s written request to purchase Internet Services from Frog that is made on a Frog-provided service order form (which may be a web-based ordering platform) that specifies (a) the specific Internet Services requested; (b) the Service Locations; (c) the duration (term) of Services; (d) pricing; (e) Frog Equipment to be provided, if any; and (f) and any other specific terms and conditions relating to Customer’s purchase of Internet Services as is required by Frog from time to time.

“Force Majeure Event” means any conditions or occurrences that are beyond the reasonable control of the party experiencing such condition or occurrence, such as: acts of God or of the public enemy; severe weather conditions; fires; floods; epidemics or quarantines; freight embargoes; any future Laws or change in current Laws or other acts of a governmental authority; war; civil strife; insurrection; or riot; provided, however, notwithstanding the foregoing, the term “Force Majeure Event” shall not include any of the following: financial hardship or inability of a party to pay an amount that is due under a Customer Agreement and changes in economic, business or competitive conditions.

“Frog” means Quail Valley Telecom, LLC, d/b/a Frog, and its subsidiaries and affiliates.

“Frog Equipment” means any and all facilities (including wiring, racks, etc.), equipment (including embedded or resident software) or devices (including routers, gateways, switches, etc.) provided by Frog at the Service Locations that are used to deliver or receive the Internet Services.

“Frog Software” means any software or code provided by or through Frog for Customer’s use in connection with the Internet Services, including associated documentation and updates, if any, provided by Frog.

“Indemnitee” means Frog and its Related Parties.

“Indemnitor” means Customer and its Related Parties.

“Laws” means all applicable laws, statutes, ordinances, codes, rules, regulations, orders, judgments, case law, decrees, standards, requirements or procedures enacted, adopted, applied, enforced or followed by any governmental or quasi-governmental authority with jurisdiction over the subject party.

“Payment Default” means that Customer (a) is more than 60 days delinquent in the payment of any Service Charge; or (b) has failed to timely pay in full all Service Charges more than two times in any 18-month period.

“Proprietary Materials” means all materials, including the Frog Equipment, Frog Software, Internet Protocol (IP) addresses, email addresses, web addresses, data, information, identifiers or passwords used to access the Internet Services or otherwise provided by Frog, know-how, methodologies, processes, proprietary rights (including copyrights, trademarks, patents, trade secrets, etc.), that Frog provides or makes available to Customer or that Frog uses to provide the Internet Services.

"Related Party" means any parent, owner, director, officer, partner, affiliate, joint venture, authorized agent or representative, assignee, subsidiary, consultant, contractor, subcontractor or hired or leased employee or worker of the subject entity.

"Service Charges" means all Internet Service and other fees and charges set forth in the Customer Agreements for which Frog properly invoices Customer, including monthly recurring fees, one-time fees and Taxes.

"Service Commencement Date" means the date on which Internet Services under the subject Customer Service Order are first available for Customer's use. A single Customer Service Order that contains multiple Internet Services and/or Service Locations may have multiple Service Commencement Dates.

"Service Location(s)" means the address(es) specified in the applicable Customer Service Order to which Frog will provide Internet Services. For multi-tenant buildings, if not specified in the Customer Service Order, Service Location means Customer's leased and/or owned business space within such building.

"Termination Charges" means all charges that may be imposed by Frog if, prior to the end of the applicable Term, (a) Customer terminates any Internet Service without cause; or (b) Frog terminates any Internet Service for cause. Unless specified otherwise in the applicable Customer Service Order, the Termination Charges for each Internet Service terminated prior to the end of the Term shall be 100% of the unpaid balance of all Service Charges that otherwise would have been payable during the Term.

"Website" means Frog's website located at www.frognow.com.

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