

TNCI Telastic Hosted PBX Service Exhibit

1. INTRODUCTION

The terms and conditions of this TNCI Telastic Hosted PBX (the "Service") Service Exhibit shall be in addition to TNCI's General Terms and Conditions of Service (the "Agreement") and shall be read in conjunction with the Agreement. In the event there is a conflict in the terms of this Service Document and the Agreement, the terms of this Service Document shall govern for this Service. The Service provided may include a local loop with a Private IP or MPLS connection between the End User site and the TNCI switch. TNCI may provide equipment and/or telephone handsets at the customer site that hands-off the voice calls and/or data packets to the customer. TNCI requires that Service be used in a manner consistent with standard business usage levels. Should TNCI determine, in its sole discretion, that Customer's use of Service is inconsistent with the Service's typical business application, TNCI reserves the right, after providing notice to Customer, to either offer Customer a different service plan or terminate the Service. Capitalized terms not defined in this Service Exhibit shall have the meaning ascribed in the other Service Documents.

2. SERVICES

- a) TNCI Telastic Service provides Local calling, Long Distance calling and PBX functionality and features over a virtual trunk.
- b) TNCI makes no express or implied service guarantee regarding the transmission of facsimiles. TNCI will not support any facsimile-related Service repair requests and shall not be liable, nor provide for, any related costs or claims, including any request for service credits. In the event Customer chooses to terminate the Agreement for reasons pertaining to a facsimile service issue, a TLA may apply.

3. SERVICE ACCESS

- a) Carrier Provided Access: TNCI will provide a Local Loop to Customer for use with TNCI Service. A Local Loop provides connectivity from the demarcation point at the Customer Premise to the edge of the underlying carrier's long distance network (Point of Presence). TNCI will place orders to an underlying carrier; the underlying carrier will then be the Customer of Record on the Local Loop Provider's internal records. A charge for the Local Loop will be billed by TNCI to Customer as part of a service bundle MRC or as a standalone service.
- b) Customer Provided Access: Customer will provide the Local Loop for use with TNCI Service. A Local Loop provides connectivity from the demarcation point at the Customer Premise to the edge of the underlying carrier's long distance network. TNCI will issue Customer a CFA (Carrier Facilities Assignment), which shall be considered the point of demarcation for TNCI. Customer will place orders directly to the Local Loop Provider; Customer will be the Customer of Record on the Local Loop Provider's internal records. The underlying carrier shall bill Customer for the Local Loop and shall be responsible for any associated repairs.
- c) Customer Provided Bandwidth: Customer will utilize Customer's own third party Internet Service Provider (ISP) to provide internet bandwidth used in conjunction with TNCI service. Bandwidth is used as a means of access to TNCI's network to allow for calls to route over the PSTN (Public Switched Telephone Network). TNCI will provide Customer an IP Address for call routing access. TNCI router ports are considered the point of demarcation. Customer is responsible for all aspects related to internet service obtained from Customer's chosen ISP, including, but not limited to ordering, billing, and repair. TNCI will keep no record of service and will not be responsible for contacting the ISP for any reason.

4. SERVICE TERM

- a) If Carrier Provided Access, the term of this Agreement ("Service Term") shall commence five (5) calendar days after the date of Loop Acceptance ("activation") and shall continue until expiration of the Service Term, or until the service is terminated in accordance with the cancellation section herein or in the Agreement.
- b) If Customer Provided Access or Customer Provided Bandwidth, the term of this Agreement ("Service Term") shall commence on the date of service activation and shall continue until expiration of the Service Term, or until the service is terminated in accordance with the cancellation section herein or in the Agreement.

5. SERVICE GUARANTEE

New TNCI Telastic customers qualify for a ninety (90) calendar day service guarantee, with the exception of where access to Service is established through Customer Provided Bandwidth. If 25% or more of Customer's Service is not functioning for five (5) or more business days during the first ninety (90) calendar days of Service, and there is no expectation of resolution, Customer may terminate the Agreement without any additional assessment. Customer is required to notify TNCI of all related Service issues by opening a trouble ticket with TNCI, so that TNCI may document and assess Service functionality in determining whether the Service Guarantee applies. All Charges accrued prior to completed cancellation of Service shall be due in full. In the event Customer cancels Service within the Service Guarantee term, Customer

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shall notify TNCI in writing and conform to the notification procedure detailed in the Cancellation section herein. Customer shall return all Equipment not paid for in full in accordance with TNCI's Equipment Return Policy.

6. SERVICE ISSUES

- a) We provide this service on a best efforts basis. Things beyond our control may affect the Service, such as power outages, fluctuations in the Internet, and your underlying ISP or broadband service. Other things may affect Service as well, such as maintenance. TNCI will act in good faith to minimize disruptions to your use of and access to Service.
- b) Should Customer experience a network-related Service issue determined by TNCI to originate on Customer's TNCI-provided local loop, TNCI shall, in good faith, coordinate with the local access provider to attempt full resolution of such issue; however, TNCI shall not be responsible for 1) the network portion between Customer's premise and the original point of demarcation; 2) the network portion between Customer's premise and the MPOE if Customer extends the point of demarcation; or 3) any issue related to construction builds. Should Customer experience an Equipment issue, TNCI shall trouble-shoot Equipment in accordance with the Equipment Exhibit.
- c) Outage credits are determined by TNCI's Service Level Agreement.

7. CHARGES, BILLING, & PAYMENT

- a) Customer will be responsible for Service MRCs and NRCs for the duration of the Service Term, including but not limited to, user Seat and Session MRCs and NRCs, Conferencing and other platform elements, Local Loop and Voice Port MRC and NRCs, Long Distance Bundle MRC, Equipment or CPE Purchase NRC, Maintenance Upgrade MRC, Install Upgrade MRC, Dual Ethernet Upgrade MRC, DeMarc Extension NRC, Install Order Expedite or Change Order Expedite NRCs, Phone NRC or MRCs, Fax MRCs, Installation and Training NRC or MRCs, Advanced Managed Services MRC, DID (Direct Inward Dial) MRCs, Hunt Group NRCs, Voice Mail NRCs, Compression MRCs and/or Install Kit NRCs. Additional charges may apply based on Service configuration and any necessary facility build-outs.
- b) The first month in which Services are rendered may be prorated to factor in any partial month use that may occur as the result of the date fees are initiated. If the Start of Service Date is other than the first day of the month or if the Term terminates on a day other than the last day of the month, the charge for that month shall be determined by prorating the monthly payment by the number of days during which the Services were provided. Customer will be billed for activation, usage, NRCs, and MRCs which are billed in advance.
- a) A call is considered completed when it is answered by either a live person, or by voicemail systems, answering machines, private branch exchanges, or interexchange switching equipment. TNCI begins billing at call pickup. Calls initiated through the use of Call Forward (CFW) or Remote Call Forward (RCF) feature may accrue multiple call charges.
- b) The availability of Service facilities is not guaranteed. In order to determine the scope and cost of work required to build the necessary facilities for the Service, an Engineering Work Query may be requested for an additional cost quoted at the time of the request. Customer is responsible for the Engineering Work Query cost regardless of whether Customer elects to proceed with implementing such work.
- c) For TNCI Telastic Service, usage-based call billing increments are rated as follows:

Call Destination	Initial Billing Increment (seconds)	Additional Billing Increments (seconds)
U.S. Domestic	6	6
Canada	30	6
Domestic Offshore	18	6
Alaska and Hawaii	18	6
Mexico	30	6
International	30	6

- d) In the event Customer's average call duration is less than one minute, TNCI reserves the right to apply a short duration surcharge of \$.03/minute to the number of minutes necessary to increase average call length to one minute. Such Charges will be billed to Customer as a NRC and shall be due per the established payment terms.
- e) All calls, including those containing a fractional minute of use, will be billed to the 4th decimal point. In the event TNCI is billed beyond the 4th decimal point by underlying carriers, TNCI shall then round to the 4th decimal place up to the nearest 1/100th of a cent.
- f) Customer may require the dispatch of a technician to Customer's site in order to resolve a reported trouble. If the source of the trouble is found to originate on TNCI portion of the network, including the circuit or the box, TNCI shall cover the dispatch fees for that instance. However, if the trouble is found to originate within the LAN, Customer shall be responsible for all related dispatch fees.

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- g) Customer may view applicable charge in Customer's LOA or in the applicable service document. Customer is responsible for payment of all charges for Services furnished by TNCI to Customer, including charges accrued by Users authorized by Customer. Customer shall also be responsible for payment of toll free calls which are associated with coinless phones, special operating handling, or coin phone. Customer may block inbound calls from certain area codes or states to prevent unwanted future usage, however, any charges that have accrued prior to the implementation of a block shall be due in full. To effect a block, Customer shall complete a TNCI-approved service order.

8. CALLING PARAMETERS

- a) TNCI may block or fail any calls where Customer outpulses a toll free number, 'anonymous', 'blocked', or an indeterminate jurisdiction while attempting to dial a toll free number.
- b) Intrastate rates shall apply if Customer's call originates and terminates within the same State; interstate rates shall apply if the call originates in one State (or the District of Columbia) and terminates within a different State. Each call's jurisdiction shall be determined by the geographic origination point attributed to the outpulsed, valid Automatic Number Identification (ANI) and Customer's Called Number. Customer is required to utilize and outpulse ANIs that are registered with the North American Numbering Plan Administration (NANPA) and which have been provided to TNCI by Customer prior to outpulse. Customer may not outpulse anonymous phone numbers, defined as those numbers that do not conform to a Customer-provided ANI (i.e., 8XX numbers) or otherwise have an indeterminate jurisdiction. Anonymous numbers may be blocked, failed, or billed at intrastate rates based on the rates applicable to Customer's physical location where the call originates.
- c) Customer may have either a Long Distance Bundle pricing or non-bundled pricing. Customers with Long Distance Bundle Pricing who use minutes beyond those specified in Customer's bundle shall be billed for those minutes at the per minute overage rate. Long Distance Bundle minutes include Inbound (Toll Free) and Outbound Intralata, Intrastate and Interstate calling within the contiguous 48 states. Local Calling minute options vary and may be included based on the Seat or Session package purchased. Canada, offshore and international destinations are not included in the Long Distance Bundle and shall be billed at unbundled rate. Customer may view these overage rates in Customer's LOA or in the applicable service document.
- d) Should TNCI determine Service provided with an unlimited calling plan that use exceeds industry standard use levels or should TNCI determine Service is not being used for its intended purpose, TNCI reserves the right to adjust rates and packages or suspend the provision of service as reasonably determined by TNCI. Unlimited Use Minutes are non-transferrable.
- e) Over 95% of TNCI's unlimited calling plan customers use less than 1000 minutes per month and do not have any unusual usage patterns in terms of unique numbers called, high call forwarding/transferring usage and so on. A customer's aggregate usage may be considered outside of normal use if it exceeds 1500 minutes per month IN COMBINATION with one or more of the following, including, but not limited to, excessive:
- unique numbers called;
 - call lengths;
 - call forwarding/transferring;
 - conference calling;
 - short duration calls;
 - number of calls made during a month;
 - number of calls made to a conference calling service during a month;
 - number of calls made during business hours;
 - number of calls terminated and re-initiated consecutively, which, in the aggregate, result in excessive call lengths during a specific time frame

9. TNCI TOLL FREE

For specific terms and conditions related to Toll Free Service, please see the Toll Free Service Exhibit.

10. E911

To receive TNCI Telastic Service, Customer must review and acknowledge acceptance of a Disclosure Addendum indicating that any E911 calling capability associated with Service: (a) may not be available during an electrical power outage affecting the Service location; (b) will not be available if Customer's broadband connection service has been disrupted and not restored; (c) will not be available if Service has been discontinued for any reason, including Customer non-payment; (d) may not be available or may be routed to emergency personnel unable to respond at locations other than the location for which a Service address has been furnished to TNCI; (e) may not be available or may be routed to emergency personnel unable to respond if Customer has disabled or damaged TNCI -provided router, Quality of Service ("QoS") device, or other Hosted PBX-specific equipment or removed it to a location other than one for which a Service address has been provided to TNCI; or (f) may be delayed or unavailable due to network congestion or other problems affecting the network. Customers are encouraged to acquire and

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maintain alternative means of accessing E911 service and to inform their authorized users of emergency calling alternatives available to them. TNCI shall not be liable for either: (1) the misrouting of any calls made to PSAPs or to municipal emergency service providers; or (2) any information provided to PSAPs by a third party Private Switch Automatic Location Information ("PS/ALI") vendor used by Customer.

CUSTOMER AGREES THAT TNCI SHALL NOT BE LIABLE FOR ANY FAILURE RELATED TO THE ROUTING AND SUCCESSFUL (OR UNSUCCESSFUL) COMPLETION OF EMERGENCY CALLS USING TNCINET™ SERVICE. CUSTOMER AGREES TO HOLD HARMLESS TNCI, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, AND AGENTS FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, FINES, PENALTIES, COSTS, AND EXPENSES, INCLUDING ATTORNEY'S FEES, RELATING TO THE FAILURE TO COMPLETE E911 CALLS. CUSTOMER IS RESPONSIBLE FOR EDUCATING ALL USERS ABOUT THE LIMITATIONS OF E911 WHEN USING TNCINET™ SERVICE. TNCI ADVISES CUSTOMER TO MAINTAIN OR PROCURE ADDITIONAL MEANS OF ACCESSING EMERGENCY SERVICES, SUCH AS A PLAIN OLD TELEPHONE ("POTS") LINE, TO SERVE AS A BACK-UP FOR SUCCESSFULLY COMPLETING A 911 CALL. SUCH SERVICES MAY BE OBTAINED DIRECTLY THROUGH TNCI.

11. INTERNATIONAL WIRELESS TERMINATION CHARGE

International calls terminating to a wireless device, such as a cellular phone, pager, personal computer, or personal digital assistant may have a separate higher rate applied. Customer shall be responsible for payment of any additional charges as a result of the applied rate, which will appear as an international mobile termination charge on Customer's bill.

12. UTILIZATION REQUIREMENT

Customer agrees to provide traffic over all TNCI voice circuits to avoid zero utilization. TNCI reserves the right to disconnect with prior notice any voice circuits that are not being utilized in a given three (3) month period.

13. EQUIPMENT

For terms and conditions pertaining to Equipment, see the Equipment Service Exhibit.

14. CANCELLATION

- a) To effect cancellation of TNCI Telastic Service, Customer must notify TNCI in writing via fax at (800) 800-8874 or e-mail at customercare@tncii.com or regular mail to ATTN: Customer Care - Disconnects, TNCI, 2 Charlesgate West, Boston, MA 02215. Upon TNCI's acknowledgement of the request, TNCI will then provide Customer with a Dedicated Service(s) Disconnect Receipt Confirmation Form ("disconnect form") for Customer to review, sign, and return to TNCI via fax at (617) 369-1171 in order to validate the request and its stipulations and then to initiate the disconnect proceeding as outlined on the form. Customer understands and acknowledges that TNCI's disconnection process takes approximately thirty (30) calendar days from the date TNCI receives a valid disconnect form from Customer. Charges may continue to accrue for Service for a period of time following cancellation. Customer owes payment for all billed and as of yet unbilled amounts, including Charges that accrue following the date of cancellation. At the time of cancellation, Customer is responsible for porting any telephone numbers to another carrier in order to continue service.
- b) In the event TNCI provides Customer with a formal disconnection letter, Customer acknowledges and assents to providing TNCI written, signed confirmation of Customer's intent to discontinue Service with TNCI within five (5) calendar days from the date contained on the disconnection letter. In the event TNCI does not receive Customer's written, signed notice of intent to discontinue Service within the aforementioned five (5) calendar day timeframe, Customer acknowledges and assents to TNCI's implementation of formal disconnection processes upon the expiration of not less than five (5) calendar days from the date contained on the disconnection letter provided to the Customer by TNCI regardless of whether Customer has provided TNCI with a signed confirmation.
- c) As an expense recovery and not a penalty, in the event of cancellation, TNCI shall charge Customer, and Customer shall pay TNCI for the following based on Customer's applicable TLA (Term Liability Assessment):
 - a. **Pre Service Activation/Pre Loop Accept:**
 - i. Should Customer cancel the request for Service(s), Customer will be charged \$150.00 per DS1 circuit; \$500.00 per DS3 or OCx circuit and all installation fees associated with the order even if the fees were originally waived by TNCI.
 - b. **Post Service Activation/Post Loop Accept:**
 - i. **Initial Service Term**
Should Customer, within an initial Service Term, cancel Service(s) after activation, Customer will be charged from the date a properly executed disconnection acknowledgement is received by TNCI, for all installation fees associated with said order even if fees were originally waived, less any amounts paid by Customer for installation, \$150.00 per DS1 circuit or \$500.00 per DS3 or OCx circuit, plus the monthly charges for the number of months remaining in the term (as provided for in the Service Documents), plus any unpaidd fees.

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- ii. Service Reterm
Should Customer, within a Service reterm, cancel Service(s) after activation of requested Service(s), Customer will be charged from the date a properly executed disconnection acknowledgement is received by TNCI for \$150.00 per DS1 circuit or \$500.00 per DS3 or OCx circuit, plus the monthly charges for the number of months remaining on the reterm (as provided for in the Service Documents), plus any unpaid fees.
- iii. Month-to-Month Service Term
Should Customer, within a month-to-month Service Term, cancel Service(s) after activation of the requested Service(s), Customer will be charged from the date a properly executed disconnection acknowledgement is received by TNCI for one (1) month's worth of MRCs and any applicable NRCs.

d) **Carrier Provided Access**

Upon notification by Customer of the request to disconnect Service(s) the underlying carrier, who is the Customer of Record for the local loop portion, has the ability and the information to undertake the cancellation of that circuit through to completion along with end-dating the attendant monthly recurring charges. This process normally takes thirty (30) calendar days to complete and end-date.

15. **SERVICE RELOCATION**

Should Customer elect to deactivate TNCI Telastic Service in order to move to another geographic location serviced by TNCI (i.e., "move") and TNCI permits such deactivation and relocation, Customer may be charged for the respective disconnection fees in addition to move or relocation fees, installation fees, miscellaneous charges, and revisions or modifications (including rate and/or term increases) to MRCs. In the event a relocation request may not be effectuated on Customer's existing circuit and TNCI requires a new circuit be installed, Customer may cancel initial Service and initiate a new order at the new location. Applicable rates and cancellation charges, including a TLA, will apply.

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