

E911 DISCLOSURE NOTICE AND ACKNOWLEDGEMENT

1.0 EMERGENCY SERVICES - 911 CALLING

1.1 Non-Availability of Traditional 911 or E911 Calling Service

Xtracom E911 Service is a mandatory component of all Xtracom Voice over Internet Protocol ("VoIP") service ("Service"). Xtracom E911 Service enables Customers to communicate with emergency services by dialing 911. Customer acknowledges and agrees however that Xtracom 911 Service is different in important ways from traditional landline 911 and cellular/wireless 911. Xtracom E911 services may not be sufficient to meet the needs of every Customer. Customer acknowledges that it is Customer's responsibility to determine the technology or combination of technologies best suited to meet Customer's emergency calling needs and to make any arrangements necessary to access such services. Customer therefore acknowledges and agrees that the Xtracom Service does NOT support traditional 911 or E911 access to emergency services. Customer shall inform ALL employees, staff, users, and other third persons who may be present at Customer's physical location(s) where Customer uses Xtracom Service of the non-availability of traditional 911 or E911 dialing and access from Xtracom Service and equipment. If Customer activates Xtracom emergency dialing service, Customer shall inform ALL employees, staff, and users.

1.2 Description of Emergency Dialing Capabilities - Activation Required

(a) Xtracom offers emergency dialing service in the United States (but may not offer such service in all areas of the United States) that is different in a number of important ways from traditional 911 service. Customer acknowledges and agrees that 911 emergency dialing is NOT automatic. Customer must affirmatively and successfully activate the 911 emergency dialing feature by following the instructions provided by Xtracom. When Customer dials 911, the 911 call is routed from Xtracom's network to the Public Safety Answering Point (PSAP) or local emergency service personnel designated for the physical address Customer provided Xtracom at the time of activation of Service and as specified on the separate authorization form. Customer acknowledges and agrees that 911 calls made via Xtracom Service may be routed to the general telephone number for the PSAP or local emergency service provider, and may not be routed to the 911 dispatcher(s) who is specifically designated to receive incoming 911 calls using traditional 911 dialing.

(b) Xtracom relies on third parties for the forwarding of information underlying such routing and, accordingly, Xtracom and Xtracom's third party service provider(s) disclaim any and all liability or responsibility in the event any such information or routing is incorrect. As described herein, this emergency dialing on Xtracom Service is NOT the same as traditional 911 or E911 calling, and does not necessarily include all of the capabilities of traditional 911 dialing. Neither Xtracom nor Xtracom's officers, directors, employees, agents, suppliers, contractors, or vendors shall be held liable for any claim, damage, or loss, and Customer hereby waives any and all such claims, causes of action, liability, and damages arising from or relating to emergency dialing unless such claim, damage, cause of action, or loss directly results from Xtracom's gross negligence or intentional misconduct. Customer shall indemnify and hold harmless Xtracom and Xtracom's officers, directors, employees, agents, suppliers, contractors, or vendors from any claim, cause of action, liability, or loss arising out of or related to misrouting of or inability to make emergency calls, including, without limitation, Customer's failure to follow correct activation procedures for 911 emergency calling or Customer supplying Xtracom or any of its third party service providers with any inaccurate, outdated, or incorrect information in connection therewith.

1.3 Service Outage

1.3.1 Power Failure or Disruption

Customer acknowledges and agrees that emergency dialing will not function in the event of a power failure or disruption. If there is an interruption in the power supply, a power surge, or a power failure, the Service and emergency dialing will not function until power is restored. Customer acknowledges and agrees that a power failure, power surge, or power disruption may require Customer to reset or reconfigure equipment prior to using the Service or being able to make emergency 911 calls.

1.3.2 Service Suspension or Termination by Xtracom

Customer acknowledges and agrees that a Service outage or suspension (including, without limitation, suspension of Service due to billing issues or delinquent or unpaid invoices) or termination of Service by Xtracom will prevent ALL Service, including the ability to make emergency 911 calls.

1.3.3 Other Service Outages

Customer acknowledges and agrees that if there is a Service outage for ANY reason, such outage will prevent ALL Service, including the ability to make emergency 911 calls. Such outage may occur for a variety of reasons, including, without limitation, those reasons described elsewhere in this E911 Disclosure Notice and Acknowledgement or the Xtracom Universal Terms and Conditions of Service posted at www.xtracom.com.

1.3.4 Limitation of Liability and Indemnification

Customer acknowledges and agrees that Xtracom's liability is strictly and expressly limited for any Service outage and/or inability to complete emergency 911 calls from any Customer line or Customer site or to access emergency service personnel, as set forth in the Universal Terms and Conditions of Service available at www.xtracom.com. CUSTOMER SHALL PROTECT, DEFEND, INDEMNIFY, AND HOLD HARMLESS XTRACOM, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, CONTRACTORS, AND AGENTS AND ANY OTHER SERVICE PROVIDER THAT FURNISHES SERVICES TO CUSTOMER IN CONNECTION WITH THE SERVICE, FROM ANY AND ALL CLAIMS, LAWSUITS, LOSSES, DAMAGES, LIABILITY, FINES, PENALTIES, COSTS, AND EXPENSES INCLUDING, WITHOUT LIMITATION, ATTORNEY'S FEES AND COSTS, ARISING FROM, OR RELATED TO, ANY ABSENCE, FAILURE, OR OUTAGE OF THE SERVICE, INCLUDING, WITHOUT LIMITATION, EMERGENCY 911 CALLING AND/OR INABILITY OF CUSTOMER OR ANY CUSTOMER EMPLOYEE, THIRD PERSON OR PARTY, OR USER OF XTRACOM'S SERVICE TO BE ABLE TO CALL 911 OR TO ACCESS EMERGENCY SERVICE PERSONNEL. IN NO EVENT SHALL XTRACOM BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR SPECIAL DAMAGES RELATED TO CUSTOMER'S (OR ANY CUSTOMER EMPLOYEE, AGENT, OR CONTRACTOR, OR THIRD PERSON OR THIRD PARTY OR USER OF XTRACOM'S SERVICE) USE OF OR INABILITY TO USE E911 SERVICES. Customer agrees and acknowledges that Xtracom has entered into the Customer Service Order Agreement and/or any other agreement or service order with Customer and is providing its Service to Customer in reliance upon the limitations and exclusions of liability and the disclaimers set forth in this E911 Disclosure Notice and Acknowledgement, including, without limitation, this Section 1.3.4 and the Xtracom Universal Terms and Conditions of Service posted at www.xtracom.com, and that the same form an essential basis of the agreement between the parties. The parties agree that the limitations and exclusions of liability and disclaimers specified in the Customer Service Order Agreement and this E911 Disclosure Notice and Acknowledgement, including, without limitation, this Section 1.3.4, shall survive and apply even if found to have failed their essential purpose; and Customer hereby waives its right to contest the

enforceability of any provision of this E911 Disclosure Notice and Acknowledgement by reason of such failure.

1.4 Registered Location

1.4.1 Registered Location Required

ALL CUSTOMERS ARE REQUIRED TO REGISTER THE PHYSICAL LOCATION OF THEIR EQUIPMENT WITH XTRACOM, EITHER THROUGH XTRACOM'S WEBSITE AT WWW.XTRACOM.COM OR BY CALLING XTRACOM CUSTOMER SERVICE. Customer agrees to ensure that the physical location of its equipment is correct and to update immediately the location whenever the physical location of the service changes. Customer acknowledges and understands that any location information passed to emergency personnel by Xtracom will be based upon the physical location provided by Customer to Xtracom.

USE OF SERVICE OUTSIDE THE UNITED STATES. CUSTOMER ACKNOWLEDGES THAT ANY CALLER USING THE SERVICE FROM ANY LOCATION OUTSIDE THE UNITED STATES WILL BE UNABLE TO USE OR ACCESS E911 SERVICE OR PLACE ANY E911 EMERGENCY CALLS.

1.4.2 Failure to Designate and Identify the Correct Physical Address when Activating 911

Customer acknowledges and agrees that Customer's failure to provide and keep current Customer's correct physical location(s) will result in any 911 call or other emergency communication made by Customer and/or from Customer's actual location (if different from the location previously supplied to Xtracom by Customer) being routed to the incorrect local emergency service provider. Customer's physical location(s) may NOT be a post office box, mail drop, or similar address. Neither Xtracom nor Customer shall assume under any circumstances that Customer's physical office location for emergency 911 calling purposes is the same as Customer's billing address for receipt of invoices.

Customer further agrees as follows:

▪ **Re-Activation Required in Event of Change, Add or Port New Numbers**

Customer acknowledges and agrees that emergency 911 calls do not function with respect to telephone numbers that Customer changes, adds, and/or ports to Customer's Xtracom account unless and until Customer successfully activates the 911 calling feature for each such changed, newly added, and newly ported telephone number. Even if Customer successfully activates 911 emergency dialing with other telephone numbers through which Customer receives Service from Xtracom, Customer acknowledges and agrees that Customer MUST separately activate emergency 911 calling for any and all changed or newly added or ported telephone number.

▪ **Re-Activation Required in Event of Location Change**

Customer acknowledges and agrees that emergency 911 calling will not function properly or at all if Customer moves, relocates, or otherwise changes Customer's physical office location(s) to any different street address, unless and until Customer successfully activates the emergency 911 calling capability at each such physical location. Even if Customer successfully activates emergency dialing from Customer's previous physical office location(s), Customer acknowledges and agrees Customer MUST re-activate emergency dialing for any new physical office location. Customer acknowledges and agrees that Customer's failure to provide Xtracom with Customer's updated and correct physical office location(s) will result in any emergency 911 calls being routed to the incorrect PSAP or local emergency service provider. Neither Xtracom nor Customer shall assume under any circumstances that Customer's physical office location for emergency 911 calling purposes is the same as Customer's billing address for receipt of invoices.

1.5 Automated Number Identification

Customer acknowledges and agrees that it may not be possible for the PSAP and the local emergency personnel to identify Customer's telephone number when Customer dials 911 via Xtracom E911 Service. Customer acknowledges and agrees that PSAP and emergency personnel may be unable to identify Customer's telephone number in order to call Customer back in the event that an emergency call is unable to be completed, is dropped, or disconnected, or if a caller is unable to speak to provide the telephone number from which the caller is calling, and/or if the Service is not operational for any reason including, without limitation, the reasons and situations listed elsewhere in this E911 Disclosure Notice and Acknowledgement and the Xtracom Universal Terms and Conditions of Service posted at www.xtracom.com.

1.6 Automated Location Identification

Customer acknowledges and agrees that it may not be possible to transmit identification of the Customer physical office location address to the PSAP and local emergency personnel for Customer's area when Customer or any caller at Customer's premises dials 911. Customer acknowledges and agrees that a caller must state the nature of the emergency promptly and clearly, including the caller's specific physical location, as PSAP and emergency personnel may NOT have this information. Customer acknowledges and agrees that PSAP and emergency personnel may not be able to find a caller's location if the call is unable to be completed, is dropped, or disconnected, or if the caller is unable to speak to provide the location from which the caller is calling and/or if the Service is not operational for any reason including, without limitation, those reasons and situations listed elsewhere in this E911 Disclosure Notice and Acknowledgement and the Xtracom Universal Terms and Conditions of Service posted at www.xtracom.com.

1.7 Alternative 911 Arrangements

Customer acknowledges and agrees that Xtracom does not offer primary line or lifeline services. Xtracom strongly urges Customer to always maintain means of accessing traditional E911 emergency services from all Customer locations and take appropriate measures and precautions to ensure such emergency services are available to Customer and callers at Customer's premises.

1.8 This E911 Disclosure Notice and Acknowledgement document may be executed and delivered by facsimile to Xtracom at **877.303- 4539**. Upon receipt, such transmission shall be deemed delivery of an original to Xtracom. The language used in this document shall be deemed to be the language mutually chosen by both Customer and Xtracom to express their agreement and there shall be no presumption or inference against the party drafting this E911 Disclosure Notice and Acknowledgement in construing and/or interpreting any of the provisions of this document.

The undersigned represents and acknowledges that, on behalf of Customer, he/she has received, read, understands, and agrees to the terms and conditions of this E911 Disclosure Notice and Acknowledgement and is duly authorized to execute this document on behalf of Customer.

AGREED TO AND ACCEPTED:

[INSERT FORMAL CORPORATE NAME OF CUSTOMER]

By: _____

Print Name: _____

Print Title: _____

Date: _____