

## TERMS AND CONDITIONS OF SERVICES

### 1. PAYMENT

- 1.1 Nonrecurring charges and recurring charges shall be due within thirty (30) days of the date of the invoice; billing shall commence upon the Service being provisioned and deemed operational by Sho-Me Technologies, L.L.C. (Sho-Me) operations personnel. Any amount not received within thirty (30) days of the date of the invoice will be subject to Sho-Me's standard late charge of one and one-half percent (1.5%) per month.
- 1.2 If Customer is not able to provide written evidence of the pertinent exemption to Sho-Me, Customer agrees to pay any sales, use, gross receipts, excise, access, bypass or other local, state and Federal taxes or charges imposed on or based upon the provision, sale or use of the Services or Equipment provided. Sho-Me and Customer will cooperate with the appropriate authority as to applicability of taxes or charges. Taxes or charges will be separately stated on Customer's invoice.

### 2. USE

Customer may use the Services for any lawful purpose for which they are intended, provided that Customer will not use the Services so as to interfere with or impair service over any of the facilities and associated equipment comprising the Sho-Me fiber optic cable network and associated equipment, or to impair the transmission or privacy of any communications over the fiber optic facilities and associated equipment of Sho-Me, or of other users. Sho-Me, by the Service hereunder, is providing circuits for Customer on a private network, and may provide switching services within that network, however Sho-Me is not utilizing the switching capabilities of the Public Switched Telephone Network.

### 3. SERVICE DATE: TERM

- 3.1 Sho-Me shall use reasonable efforts to make Services available by the estimated service date. Sho-Me shall not be liable for any damages whatsoever resulting from delays in meeting any Service dates due to delays resulting from NORMAL CONSTRUCTION PROCEDURES. Such delays shall include, but not be limited to, delays in obtaining necessary regulatory approvals for construction, delays in obtaining right of way approvals, and delays in actual construction work. If Customer is not ready to accept Sho-Me Services thirty (30) days after the specified service date, Sho-Me shall commence billing.
- a) At the expiration of the term of this Contract, if Customer has not provided Sho-Me ninety (90) days' prior written notice of its intent to disconnect, the Contract will automatically convert to a month-to-month term, and the Monthly Recurring Charges at Sho-Me's election may be increased to Sho-Me's Standard Rate for the same Service based upon month-to-month pricing. Customer may disconnect Service upon thirty (30) days written notice during the month-to-month term.
- b) Sho-Me may use its own network ("On-Net") and the networks of other carriers ("Off-Net") to provide

completed circuits to its customers. Where Sho-Me does use Off-Net facilities to fulfill this Contract, Sho-Me may note that portion of its circuit price within this Contract related to Off-Net providers, and if the Contract is renewed on a month-to-month basis, Sho-Me will automatically increase or decrease Customer's bill by the amount that an Off-Net provider increases or decreases its charges to Sho-Me.

### 4. CUSTOMER RESPONSIBILITIES

- a) Access – Customer is responsible for arranging access to any of the rights of way, conduit and equipment space necessary to provide Service on the premises so that Sho-Me-authorized personnel, employees, or agents may install, repair, maintain, inspect, replace or remove any and all facilities and associated equipment provided by Sho-Me. Access to such sites shall be made available at a time mutually agreeable to Customer and Sho-Me. Sho-Me shall also have the right to obtain access to its cable installed in Customer-provided conduit at any splice or junction box.
- b) Provision of Customer Premises Equipment Space, Conduit, and Electrical Power – Customer shall provide the necessary customer's premise equipment space, conduit, and electrical power required to terminate and maintain the facilities used to provide Service on all applicable premises without charge or cost to Sho-Me. The space, conduit, and power must be made available to Sho-Me on a timely basis. Customer shall be responsible for assuring that the equipment space and associated facilities, conduit and rights of way which it is providing are a safe place to work and are protected against fire, theft, vandalism or other casualty, and that the use thereof complies with all applicable laws, rules and regulations and with all applicable leases or other contractual agreements.
- c) Governmental Authorizations – Customer shall be responsible to obtain and continue in effect all government authorizations necessary to permit Customer to receive Service(s) and comply with its obligations under this Contract.

### 5. EQUIPMENT

- a) Title – Customer agrees that all right, title and interest in all the fiber optic or other facilities and associated equipment provided by Sho-Me hereunder shall at all times remain exclusively with Sho-Me. Customer shall not create or permit to be created any liens or encumbrances relating to Customer's use of the Service or arising from the location of the equipment. Upon termination of Service, Sho-Me shall remove its equipment and shall have the right, but not the obligation, to remove all other facilities from any applicable premises.
- b) Maintenance – Sho-Me shall use reasonable efforts to maintain the Services in accordance with applicable performance standards therefor. There are no additional charges for Sho-Me maintenance services. However, Sho-

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Me shall have no responsibility for the maintenance and repair of facilities and equipment which it does not furnish and Sho-Me may assess Customer its standard charge for false call outs.

### 6. DEFAULT

If Customer (a) shall fail to pay any amount required under this Contract and such failure continues for ten (10) days after written notice to Customer that the same is due and payable, or (b) fails to comply with any other material provision of this Contract and such noncompliance continues for thirty (30) days after written notice to Customer thereof, then Sho-Me, at its sole option, may elect to pursue one or more of the following courses of action: either (i) terminate this Contract whereupon in addition to all sums then due and payable, all future monthly or other charges thereunder or hereunder shall become immediately due and payable, (ii) take appropriate action to enforce payment, including suspension of all or any part of the Service, and/or (iii) pursue any other remedies as may be provided at law or in equity.

### 7. LIMITATIONS OF LIABILITY

- a) Liability for Service Interruptions – To the extent that any part or portion of the Service is unavailable, interrupted, degraded or otherwise unsatisfactory for any reason, Sho-Me and Customer agree that Customer's sole and exclusive remedy shall be the credit allowances for interruptions as follows: The Customer may, upon request directed to Sho-Me's designated representative, receive a credit at the rate of one-sixtieth (1/60<sup>th</sup>) of the monthly charges applicable to the affected facilities for each twelve hour period in excess of the first four hours that the affected service fails to conform to the technical standards. If a portion of the facilities fails to conform to the technical standards over a period of thirty days after written notice by Customer to Sho-Me, Customer may terminate the affected portion of the facilities without a cancellation charge.
- b) Liability for Damages to Property – Sho-Me shall not be liable for any damages whatsoever to Property at any Customer premises resulting from the installation, maintenance, repair or removal of equipment and associated wiring unless the damage is caused by Sho-Me's willful misconduct.
- c) Liability for Services and Equipment Not Provided by Sho-Me – Sho-Me shall not be liable for any damages whatsoever associated with Service, channels, or equipment which it does not furnish to Customer, or for any act or omission of any entity furnishing to Customer facilities or equipment used for or with the Service.
- d) Liability for Force Majeure Events – Sho-Me shall not be liable for any failure of performance or Service for reasons beyond its reasonable control including but not limited to casualty, act of God, wind, flood, tornado, storm, fire, explosion, vandalism, cable cut, governmental order, riot, insurrection, strike, lockout, condemnation or loss of rights-of-way.

- e) Liability for Negligence or Fault of Customer – Sho-Me shall not be liable for any interruptions or damages due to the fault of negligence of Customer or due to the failure or malfunction of Customer-provided equipment or facilities.
- f) Liability Regarding Governmental Authorization – Sho-Me shall use best efforts to obtain and keep in effect all government authorizations necessary, in order to provide Service under this Contract. Sho-Me shall be entitled to take, and shall have no liability for, any action necessary including termination, to bring the Service into conformance with any governmental regulations or authorizations, and Customer shall fully cooperate in and take such action as may reasonably be requested by Sho-Me as part of such compliance.
- g) No Special Damages – In no event shall Sho-Me be liable for special damages including, but not limited to, lost revenues or profits, consequential damages, or exemplary or punitive damages as a result of its performance or nonperformance of this Contract.

### 8. TERMINATION

Sho-Me may terminate this Contract without liability and Customer's payment obligation will be apportioned if:

- a) the facilities used to provide Service are taken by exercise of condemnation or eminent domain; or
- b) as a result of damages inflicted by Customer to Sho-Me's facilities shall, in Sho-Me's judgment, be made inoperable and beyond economically or technologically feasible repair.
- c) Should the performance of Sho-Me facilities and Service provided under this Contract not provide a ninety nine percent (99%) availability of service between the hours of 6:00 A.M. to 7:00 P.M. Central Time, Customer shall notify Sho-Me in writing. If Sho-Me is unable to provide this level of service within twenty (20) days of receipt of the notice, Customer shall have the right to terminate this Contract, or affected portion, effective as of the date of receipt of said notice without penalty, termination charge, or future payment obligation beyond the date of receipt of said notice.
- d) If a portion of the facilities fails to conform to the technical standards agreed to by Sho-Me, either in a response to a Customer's Request for Proposal, a Service Level Agreement issued by Sho-Me to Customer, or any other written correspondence from Sho-Me to Customer, over a period of thirty (30) days after written notice by Customer to Sho-Me, Customer may terminate the affected portion of the facilities without a cancellation charge.
- e) Customer may also, without justification or reason therefore, terminate this Contract in whole or in part only by canceling all or any portion of the facilities described herein by providing Sho-Me thirty (30) days advance written notice of cancellation. In such case, Customer shall pay to Sho-Me all charges for Facilities provided (without the right of set-off against non-refundable charges) through the effective date of such cancellation plus a cancellation charge equal to the remaining balance of the Monthly Recurring Charges that otherwise would have become due

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for the remainder of the Term. In the event of any cancellation, Customer shall also pay Sho-Me an amount equal to any termination charges, expenses, fees or penalties incurred by Sho-Me from any Off-Net provider(s) due to Customer's cancellation of Facilities that are not already included in the Monthly Recurring Charges. It is agreed that Sho-Me's damages in the event of a cancellation shall be difficult or impossible to ascertain. The provision for a cancellation charge in this subsection is intended, therefore, to establish liquidated damages in the event of a cancellation and is not intended as a penalty.

### 9. INDEMNIFICATION

Sho-Me shall be indemnified, defended and held harmless by Customer against all claims, suits, proceedings, expenses, losses, liabilities, or damages (collectively "Claims") arising from the use of Service pursuant to this Contract involving:

- a) Claims of third parties, including patrons or customers of Customer, arising out of, resulting from, or related to the Customer's resale or attempted resale of the Service;
- b) Claims for libel, slander, invasion of privacy, or infringement of copyright arising from any Communication using the Service;
- c) All other claims arising out of any act or omission of Customer, or customers or patrons of Customer, in connection with the Services made available to Customer under the terms of this Contract. Customer agrees to defend Sho-Me against any such claim and to pay, without limitation, all litigation costs, reasonable attorney fees and court costs, settlement payments, and any damages awarded or resulting from any such claim.

### 10. ASSIGNMENT

Sho-Me may, without obtaining any further consent from Customer, assign any of its rights, privileges, or obligations under this Contract. Customer shall not, without prior written consent of Sho-Me, which consent shall not be unreasonably withheld, assign, transfer, or in any other manner dispose of, any of its rights, privileges, or obligations under this Contract.

### 11. WARRANTIES

- a) THERE ARE NO AGREEMENTS, WARRANTIES, OR REPRESENTATIONS; EXPRESS OR IMPLIED EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN.
- b) "Major Service Disruption" shall be defined as a loss of more than fifty percent (50%) of the effective bandwidth transmission over any portion of facilities provided or a total voice circuit transmission outage. "Excessive Service Disruption" shall be determined to have occurred if any of the following three (3) conditions are met:

- a Major Service Disruption lasts more than twenty four (24) consecutive hours, or
  - a Major Service Disruption lasts more than eight (8) consecutive hours during the current calendar month, in which the previous two (2) calendar months had also incurred a Major Service Disruption for which the service provider had been notified in writing, or
  - the total hours of all Major Service Disruptions in the current calendar month exceeds forty eight (48) hours.
- c) In addition to a prorated refund of normal service charges, Sho-Me will pay the Customer a Penalty Fee each month where an Excessive Service Disruption has occurred. The amount of this Penalty Fee will be equal to three hundred percent (300%) of the prorated service charges for the lost communications bandwidth over the affected portion of the facilities provided.

### 12. MISCELLANEOUS

BY ACTIVATING OR USING THE SERVICES, CUSTOMER REPRESENTS THAT THEY ARE OF LEGAL AGE TO ENTER INTO THIS CONTRACT AND THAT CUSTOMER HAS READ AND UNDERSTANDS FULLY ITS TERMS AND CONDITIONS. CUSTOMER WAIVES ANY RIGHT TO TRIAL BY JURY TO RESOLVE ANY DISPUTES THAT MAY ARISE UNDER OR IN CONNECTION WITH THIS CONTRACT. This Contract may be modified, waived or amended only by a written instrument signed by the party against which enforcement thereof is sought, shall be binding upon the parties' respective successors and assigns, and constitutes the entire agreement between Sho-Me and Customer. Sho-Me may, at its discretion and without notice, modify, change, add to or omit any terms and conditions in this Contract without advance notice to Customer.

### 13. REGULATORY JURISDICTION

In the event that provisions set forth in this Contract are determined to be in violation of any rule, order, decision, or tariff of any state or federal agency having regulatory jurisdiction over Sho-Me, the terms of this Contract shall be deemed to be modified to the extent permissible under such rule, order, decision or tariff.

### 14. JURISDICTION

The rights and obligations of the parties under this Contract shall be governed by and construed and enforced in accordance with the laws of the State of Missouri.

### 15. ADDITIONAL TERMS AND CONDITIONS OF ETHERNET SERVICES

- a) Traffic Shaping:
  - Sho-Me reserves the right to monitor the use of its Ethernet network, and in doing so may apply traffic policing to enforce the Committed Information Rate (CIR) set forth in this Contract. Traffic shaping must

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be performed by Customer to ensure that data packets are not dropped when entering the Sho-Me network. Customer attempts at bursting data packets is not supported on the Sho-Me network, therefore if shaping is not applied to traffic entering the Sho-Me network, it is likely that Customer traffic will be dropped randomly if the contracted CIR is exceeded. If Customer does not or cannot implement traffic shaping, the CIR should equal the interface speed connecting to the Sho-Me network to achieve maximum use of bandwidth (e.g. 10/100/1000 Mbps). Customer failure to adhere to the above guidelines could result in reduced throughput and performance due to packet drop or retransmission. Sho-Me is not responsible for such reduced throughput and performance.

b) Customer Premise Equipment (CPE) and Media Access Control (MAC) Addresses:

- The Customer equipment connecting to the Sho-Me demarcation point should be a Layer 3 Switch/Router/Firewall. If Customer connects by Layer 2 switch, Sho-Me will only allow Customer a total of fifty (50) MAC addresses per connection. **Any additional MAC addresses will be assessed an additional charge, with a limit of one hundred (100) total MAC addresses per connection.**

d) Multicast and Broadcast traffic limitations:

- Broadcast Traffic is used to refer to Ethernet frames that are forwarded to all nodes on the network using the broadcast Ethernet address.
- Multicast Traffic is used to refer to Ethernet frames that are forwarded, in a point to multipoint fashion, across the network to multiple recipients that belong to groups that are identified using any of the multicast Ethernet addresses defined by the Internet Assigned Numbers Authority (IANA) as Internet Multicast.
- Reason for Controls - Continuous and unpredicted floods of broadcast and multicast traffic can use substantial network bandwidth to the point of overloading the network's capacity. For this reason, it is necessary to place the following limits on the traffic types noted above:

10/100 Mbps Interface Speed

Broadcast traffic limitation = 1 Mbps per port

Multicast traffic limitation = 1 Mbps per port

1000 Mbps (1 Gbps) Interface Speed

Broadcast traffic limitation = 10 Mbps per port

Multicast traffic limitation = 10 Mbps per port

e) Frame Size, Protocols and Layer 3 markings:

- Customer traffic (frames) entering the Sho-Me network must be between 64 bytes and 1518 bytes for untagged traffic and 64 bytes and 1522 bytes for tagged (802.1Q) traffic. Frames outside these limits will be discarded.
- Customer-initiated Spanning Tree Bridge Protocol Data Units (BPDUs) will be denied from entering or

interacting with the Sho-Me network.

- The Sho-Me network will not participate in the Customers' Cisco Discovery Protocol (CDP) or Virtual Trunking Protocol (VTP).
- Layer 3 classification markings within a data field of customer traffic (packet) are maintained end to end throughout the Sho-Me network. The Sho-Me network is transparent to these markings and Layer 2 Class Of Service (COS) 802.1Q P-bit markings.

f) Virtual Local Area Network (VLAN) Identification (VID) Assignment:

- Sho-Me will be responsible for VID assignment if VLAN tagging (802.1Q) is required on the customer interface connecting to the Sho-Me demarcation.

g) Customer Interface Configuration:

- Customer should first verify the CIR of their Contract. If the CIR is 10, 100 or 1000 Mbps, no traffic shaping is required, as the CIR equals the size of the Sho-Me interface. If the CIR is something other than 10, 100 or 1000 Mbps, the Customer must have the capability to shape their traffic. If the Customer cannot shape their traffic, they should either request that the CIR be changed to equal a Sho-Me interface option (10, 100 or 1000 Mbps) or Sho-Me can help Customer locate a vendor of equipment capable being able to shape their traffic.
- When using traffic shaping, Customer should limit the output rate from Customer's equipment either at or below the CIR purchased per location.
- Customer's equipment should always be set to Full Duplex, with a setting of No Auto-Negotiation. The only exception to this is when the Ethernet speed equals 1000 Mbps; Auto-Negotiation should be used when Ethernet speed equals 1000 Mbps.
- Ethernet Speed should be set to 10 if the CIR is 10 Mbps or less, 100 if the CIR is greater than 10 or 100 Mbps or less, or 1000 Mbps if the CIR is greater than 100 Mbps.

**16. INTERNET ACCEPTABLE USE POLICY**

Sho-Me Technologies Direct Internet Access (DIA) is subject to Sho-Me's Acceptable Use Policy (AUP) which is available on the Internet at Sho-Me's website [www.shometech.com](http://www.shometech.com) under 'About Us'. Customers contracting for DIA are subject to the terms and conditions outlined in the AUP. Sho-Me reserves the right to modify the AUP from time to time.

**17. ADDITIONAL TERMS AND CONDITIONS OF MANAGED FIREWALL SERVICES**

Managed Firewall Services are options provided in addition to other communications facilities or services.

- a) Antivirus service protects against the latest viruses, spyware, and other content-level threats. It uses industry-leading advanced detection engines to prevent both new

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and evolving threats from gaining a foothold inside Customer network and accessing its content.

- b) Intrusion prevention system (IPS) service monitors for malicious activity to protect Customer network from outside attacks by use of two techniques, Anomaly-based and Signature-based. Anomaly-based takes action when network traffic is used as the weapon such as a denial of service (DoS). These attacks usually do not try to gain access to Customer network, but they can overwhelm a target so genuine traffic cannot reach its destination. A DoS policy is created to block traffic above a certain threshold from the attacker. Signature-based is used against known attacks or vulnerabilities. These attacks generally involve an attacker attempting to gain access to Customer's network. IPS signatures allow the service to detect and stop the attack.
- c) Web filtering service provides Web URL filtering to block access to harmful, inappropriate, and dangerous web sites. These websites may contain phishing attacks, malware, or objectionable content.
- d) **DISCLAIMER:**

The primary function of any Firewall Service is to filter traffic coming into the network based on pre-determined criteria. On best effort basis, Sho-Me will provide a high standard of protection and service, however, no such service can claim to be completely secure and may not prevent some instances of dedicated hackers, or Customer's employee from gaining unauthorized access to the Internet or to confidential information stored on Customer's network. No firewall service can protect against all protocol or application weaknesses and new software vulnerabilities are discovered regularly. Customer agrees that it is not possible to create a secure service that guarantees absolute security with a Firewall Service and such service cannot protect against all protocol or application weaknesses and software vulnerabilities. Sho-Me does not and will not accept liability for any losses or damage to Customer's business or data that arise as a result of the Firewall Service not preventing unauthorized access. Sho-Me recommends that Customer, where necessary, make use of network security scanning solution to validate and test the effectiveness of the firewall solution.

CUSTOMER ACKNOWLEDGES THAT DATA TRANSMISSION SECURITY SERVICES SUCH AS THOSE PROVIDED HEREUNDER ARE NOT FOOLPROOF AND, THEREFORE, ARE NOT GUARANTEED. IN ADDITION TO THE DISCLAIMERS AND LIMITATIONS SET FORTH IN THIS CONTRACT, NEITHER SHO-ME NOR ITS PROVIDERS OR SUPPLIERS WILL BE LIABLE FOR ANY DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY LOSS OR DAMAGE TO DATA) RELATING TO OR ARISING FROM THE USE OF THE SERVICES PROVIDED HEREUNDER (THIS EXCLUSION DOES NOT APPLY TO ANY SERVICE WARRANTIES OR SERVICE LEVEL AGREEMENTS

FOR ANY COMMUNICATION SERVICES PROVIDED BY SHO-ME UNDER THIS CONTRACT).

### 18. HOLD HARMLESS

CUSTOMER UNDERSTANDS AND AGREES THAT SHO-ME IS PROVIDING SERVICES, AND ANY RELATED HARDWARE, SOFTWARE AND DOCUMENTATION TO CUSTOMER AND CUSTOMER HEREBY WAIVES ANY LIABILITY AGAINST SHO-ME AND AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS SHO-ME AND SHO-ME'S DIRECTORS, OFFICERS AND EMPLOYEES FROM ANY AND ALL LIABILITY ARISING FROM LOSS OR DAMAGE DUE TO DELAY OF SERVICE COMMENCEMENT OR INABILITY TO PROVIDE THE SERVICE, FAILURE OF ALL OR PART OF THE SERVICE OR ANY RELATED SERVICE PROVIDED HEREUNDER.

### 19. ADDITIONAL TERMS AND CONDITIONS OF VOICE SERVICES

Voice Services are options provided in addition to other communications facilities or services.

- a) EMERGENCY SERVICES - 911 DIALING – Customer should be aware that there are some circumstances under which Customer's E911 Service may not be available or may be limited in some way. Examples of the limitations of Customer's E911 Service when compared to a traditional telephone service are listed in this section. CUSTOMER IS STRONGLY ADVISED TO FAMILIARIZE THEMSELF WITH THIS SECTION AND DISCUSS IT WITH CUSTOMER'S SHO-ME REPRESENTATIVE IF THERE IS ANYTHING CUSTOMER FINDS CONFUSING OR CUSTOMER DOES NOT UNDERSTAND.
  - 911 Dialing. All of Sho-Me's customers have access to either basic 911 or Enhanced 911 (E911) service. With E911 service, when Customer dials 911, Customer's telephone number and registered address are simultaneously sent to the local emergency center assigned to Customer's location, and emergency operators have access to the information they need to send help and call Customer back if necessary. Customers have basic 911 in locations where the emergency center is not equipped to receive Customer's telephone number and address. With basic 911, the local emergency operator(s) answering the call will not have Customer's call back number or Customer's exact location, so Customer must be prepared to give them this information. Until Customer gives the operator(s) their phone number, he/she may not be able to call Customer back or dispatch help if the call is not completed or is not forwarded, is dropped or disconnected, or if Customer is unable to speak.
  - Customer authorizes Sho-Me to disclose Customer name and address to third parties involved with

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providing 911 Dialing to Customer, including, without limitation, call routers, call centers and local emergency centers.

- b) Notify All Users. CUSTOMER SHOULD INFORM ANY EMPLOYEES, GUESTS, VISITORS OR OTHER THIRD PERSONS WHO MAY BE PRESENT AT THE PHYSICAL LOCATION WHERE CUSTOMER UTILIZE THE SERVICE OF THE IMPORTANT DIFFERENCE IN, AND LIMITATIONS OF, SHO-ME 911 DIALING AS COMPARED WITH TRADITIONAL BASIC 911 OR E911. The documentation that accompanies each piece of equipment Customer may purchase or lease will include a sticker concerning the potential non-availability of basic 911 or E911 (the "911 Sticker"). It is Customer's responsibility to place the 911 Sticker as near as possible to each phone that Customer uses with the Service. If Customer did not receive a 911 Sticker with their Equipment, or Customer requires additional 911 Stickers, please contact Sho-Me customer care department at 417-859-3530 for more stickers at no additional cost.
- c) Location of Service. This Service is provided at a specific permanent address and not available as a nomadic offering. Before Customer moves to another location, Customer must notify Sho-Me to determine if service can be provided at Customer's new permanent address. If Customer attempts to use the Service without notifying Sho-Me and receiving Sho-Me's permission, emergency personnel may not be able to locate Customer to adequately respond to an emergency. Even with E911, emergency personnel may be dispatched at the address listed with Sho-Me and not the address where Customer uses the service if Customer fails to follow the requirements of this paragraph.
- d) Confirmation of Activation Required. Customer's 911 Dialing feature will not be activated for any phone line that Customer is using with the Service, UNLESS AND UNTIL CUSTOMER RECEIVES AN EMAIL FROM SHO-ME CONFIRMING THE 911 DIALING FEATURE HAS BEEN ACTIVATED FOR THAT PHONE LINE.
- e) Service Outages.
  - Service Outages Due to Power Failure or Disruption. Dependent upon Customer location, network backup power systems may be in place during the event of a power failure. The equipment provided may also provide limited battery backup. Consult with Sho-Me to determine whether or not Customer equipment has battery backup.
    - Equipment with battery backup. Battery backup on qualifying equipment is limited. Excessive use during a power outage will result in shortened life of the internal battery. The equipment may provide indication of low battery voltage. Customer should contact Sho-Me for instructions or replacement. Failure of network power backup systems or the internal backup system during a

power failure or disruption will prevent all Service, including 911 dialing, from functioning.

- Equipment without battery backup. Equipment that does not have a battery backup cannot support 911 dialing in 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, Customer may need to reset or reconfigure the equipment prior to utilizing the Service, including 911 Dialing.
- Service Outages Due to Internet Outage or Suspension or Disconnection of Broadband Service or ISP Service. Service Outages due to Internet Outage or Suspension or Disconnect of Broadband Service or ISP will prevent all Service, including 911 dialing, from functioning. Customer understands they must obtain their own Internet connection, or obtain service from Sho-Me (where available) to use the Service. Sho-Me may not control Customer's Internet access or the quality of Customer's Internet connection. Sho-Me is not responsible for problems caused by Customer's Internet connection or for any third party products or service, nor will Sho-Me contact any third party providers on Customer's behalf.
- Service Outage Due to Disconnection of Customer's Sho-Me Internet Account. Service outages due to disconnection of Customer's account will prevent all Service, including 911 Dialing, from functioning.
- Service Outages Due to ISP or Broadband Provider Blocking of Ports or Other Acts. Customer's ISP or broadband provider or other third party may intentionally or inadvertently block the ports over which the Service is provided or otherwise impede the usage of the Service. In that event, provided that Customer alerts Sho-Me to this situation, Sho-Me will attempt to work with Customer to resolve the issue. During the period that the ports are being blocked or Customer's Service is impeded, and unless and until the blocking or impediment is removed or the blocking or impediment is otherwise resolved, Customer's Service, including the 911 Dialing feature, may not function. Customer acknowledges that Sho-Me is not responsible for the blocking of ports by Customer's ISP or broadband provider or any other impediment to Customer's usage of the Service, and any loss of Service, including 911 Dialing, which may result. In the event Customer loses Service as a result of blocking of ports or any other impediment to Customer's usage of the Service, Customer will continue to be responsible for payment of the Service charges unless and until Customer disconnects the Service in accordance with this Contract.
- Other Service Outages. If there is a Service outage for any reason, such outage will prevent all Service,

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including 911 Dialing, from functioning. SUCH OUTAGES MAY OCCUR FOR A VARIETY OF REASONS, INCLUDING, BUT NOT LIMITED TO, THOSE REASONS DESCRIBED ELSEWHERE IN THIS CONTRACT.

- f) 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.
- g) Disclaimer of Liability and Indemnification. Sho-Me does not have any control over whether, or the manner in which, calls using Customer's 911 Dialing service are answered or addressed by any emergency response center. Sho-Me disclaims all responsibility for the conduct of local emergency response centers and the national emergency calling center. Sho-Me relies on third parties to assist in routing 911 Dialing calls to local emergency response centers and to a national emergency calling center. Sho-Me disclaims 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 SHO-ME NOR ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, OR AGENTS MAY BE HELD LIABLE FOR ANY CLAIM, DAMAGE, OR LOSS, AND CUSTOMER HEREBY WAIVES ANY AND ALL SUCH CLAIMS OR CAUSES OF ACTION, ARISING FROM OR RELATING TO SHO-ME'S 911 DIALING SERVICE. Customer shall defend, indemnify, and hold harmless Sho-Me, its officers, directors, employees, affiliates and agents and any other service provider who furnishes services to Customer 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, Customer 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.
- h) Alternate 911 Arrangements. If Customer is not comfortable with the limitations of the 911 Dialing service, Customer should consider having an alternate means of accessing traditional 911 or E911 services or disconnecting the Service.
- i) Non-exclusive, Non-transferable License; Retention of Rights. The right to use any of the Service granted to the Customer is nonexclusive and nontransferable, and Customer shall prohibit use of the Service by any third party other than Customer for such Customer's internal business purposes. It is expressly understood that title to the Service, any trade names, trade dress, trademarks, service marks, commercial symbols, copyrightable material, designs, logos and/or any other intellectual property belong to Sho-Me or its underlying providers and does not pass to the Customer.
- Restrictions: Customer shall not:

- (a) copy or adapt the Service for any purpose, except as specifically permitted under this Contract;
- (b) use the Service except in accordance with all applicable laws and regulations, and except as set forth in any documentation or instructions provided by Sho-Me;
- (c) reverse engineer, translate, decompile, or disassemble the Service;
- (d) use the Service in any outsourcing, application service provider, time-sharing or service bureau arrangement, including, without limitation, any use to provide Service or process data for the benefit of, or on behalf of, any third party other than the Customer;
- (e) cause or permit the disabling or circumvention of any security mechanism contained in or associated with the Service; or
- (f) delete, alter, cover, or distort any copyright or other proprietary notices or trademarks.

j) Fair Use.

- Usage Review. Sho-Me reserves the right to review usage of all its plans to ensure Customer is not abusing them. Customer agrees to use Sho-Me Services for normal voice or fax calls and will not employ methods or equipment to take advantage the Services by using the voice or fax services excessively or for means not intended by Sho-Me. Sho-Me may terminate Service immediately if it determines, in its sole discretion, Customer is abusing its plans. Sho-Me reserves the right to at any time enforce this policy. For subscribers where usage to high cost areas (for example such as calls to rural numbers, Alaska or Hawaii) exceeds 5% of total call traffic, or more than 5% of call volume lasts less than 10 seconds, such usage may be deemed excessive in the sole discretion of Sho-Me. For such usage, Customer agrees to pay a per-minute or per page fee surcharge in excess of established levels at the current Sho-Me rate. The surcharge is currently \$0.03 per minute and/or \$0.03 per fax page. This surcharge applies to all plans, including the unlimited plans. Alternatively, in the sole discretion of Sho-Me, Customer's Service may be immediately terminated.
- Small Business Unlimited Usage Definition: Sho-Me's definition of "unlimited usage" is based on the combined number of inbound and outbound voice minutes and fax pages (excluding all Sho-Me advertising and informational messages). Sho-Me reserves the right to at any time enforce this policy in accordance with its terms. If the average voice usage exceeds 3,000 minutes per extension or over 500 fax pages within any thirty (30) day period, such usage shall be deemed excessive. In that event, Customer agrees to pay a per-minute or per page surcharge, which is currently \$0.03 per minute and/or \$0.03 per fax page. This overage fee applies to all plans including the unlimited plans. Alternatively, in the

## TERMS AND CONDITIONS OF SERVICES

sole discretion of Sho-Me, Customer's Service may be immediately terminated.

- Enterprise Usage Definition:
  - Hosted Simple – Unlimited usage – all seats with 10 digit telephone numbers come with an acceptable use of 2000 minutes of long distance. The 2,000 minutes for each seat are pooled at the group/child account level. If the account has five (5) unlimited seats with telephone numbers, then the account has a total of 10,000 minutes of long distance that are shared by the five seats. Outbound long distance (LD) includes calls in the continental US states, Alaska, Hawaii, and Canada.
  - Hosted Select – Each call path includes 2,000 minutes of long distance. The 2,000 minutes for each call path are pooled at the group/child account level. If the account has five (5) call paths, then the account has a total of 10,000 minutes of long distance that will be shared by all of the hosted seats. Per minute overage charges will apply if the limit is exceeded. Outbound long distance (LD) includes calls in the continental US states, Alaska, Hawaii, and Canada.
  - SIP Trunking – Unlimited usage - Each call path includes an acceptable use policy of 2,000 minutes of long distance. The 2,000 minutes for each call path are pooled at the group/child account level. If the account has five (5) call paths, then the account has a total of 10,000 minutes of long distance that will be shared by all of the DID's. Per minute overage charges will apply if the limit is exceeded. Outbound long distance (LD) includes calls in the continental US states, Alaska, Hawaii, and Canada.
  - Virtual Fax – Virtual Fax 500 includes 500 inbound and outbound fax pages. Anything above 500 pages is \$0.03 per page.

k) Prohibited Uses.

- Unlawful. Customer shall use the Service and the Equipment only for lawful purposes. Sho-Me reserves the right to immediately disconnect Customer's Service without notice, if, in Sho-Me's sole and absolute discretion, Sho-Me determines that Customer has used the Service or the Equipment for an unlawful purpose. In the event of such disconnection, Customer will be responsible for the full charges to the end of the current term, including, without limitation, unbilled charges, plus a termination fee, if applicable, all of which will become immediately due and payable upon disconnection of Customer's Service. If Sho-Me believes that Customer has used the Service or the Equipment for an unlawful purpose, Sho-Me may

forward the relevant communication and other information, including Customer's identity, to the appropriate authorities for investigation and prosecution. Customer hereby consent to Sho-Me forwarding of any such communications and information to these authorities. In addition, Sho-Me 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 the customer or others.

- Inappropriate Conduct. Customer shall not use the Service or the Equipment in any way that is threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, or any similar behavior. Sho-Me reserves the right to immediately disconnect Customer's Service without notice, if, in Sho-Me's sole and absolute discretion, Sho-Me determines that Customer has used the Service or the Equipment in any of the aforementioned ways. In the event of such disconnection, Customer will be responsible for the full charges to the end of the current term, including, without limitation, unbilled charges, plus a termination fee, if applicable, all of which will become immediately due and payable upon disconnection of Customer's Service. If Sho-Me believes that Customer has used the Service or the Equipment in any of the aforementioned ways, Sho-Me may forward the relevant communication and other information, including Customer's identity, to the appropriate authorities for investigation and prosecution. Customer hereby consents to Sho-Me forwarding of any such communications and information to these authorities. In addition, Sho-Me 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 the customer or others . Furthermore, Sho-Me reserves all of its rights at law and equity to proceed against anyone who uses the Service illegally or improperly.

l) Copyright; Trademark; Unauthorized Usage of Equipment; Firmware or Software.

- Copyright; Trademark. The Service and Equipment and any firmware or software used to provide the Service, or provided to Customer in conjunction with providing the Service, or embedded in the Equipment, and all Service, information, documents and materials on Sho-Me's websites are protected by trademark, copyright or other intellectual property laws and international treaty provisions. All of Sho-Me's websites, corporate names, service marks, trademarks, trade names, logos and domain names (collectively "marks") are and will at all times remain Sho-Me's



## TERMS AND CONDITIONS OF SERVICES

exclusive property. Nothing in this Contract grants Customer the right or license to use any of Sho-Me marks.

- Unauthorized Usage of Equipment; Firmware or Software. Customer has not been granted any license to use the firmware or software used to provide the Service or provided to Customer in conjunction with providing the Service, or embedded in the Equipment, 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 Contract. Customer expressly agrees that the Equipment is exclusively for use in connection with the Service and that Sho-Me will not provide any passwords, codes or other information or assistance that would enable Customer to use the Equipment for any other purpose. Sho-Me reserves the right to prohibit the use of any interface equipment that Sho-Me has not provided to Customer. Customer hereby represents and warrants that they possess all required rights, including software and/or firmware licenses, to use any interface equipment that Sho-Me has not provided to them. In addition, Customer shall indemnify and hold Sho-Me harmless against any and all liability arising out of Customer's use of such interface Equipment with the Service. Customer 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.
- m) Tampering with the Device or Service. Customer shall not change the electronic serial number or Equipment identifier of the Equipment to perform a factory reset of the Equipment without Sho-Me's prior written consent. Sho-Me reserves the right to disconnect Customer's Service if Sho-Me believes, in Sho-Me's sole and absolute discretion, that Customer has tampered with the Equipment. In the event of such disconnection, Customer will remain responsible for the full charges to the end of the current term, including, without limitation, unbilled charges, plus a termination fee, if applicable, all of which will immediately become due and payable. Customer shall not attempt to hack or otherwise disrupt the Service or make any use of the Service that is inconsistent with its intended purpose.
- n) Theft of Service. Customer shall not use the Service in a manner calculated to avoid Sho-Me policies and procedures. Customer shall not obtain or use the Service in an improper manner. Customer shall notify Sho-Me immediately, in writing or by calling Sho-Me's customer support line, if the Equipment is stolen or if Customer becomes aware at any time that Customer's Service is being stolen, fraudulently used or otherwise being used in an unauthorized manner. When Customer calls or writes, Customer must provide their account number and a detailed description of the circumstances of the Equipment

theft, fraudulent use or unauthorized use of Service. Failure to do so in a timely manner may result in the disconnection of Customer's Service and additional charges to Customer. Until such time as Sho-Me receives notice of the theft, fraudulent use or unauthorized use, Customer will be liable for all use of the Service using Equipment stolen from Customer and any and all stolen, fraudulent or unauthorized use of the Service. Sho-Me reserves all of its rights at law and equity to proceed against anyone who uses the Service illegally or improperly.

- o) Ownership and Risk of Loss. If Customer purchase the Equipment, Customer bears all risk of loss of, theft of, casualty to or damage to the Equipment, from the time it is shipped to Customer until the time (if any) when it is returned to in accordance with this Contract.
- p) No 0+ or Operator Assisted Calling; May Not Support x11 Calling. The Service does not support 0+ or operator assisted calling (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, which are provided for elsewhere in this Contract) Service in one or more (or all) service areas.
- q) Incompatibility with Security Systems. The Service may not be compatible with security systems. Customer may be required to maintain a telephone connection through Customer's local exchange carrier in order to use any alarm monitoring functions for any security system installed in Customer's business. Customer are responsible for contacting the alarm monitoring company to test the compatibility of any alarm monitoring or security system with the Service.
- r) Scope of Service.
  - The Service and the Equipment are solely and exclusively for the use of the Customer and shall not be used for any illegal purpose or in any manner inconsistent with the provisions of this Contract. Customer acknowledges the Service and the Equipment were developed, compiled, prepared, revised, selected and arranged by Sho-Me and others (including certain information sources) through the application of methods and standards of judgment developed and applied through the expenditure of substantial, time, effort and money and constitute valuable industrial and intellectual property and trade secrets of Sho-Me and such others. Customer agrees to protect the proprietary rights of Sho-Me and all others having rights in the Service and the Equipment during and after the Term. Customer acknowledges and agrees that it has no ownership rights in and to the Service and that no such rights are granted under this Contract. Customer shall honor and comply with all written requests made by Sho-Me or its suppliers to protect their and others' contractual, statutory and common law rights in the Service and the Equipment with the same degree of care used to protect its own

## TERMS AND CONDITIONS OF SERVICES

proprietary rights, which in no event shall be less than reasonable efforts. Customer agrees to notify Sho-Me in writing promptly upon becoming aware of any unauthorized access or use by any party or of any claim that the Service or the Equipment infringe upon any copyright, trademark, or other contractual, statutory, or common law rights.

- Customer shall not access the Service through any medium or Equipment which Sho-Me has not authorized in writing, nor may any medium or Equipment by which the Service is provided be shared, moved, modified, interfaced, copied, broadcasted, reproduced, ported or otherwise routed with or to any other equipment without Sho-Me prior written consent. In addition, Customer shall not move, modify, interface, copy, broadcast, reproduce, port or otherwise use or route the Service or any portion thereof with or to any other equipment, network or software that Sho-Me, in its sole good faith judgment, determines is interacting or interfering or may interact or interfere with the performance of the Service or any portion thereof and, from time to time, upon Sho-Me request therefore, Customer shall promptly notify Sho-Me in writing of any and all such equipment, network and software. Service expressly provided by Sho-Me for operation on Customer's own equipment shall be furnished without warranty as to compatibility, fitness or performance with such equipment, and Customer shall bear all cost and responsibility for such equipment.
- Unauthorized access or use is unlawful and Sho-Me and its suppliers shall have all rights provided by law to prevent such access or use and to collect damages in such event. Customer agrees to notify Sho-Me in writing promptly upon becoming aware of any unauthorized access or use. Customer shall not share, recompile, decompile, disassemble, reverse engineer, or make or distribute any other form of, or any derivative work from, the Services and/or the equipment. Customer may use the Service solely for its internal business purposes and may not use the Service for any development purposes or to develop any applications, software or otherwise that could in any way interact or interfere with the performance of the Service or any portion thereof, except as Sho-Me may expressly permit under a separate development license with Customer.
- The analysis and presentation included in the Service shall not be recirculated, redistributed or published by Customer except for internal purposes without the prior written consent of Sho-Me and where necessary, with certain sources of the information included in the Service.
- Customer shall not use any of Sho-Me or its Affiliated Companies' trademarks, trade names, or service marks in any manner which creates the impression that such

names and marks belong to or are identified with Customer, and Customer acknowledges that it has no ownership rights in and to any of these names and marks.

- Customer acknowledges and agrees that Sho-Me may delegate certain of its responsibilities, obligations and duties under or in connection with this Contract to a third party or an Affiliated Company of Sho-Me, which may discharge those responsibilities, obligations and duties on behalf of Sho-Me.

s) Equipment.

- Equipment Purchases: Customer may purchase telecom Equipment to utilize the Sho-Me Service. Customer will be deemed to have accepted the items five (5) days after each is delivered and installed, unless Customer notifies Sho-Me in writing to the contrary. Returns for credit after five (5) days automatically receive a twenty percent (20%) restocking fee, along with an additional ten percent (10%) fee for each additional thirty (30)-day period. If Customer receives Equipment that is visibly damaged, Customer must contact Sho-Me customer service department immediately at [noc@shomepower.com](mailto:noc@shomepower.com) or 877-468-2038. Sho-Me may, at Customer's request, facilitate the provision of Equipment from a third party supplier or resell certain Equipment. Procuring and maintaining that Equipment is Customer's sole responsibility. While Sho-Me suggests and resells some Equipment brands and facilitate Customer's purchase of some Equipment as an accommodation, the original Equipment manufacturer and not Sho-Me shall be responsible for any Equipment defects. Sho-Me will pass all original Equipment manufacturer warranties for the Equipment to Customer and will not have any liability to Customer regarding such Equipment. Please check the Equipment provider's website for warranty, return rules and other terms and conditions applicable to such third party Equipment supplier. ALL EQUIPMENT SALES ARE FINAL. Equipment may be returned to the manufacturer in the event of a defect that arises within the applicable warranty period, provided Customer complies with the terms of this Section and the manufacturer's Return Materials Authorization ("RMA") policy. Prior to returning the Equipment, Customer must contact Sho-Me so Sho-Me can determine whether a defect exists and to receive an RMA number, which is required along with the return. Customer must ship the Equipment to the manufacturer at the address provided by Sho-Me in accordance with all RMA procedures. Customer has ten (10) days after receipt of an RMA to ship the Equipment back to the manufacturer at the address Sho-Me provides. Customer must pay all shipping fees. Once the manufacturer has received the Equipment, the original Equipment manufacturer will deal with the Equipment under its applicable warranty policy.

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- Equipment Rentals. In addition to the other services referred to in this Contract, Sho-Me may rent Equipment to Customer for the sole purpose of use in connection with the Service. The term of use of the Equipment will be coterminous with the end of the term for the Service and any extensions thereof; Customer will be deemed to have accepted the items five (5) days after each is delivered and installed, unless Customer notifies Sho-Me in writing to the contrary. Customer may return any defective Equipment to Sho-Me for a replacement as long as it has not been misused or damaged by Customer, Customer's agents or invitees. Furthermore, Customer shall be responsible for ensuring that any Sho-Me Equipment is maintained in a secure location, and Customer shall be fully liable for any and all costs and charges associated with damage to or loss of Sho-Me Equipment.
  - If Customer is not in default under this Contract, Customer's End of Contract (EOK) options for phone(s) or Equipment are: (a) to automatically renew the term for Customer's other services including the Equipment; (b) purchase the Equipment for its/their then fair market value from Sho-Me or one of its vendors; or (c) return the phone(s). Customer must give Sho-Me three (3) months prior written notice of Customer's EOK option choice. Under option (b), upon receipt of all amounts due for the purchase of the Equipment, clear title will be transferred to Customer on an "As Is, Where Is" basis.
  - If Customer elects to return Equipment to Sho-Me upon expiration of Customer's contract, Customer must notify Sho-Me in writing of Customer's intent at least three (3) months prior to contract expiration and Customer must return the Equipment to Sho-Me immediately upon the EOK. The Equipment must be in good condition and working order, reasonable wear and tear expected ("Good Working Order"). Sho-Me reserves the right to recover full reimbursement from Customer for the reasonable cost and expense incurred by Sho-Me to restore such Equipment to Good Working Order. Customer will return the Equipment to a location in the United States designated by us. Customer is responsible for any costs associated with de-installation, packing, proper content labeling and return of the Equipment. Prior to return of Equipment, Customer is responsible for removing all Customer's information and data, including programs not licensed to the Equipment. Sho-Me has no obligation to remove Customer's information or any other party's information from any Equipment. The return of Equipment shall constitute a full release by Customer of any leasehold rights or possessory interest in the Equipment.
- t) CHARGES; PAYMENTS; TAXES; DISCONNECTION
  - Billing. Sho-Me will bill all charges, applicable taxes and surcharges monthly in advance (except for usage-based charges, which will be billed monthly in arrears, and any other charges which Sho-Me decides to bill in arrears), including but not limited to: activation fees; monthly Service fees; equipment rental fees; usage charges; international usage charges; advanced feature charges; advanced features/add-ons; regulatory recovery fee, universal service fund; 911 fees; federal, state and/or local taxes; disconnection fees; and shipping and handling charges. The amount of such fees and charges shall be published on Sho-Me's website and may change from time to time. Sho-Me may introduce new products and services at special introductory pricing. Introductory pricing may change at Sho-Me discretion. Notification of monthly invoices will be sent to Customer via mail or Customer's email address on file with us. Any usage charges will be billed in increments that are rounded up to the nearest minute unless otherwise set forth in the rate schedules found on Sho-Me's website.
  - The above fees are defined as follows:
    - Activation Fee - This fee covers charges for setting up Customer's account and activating Customer on Sho-Me's system.
    - Monthly Service Fee - This is the basic charge associated with Customer's Service. This fee includes the calling charges defined by Customer's plan; the features associated with Customer's plan and basic account Service.
    - Equipment Rental Fees - This is the charge associated with the rental of equipment for the sole purpose of use in connection with the Service.
    - Usage Charges - If Customer exceeds the number of calling minutes on Customer's plan, Sho-Me will bill Customer for the minutes Customer uses above Customer's allowance. Sho-Me also bills for calls to directory assistance and other information services.
    - International Usage Charges - These are the fees associated with calls to locations outside of the US, and Canada.
    - Advanced Features, Add-Ons, and Premium Services - Sho-Me charges additional fees for enhanced features and services such as Virtual Phone Numbers.
    - Universal Service Fund - The Universal Service Fund (USF) provides support to promote access to telecommunications services at reasonable rates for those living in rural and high-cost areas, income-eligible consumers, rural health care facilities, and schools and libraries All telephone companies that provide service between states and

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internationally, including wireless companies, must contribute a percentage of their revenues derived from these services to the USF.

- Taxes – Sho-Me is required to bill and collect local, state and federal taxes imposed on Sho-Me customers by the various taxing authorities. Sho-Me passes all taxes it collects on to the appropriate taxing authority.
- 911 Fees - State and/or local governments may assess fees on Sho-Me to pay for emergency services in Customer's community. Sho-Me bills and collects 911 fees from its customers and remits such fees to the appropriate authority. Depending on where Customer lives, these fees can vary widely. Sho-Me is committed to supporting public safety services and resources in Customer's State.
- u) Billing Disputes. Customer must notify Sho-Me in writing within thirty (30) days after receiving their statement if Customer disputes any Sho-Me charges on that statement or Customer will be deemed to have waived any right to contest such charges. All notices of disputed charges should be sent to:
  - Sho-Me Technologies
  - PO Box D
  - Marshfield, MO 65706
- v) Payment and Collection.
  - Payment. Sho-Me bills in advance, except for usage on a monthly basis. Payment is due upon receipt. If payment is not received by the due date, a late fee of one and one-half percent (1.5%) of the unpaid balance will apply.
  - Collection. If Customer's Service is disconnected, Customer will remain fully liable to Sho-Me for all charges pursuant to this Contract and any and all costs Sho-Me incurs to collect such amounts, including, without limitation, collection costs and attorney's fees.
  - Notices. Sho-Me will provide ten (10) days' advance notice prior to disconnection of service.
- w) Disconnection; Discontinuance of Service. Sho-Me reserves the right to suspend or discontinue the Service generally, or to disconnect Customer's Service or a service component, at any time in Sho-Me's sole and absolute discretion. If Sho-Me discontinues the Service generally, or disconnects Customer's Service without a stated reason, Customer will only be responsible for charges accrued through the date of disconnection, including a pro-rated portion of the final month's charges. If Customer's Service is disconnected on account of Customer's breach of any provision of this Contract, Customer will be responsible for the full charges to the end of the current term, including, without limitation, unbilled charges, plus the termination fee, if applicable, all of which will immediately become due and payable. Sho-Me will pursue collection for unpaid amounts on disconnected accounts and may report to credit bureaus.

- x) Taxes. State and local governments may assess taxes, surcharges and/or fees on Customer use of Sho-Me Service. These charges may be a flat fee or a percentage of Customer's Sho-Me charges and may change from time to time without notice. These charges are based on the rates applicable to the address Customer provided to Sho-Me. Customer is responsible for all applicable federal, state, provincial, municipal, local or other governmental sales, use, excise, value-added, personal property, public utility or other taxes, fees or charges now in force or enacted in the future, that arise from or as a result of Customer's subscription or use or payment for the Service or equipment. Such amounts are in addition to payment for the Service or equipment and will be billed to Customer as set forth in this Contract. If Customer are exempt from payment of such taxes, Customer must provide Sho-Me with an original certificate that satisfies applicable legal requirements attesting to tax exempt status. Tax exemption will only apply from and after the date Sho-Me receives such certificate.
- y) Charges for Directory Calls (411). Sho-Me will charge Customer \$1.00 for each call made to Sho-Me directory assistance.
- z) Charges for Operator Assisted Calls (0). Sho-Me will charge Customer \$3.00 for each call made to Sho-Me operators asking for assistance.
- aa) LIMITATION OF LIABILITY; INDEMNIFICATION; WARRANTIES
  - Limitation of Liability. Sho-Me will not be liable for any delay or failure to provide the Service, including 911 Dialing, at any time or from time to time, or any interruption or degradation of voice quality that is caused by any of the following:
    - an act or omission of an underlying carrier, service provider, Sho-Me or other third party;
    - equipment, network or facility failure;
    - equipment, network or facility upgrade or modification;
    - force majeure events such as (but not limited to) acts of God, acts of nature, strikes, fire, war, riot, acts of terrorism and government actions;
    - equipment, network or facility shortage;
    - equipment or facility relocation;
    - Service, equipment, network or facility failure caused by the loss of power to Customer;
    - outage of, or blocking of ports or other impediment to usage of the Service caused by any third party;
    - any act or omission by Customer or any person using the Service or Equipment provided to Customer; or
    - any other cause that is beyond Sho-Me's control, including, without limitation, a failure of or defect in any equipment, the failure of an incoming or outgoing communication, the inability of communications including, without limitation,

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911 Dialing, to be connected or completed, or forwarded.

Our aggregate liability under this Contract will in no event exceed the Service charges with respect to the affected time period.

bb) Disclaimer of Liability for Damages. IN NO EVENT WILL SHO-ME, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS OR ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICE TO CUSTOMER IN CONNECTION THE SERVICE BE LIABLE FOR ANY DIRECT, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, COMPENSATORY, OR CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER DAMAGES, INCLUDING BUT NOT LIMITED TO PERSONAL INJURY, WRONGFUL DEATH, PROPERTY DAMAGE, LOSS OF DATA, LOSS OF REVENUE OR PROFITS, OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE OR INABILITY TO USE THE SERVICE, INCLUDING INABILITY TO ACCESS EMERGENCY SERVICE PERSONNEL THROUGH THE 911 DIALING SERVICE OR TO OBTAIN EMERGENCY HELP. THE LIMITATIONS SET FORTH HEREIN APPLY TO CLAIMS FOUNDED IN BREACH OF CONTRACT, BREACH OF WARRANTY, PRODUCT LIABILITY, TORT AND ANY AND ALL OTHER THEORIES OF LIABILITY AND APPLY WHETHER OR NOT SHO-ME WERE INFORMED OF THE LIKELIHOOD OF ANY PARTICULAR TYPE OF DAMAGES.

cc) Indemnification and Survival.

- Indemnification. Customer shall defend, indemnify, and hold harmless Sho-Me, its officers, directors, employees, affiliates and agents and any other service provider who furnishes services to Customer 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, Customer or any third party or user of the Service, relating to the Service, including, without limitation, 911 Dialing, or the Equipment.
- Survival. The provisions of this Contract that by their sense and context are intended to survive the termination or expiration of this Contract shall survive.

dd) No Warranties on Service. SHO-ME MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS OF THE SERVICE OR EQUIPMENT FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE OR ANY WARRANTY THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS. WITHOUT LIMITING THE FOREGOING, SHO-ME DOES NOT WARRANT THAT

THE SERVICE OR EQUIPMENT WILL BE WITHOUT FAILURE, DELAY, INTERRUPTION, ERROR, DEGRADATION OF VOICE QUALITY OR LOSS OF CONTENT, DATA OR INFORMATION. NEITHER SHO-ME NOR ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS, OR ANY OTHER SERVICE PROVIDER OR VENDOR WHO FURNISHES SERVICE, EQUIPMENT, OR PRODUCTS TO CUSTOMER IN CONNECTION WITH THE SERVICE, WILL BE LIABLE FOR UNAUTHORIZED ACCESS TO SHO-ME'S OR CUSTOMER'S TRANSMISSION FACILITIES OR PREMISES EQUIPMENT OR FOR UNAUTHORIZED ACCESS TO, OR ALTERATION, THEFT OR DESTRUCTION OF, CUSTOMER'S DATA FILES, PROGRAMS, PROCEDURES OR INFORMATION THROUGH ACCIDENT, FRAUDULENT MEANS OR EQUIPMENT OR ANY OTHER METHOD, REGARDLESS OF WHETHER SUCH DAMAGE OCCURS AS A RESULT OF SHO-ME OR ITS SERVICE PROVIDER'S OR VENDORS' NEGLIGENCE. STATEMENTS AND DESCRIPTIONS CONCERNING THE SERVICE OR EQUIPMENT, IF ANY, BY SHO-ME OR SHO-ME AGENTS OR INSTALLERS ARE INFORMATIONAL AND ARE NOT GIVEN AS A WARRANTY OF ANY KIND. SHO-ME WILL USE IT'S BEST EFFORTS TO PROVIDE DIRECTORY LISTING INFORMATION TO A DIRECTORY CONTAINING SUBSCRIBER LISTING INFORMATION (SLI). SHO-ME SHALL NOT BE LIABLE FOR THE CONTENT OR ACCURACY OF ANY SLI (INCLUDING, BUT NOT LIMITED TO, A FAILURE BY ONE OR MORE DIRECTORIES TO "UN-PUBLISH" A NUMBER; ONE OR MORE DIRECTORIES PUBLISHING A WRONG NUMBER OR ONE OR MORE DIRECTORIES FAILING TO PUBLISH A LISTING) PROVIDED UNDER THIS CONTRACT. CUSTOMER SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND SHO-ME OR SHO-ME'S SERVICE PROVIDERS FROM AND AGAINST ANY DAMAGES, LOSSES, LIABILITIES, DEMANDS, CLAIMS, SUITS, JUDGEMENTS, COSTS AND EXPENSES (INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES AND EXPENSES) ARISING FROM, OR RELATING TO, DIRECTORY LISTINGS AND/OR RESULTING FROM OR ARISING OUT OF CUSTOMER'S OR A THIRD PARTY'S CLAIM OF INACCURATE LISTINGS, FAILURE OF LISTINGS, INACCURATE USE OF THE SLI, OR FAILURE TO "UN-PUBLISH" A LISTING.

ee) No Hardware Warranty. CUSTOMER ACKNOWLEDGE THAT SHO-ME IS NOT THE MANUFACTURER OF ANY HARDWARE OR EQUIPMENT AND THAT ALL HARDWARE AND EQUIPMENTS ARE BEING PROVIDED BY SHO-ME "AS IS" AND WITHOUT WARRANTY OR GUARANTY OF ANY KIND. CUSTOMER AGREES TO LOOK EXCLUSIVELY TO THE ORIGINAL EQUIPMENT MANUFACTURER OF

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- SUCH HARDWARE AND EQUIPMENTS WITH RESPECT TO ANY WARRANTY OR OTHER CLAIMS RESPECTING SUCH HARDWARE AND EQUIPMENT.
- ff) No Third Party Beneficiaries. No provision of this Contract provides any person or entity not a party to this Contract with any remedy, claim, liability, reimbursement, or cause of action or creates any other third party beneficiary rights.
- gg) Content. Customer will be liable for any and all liability that may arise out of the content transmitted by Customer or to any person, whether authorized or unauthorized, using Customer's Service or equipment (each such person, a "User"). Customer shall assure that Customer's and their User's use of the Service and content comply at all times with all applicable laws, regulations and written and electronic instructions for use. Sho-Me reserves the right to disconnect or suspend Customer's Service and remove Customer's or their User's content from the Service, if Sho-Me determines, in Sho-Me's sole and absolute discretion, that such use or content does not conform with the requirements set forth in this Contract or interferes with Sho-Me's ability to provide Service to Customer or others. Sho-Me's action or inaction under this Section will not constitute any review or approval of Customer's or User's use or content.
- hh) Privacy. Sho-Me Service utilizes, in whole or in part, the public Internet and third party networks to transmit voice and other communications. Sho-Me is not liable for any lack of privacy, which may be experienced with regard to the Service.
- ii) Subcontractors. Customer understands, acknowledges, and agrees that from time-to-time during the term of this Contract, Sho-Me may, in its sole and absolute discretion, delegate performance of some or all of its rights and obligations hereunder to third parties selected by Sho-Me. Customer hereby consents to such subcontracting activity, provided that Sho-Me shall remain accountable to Customer for the performance of any such obligations.
- jj) Letter of Authorization. The undersigned Customer hereby appoints Sho-Me as agent for Sho-Me to act as its authorized agent for all matters pertaining to the number(s) populated in the appropriate fields. This agency includes disconnections of service and other requests as deemed necessary by Sho-Me to implement the services ordered from Sho-Me, including but not limited to: (1) securing information for activating, porting disconnecting, editing and transferring service for Customer, (2) securing information for the purposes of resolving technical issues for Customer, (3) securing information for activating, removing, changing and editing Customer's directory listings.
- kk) Disputes. We each waive trial by jury in any civil actions or proceedings that are brought by either of us under the Contract. Any and all disputes between us that arise under or in connection with this Contract which cannot be resolved through good faith negotiation, or through discussions between each party's legal counsel, shall be submitted to non-jury trial, to be conducted in Marshfield, Missouri.
- ll) Export Controls: Customer acknowledges that the export, import, and use of certain hardware, software, and technological data provided under this Contract is regulated by the United States and other governments and agrees to comply with all applicable laws and regulations, including the U.S. Export Administration Act, the regulations promulgated thereunder by the U.S. Department of Commerce, and any other applicable laws or regulations such as those that prohibit certain services from being used in or accessed by a national of Cuba, Iran, North Korea, Sudan, Syria or any other sanctioned or embargoed country.
- mm) Miscellaneous Terms:
- **INTENDED USE**. Customer is purchasing the Service for business purposes. The Service will not be used primarily for personal, family, or household purposes.
  - **911 SERVICE**. If Customer purchases broadband access as part of the Service, Customer agrees that without limiting the obligations assumed by Customer under, as well as the other qualifications, limitations, and restrictions imposed by, the General Terms, Sho-Me subcontractors are not responsible for managing 911 access.
  - **ACCEPTABLE USE POLICY**. Sho-Me Acceptable Use Policy, which can be accessed and read on Sho-Me's website [www.shometech.com](http://www.shometech.com), is incorporated herein by reference.
  - **EQUIPMENT AND HARDWARE**. Under the terms of Sho-Me agreements with its subcontractors, only Equipment provided by the subcontractor has been approved for use with some elements of the Service. If Customer intends to use any equipment not provided by Sho-Me, such equipment must be approved by Sho-Me in advance. Sho-Me reserves the right to refuse or terminate Service if Customer is using equipment that has not been approved by Sho-Me or, if applicable, a Sho-Me subcontractor.
- nn) Consent to use Electronic Signatures and Records: For Customer's convenience, Sho-Me may provide access to its Service online. This may require Customer to enter into agreements or receive notices electronically. As a result, Customer acknowledges and agrees that by clicking "I Agree" or "I Accept". Customer agrees to conduct electronically without limitation the particular transaction into which Customer entered including entering into this Contract;
- Customer has read and understands the electronic copy of electronic contracts, notices and records, without limitation including this Contract, and any policies and any amendments;
  - Customer agrees to, and intends to be bound by, the terms of the particular transaction into which Customer thereby enter;

## TERMS AND CONDITIONS OF SERVICES

- Customer is capable of printing or storing a copy of electronic records of transactions into which Customer enters including, without limitation, this Contract and any amendments hereto; and,
  - Customer agrees to receive electronically information about the Service and other electronic records into which Customer thereby enter including, without limitation, this Contract.
- oo) Interpretation: The parties agree that, before signing this Contract, each has had an opportunity (and is advised) to consult legal representation to assist it in interpreting and understanding the implications, duties, and potential liabilities that arise under this Contract. Consequently this Contract shall not be construed more strongly as against one party versus the other.
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