



HOSTED VOIP SERVICE

Telava™ VINCE Hosted VoIP Basic Services

1. SERVICE DESCRIPTION. Telava VINCE Hosted VoIP Basic Services ("Service" or "Hosted VoIP Services") is a service offering consisting of (i.) Professional Services project management and turnkey implementation of the Telava-provided hosted VoIP solution and network services; (ii.) the provision of manufacturer hardware and software applications, telephone handset(s) and related applications (collectively "Equipment") at Customer-specified service location(s) ("Premises"); (iii.) the furnishing of voice and data access, local, and long distance services; (iv) the service and support of Equipment at such Premises; (v.) on-going lifecycle management; (vi.) remote moves, adds, and changes; (vii.) proactive monitoring and alerting. Service is provided, in part, via a PBX that typically accommodates customers with IP telephone stations and allows access to Telava's network.

The Hosted VoIP Service provides basic voice service calling features with each extension ordered. Customer may select from Telava certified IP telephone handsets. In order for Customer to qualify for IP telephone handsets for use in connection with the Service, Customer must qualify itself as IP-ready. Telava will evaluate, design, provision, maintain and manage Service based on a configuration proposed to, and accepted by, Customer as detailed in the accompanying Statement of Work ("SOW"). In the event of any inconsistency between the terms and conditions set forth in the SOW and these Service terms, these Service terms will control.

2. TERM - The term of this Agreement ("Term") begins on the Effective Date of the signed SOA (Customer Sales Order Agreement) and continues for the length identified in SOA, unless terminated earlier as provided in Section 9 of this Agreement. At the end of the current Term, the Term is automatically renewed for an additional one year period unless Customer provides Telava with written notification of intention to cancel the service within sixty (60) days prior to the end of the current Term. Customer agrees to pay for Services for the duration of the Term. Expiration of the Term does not alleviate Customer of responsibility for paying all unpaid, accrued charges due hereunder. If Customer chooses to cancel the Service or any portion of the Service prior to the end of the current Term, disconnection fees may apply as set forth in Section 9 of this Agreement.

2.1. PRICING AND PRICE CHANGES. Cancellation of Service by Customer after Service is ordered, but prior to Service availability will result in early termination charges. Changes to an accepted VINCE Hosted VoIP Service configuration prior to its installation will result in configuration change charges. Refusal by Customer to accept Service upon its availability will result in a "Not Ready for Service" or delay charge. Telava may modify the rates and prices for Service. If it does so, Telava will notify Customer in writing in advance of any price increase in accordance with the requirements set forth in the General Terms and Conditions but any price reduction will be effective without notification to Customer.

2.2. SECURITY DEPOSIT. Telava reserves the right to require, and Customer agrees to promptly pay, a security for the performance by Customer of its obligation under this Agreement. Security Deposit will be applied as credit back to Customer in the last monthly invoice of the original term of this Agreement.

3. 911 & SERVICE LIMITATIONS - The Federal Communications Commission ("FCC") requires that Telava provide E911 Service to all customers who use Telava services within the United States.

3.1. CUSTOMER ACKNOWLEDGES THAT TELAVA'S EQUIPMENT AND SERVICES DO NOT SUPPORT 911 EMERGENCY DIALING OR OTHER EMERGENCY FUNCTIONS IN THE SAME WAY THAT TRADITIONAL LAND LINE 911 SERVICES WORK. THE DIFFERENCES ARE DETAILED IN THIS SECTION 3 AND CUSTOMER HEREBY AGREES TO NOTIFY ANY POTENTIAL USER OF THE SERVICES, WHO MAY PLACE CALLS USING CUSTOMER'S SERVICES, OF THE 911 LIMITATIONS DESCRIBED HEREIN. TELAVA WILL PROVIDE CUSTOMER WITH WARNING LABELS REGARDING THE LIMITATIONS OR UNAVAILABILITY OF 911 EMERGENCY DIALING. CUSTOMER AGREES TO PLACE A LABEL ON AND/OR NEAR EACH TELEPHONE OR OTHER CUSTOMER PREMISE EQUIPMENT ON WHICH THE SERVICES MAY BE UTILIZED. IF ADDITIONAL LABELS ARE REQUIRED, CUSTOMER MAY REQUEST THEM FROM TELAVA. TELAVA WILL PROVIDE CUSTOMER WITH ADVISORY NOTICES REGARDING 911 EMERGENCY DIALING AND REQUEST ACKNOWLEDGMENTS FROM CUSTOMER. CUSTOMER AGREES TO RESPOND AND AFFIRMATIVELY ACKNOWLEDGE THAT TELAVA HAS ADVISED CUSTOMER OF THE CIRCUMSTANCES UNDER WHICH TELAVA E911 SERVICE MAY NOT BE AVAILABLE OR MAY BE LIMITED IN COMPARISON TO TRADITIONAL 911 EMERGENCY DIALING. TELAVA ADVISES CUSTOMER TO MAINTAIN AN ALTERNATIVE MEANS OF ACCESSING TRADITIONAL 911 SERVICES.

3.2. CUSTOMER ACKNOWLEDGES THAT THE SERVICES WILL NOT FUNCTION IN THE ABSENCE OF ELECTRICAL POWER.

3.3. CUSTOMER ACKNOWLEDGES THAT THE SERVICES WILL NOT FUNCTION PROPERLY IF THERE IS AN INTERRUPTION OR A LACK OF BANDWIDTH OF CUSTOMER'S BROADBAND OR HIGH-SPEED INTERNET ACCESS SERVICE.

3.4. CUSTOMER ACKNOWLEDGES THAT THE SERVICES ARE NOT SET UP TO FUNCTION WITH OUTDIALING SYSTEMS INCLUDING HOME SECURITY SYSTEMS, MEDICAL MONITORING EQUIPMENT, TTY EQUIPMENT, AND ENTERTAINMENT OR SATELLITE TELEVISION SYSTEMS. CUSTOMER HEREBY WAIVES ALL CLAIMS AGAINST TELAVA FOR INTERRUPTION OR DISRUPTION OF SUCH SYSTEMS BY THE SERVICES.

3.5. TELAVA E911 SERVICE IS A MANDATORY COMPONENT OF ALL INBOUND/OUTBOUND FAX AND VOICE SERVICE PLANS. E911 SERVICE IS NOT OFFERED ON VIRTUAL NUMBERS, TOLL FREE NUMBERS OR SIMILAR SERVICE ACCESSORIES OR ADD-ON PLANS. E911 SERVICE IS ONLY AVAILABLE IN SELECTED AREAS. CUSTOMERS WHO SUBSCRIBE TO TELAVA E911 SERVICE WILL BE REQUIRED TO REGISTER THE PHYSICAL LOCATION OF THEIR EQUIPMENT (ATA or IP PHONE) WITH TELAVA, EITHER ON THE VINCE USER PORTAL, INITIAL ORDER FORMS OR BY CALLING CUSTOMER SERVICE, AND AGREE TO UPDATE THE LOCATION WHENEVER THE PHYSICAL LOCATION OF SERVICE CHANGES. CUSTOMER ACKNOWLEDGES THAT TELAVA'S ONLY MECHANISM FOR ROUTING 911 CALLS TO THE CORRECT EMERGENCY CALL TAKER IS THE PHYSICAL LOCATION CURRENTLY REGISTERED FOR THE ACCOUNT. CUSTOMER ACKNOWLEDGES AND UNDERSTANDS THAT ANY ENHANCED LOCATION INFORMATION PASSED TO AN EMERGENCY OPERATOR BY TELAVA WILL BE BASED UPON THE PHYSICAL LOCATION PROVIDED TO TELAVA BY CUSTOMER. IN THE EVENT THAT THE PHYSICAL LOCATION HAS NOT BEEN UPDATED OR IS NOT COMPLETE, TELAVA MAY ATTEMPT TO ROUTE A 911 CALL BASED UPON THE BILL-TO OR SHIP-TO ADDRESSES ASSOCIATED WITH THE CUSTOMER'S ACCOUNT OR INITIAL ORDER.

3.6. CUSTOMER ALSO ACKNOWLEDGES THAT TELAVA E911 SERVICE HAS CERTAIN CHARACTERISTICS THAT DISTINGUISH IT FROM TRADITIONAL, LEGACY, and CIRCUIT-SWITCHED 911 SERVICE. THESE CHARACTERISTICS MAY MAKE TELAVA'S E911 SERVICES UNSUITABLE FOR SOME CUSTOMERS. BECAUSE EACH CUSTOMER'S CIRCUMSTANCES MAY VARY WIDELY, CUSTOMERS SHOULD CAREFULLY EVALUATE THEIR OWN CIRCUMSTANCES WHEN DECIDING WHETHER TO RELY SOLELY UPON TELAVA E911 SERVICE. CUSTOMER ACKNOWLEDGES THAT IT IS CUSTOMER'S RESPONSIBILITY TO DETERMINE THE TECHNOLOGY OR COMBINATION OF TECHNOLOGIES BEST SUITED TO MEET CUSTOMER'S EMERGENCY CALLING NEEDS, AND TO MAKE THE NECESSARY PROVISIONS FOR ACCESS TO EMERGENCY CALLING SERVICES (SUCH AS MAINTAINING A CONVENTIONAL LANDLINE PHONE OR WIRELESS PHONE AS A BACKUP MEANS OF COMPLETING EMERGENCY CALLS). THE FOLLOWING CHARACTERISTICS DISTINGUISH TELAVA E911 SERVICE FROM TRADITIONAL, LEGACY, CIRCUIT-SWITCHED 911 SERVICE

** TELAVA E911 SERVICE WILL NOT FUNCTION IF CUSTOMER'S ATA or IP PHONE FAILS OR IS NOT CONFIGURED CORRECTLY OR IF CUSTOMER'S TELAVA SERVICE IS NOT FUNCTIONING FOR ANY REASON, INCLUDING, BUT NOT LIMITED TO, ELECTRICAL POWER OUTAGE, BROADBAND SERVICE OUTAGE, OR SUSPENSION OR DISCONNECTION OF SERVICE BECAUSE OF BILLING OR OTHER ISSUES. IF THERE IS A POWER OUTAGE, CUSTOMER MAY BE REQUIRED TO RESET OR RECONFIGURE THE EQUIPMENT BEFORE BEING ABLE TO USE THE TELAVA SERVICE, INCLUDING FOR E911 PURPOSES.

** AFTER INITIAL ACTIVATION OF THE E911 SERVICE, AND FOLLOWING ANY CHANGE OF AND UPDATE TO CUSTOMER'S PHYSICAL LOCATION, THERE MAY BE SOME DELAY BEFORE THE AUTOMATIC NUMBER AND LOCATION INFORMATION IS PASSED TO THE LOCAL EMERGENCY SERVICE OPERATOR. THIS INFORMATION IS TYPICALLY POPULATED INTO TELAVA'S NOMADIC E911 DATABASES PRIOR TO SERVICE ACTIVATION, BUT NO GUARANTEE CAN BE MADE THAT THE AUTOMATIC NUMBER AND LOCATION INFORMATION WILL BE ACTIVATED WITHIN THIS SCHEDULE.

** AFTER INITIAL ACTIVATION OF THE E911 SERVICE, AND FOLLOWING ANY CHANGE OF AND UPDATE TO CUSTOMER'S PHYSICAL LOCATION, THERE MAY BE SOME DELAY BEFORE THE AUTOMATIC NUMBER AND LOCATION INFORMATION IS PASSED TO THE LOCAL EMERGENCY SERVICE OPERATOR. THIS INFORMATION IS TYPICALLY POPULATED INTO TELAVA'S NOMADIC E911 DATABASES PRIOR TO SERVICE ACTIVATION, BUT NO GUARANTEE CAN BE MADE THAT THE AUTOMATIC NUMBER AND LOCATION INFORMATION WILL BE ACTIVATED WITHIN THIS SCHEDULE.

** THE LOCAL EMERGENCY SERVICE OPERATOR RECEIVING TELAVA E911 EMERGENCY SERVICE CALLS MAY NOT HAVE A SYSTEM CONFIGURED FOR E911 SERVICES OR BE ABLE TO CAPTURE AND/OR RETAIN AUTOMATIC NUMBER OR LOCATION INFORMATION. THIS MEANS THAT THE OPERATOR MAY NOT KNOW THE PHONE NUMBER OR PHYSICAL LOCATION OF THE PERSON WHO IS MAKING THE TELAVA E911 CALL. DUE TO TECHNICAL FACTORS IN NETWORK DESIGN, AND IN THE EVENT OF NETWORK CONGESTION ON THE TELAVA NETWORK, THERE IS A POSSIBILITY THAT A TELAVA E911 CALL WILL PRODUCE A BUSY SIGNAL OR WILL EXPERIENCE UNEXPECTED ANSWERING WAIT TIMES AND/OR TAKE LONGER TO ANSWER THAN 911 CALLS PLACED VIA TRADITIONAL, LEGACY, CIRCUIT-SWITCHED TELEPHONE NETWORKS.

** IF A CUSTOMER DOES NOT CORRECTLY IDENTIFY THE ACTUAL LOCATION WHERE THE TELAVA EQUIPMENT WILL BE LOCATED AT THE TIME OF ACTIVATION OF THE SERVICE, TELAVA E911 COMMUNICATIONS MAY NOT BE DIRECTED TO THE CORRECT LOCAL EMERGENCY OPERATOR.

3.7. CUSTOMER ACKNOWLEDGES AND UNDERSTANDS THAT TELAVA WILL NOT BE LIABLE FOR ANY SERVICE OUTAGE AND/OR INABILITY TO DIAL 911 OR ANY OTHER EMERGENCY TELEPHONE NUMBER USING TELAVA OR TO ACCESS AN EMERGENCY SERVICE OPERATOR DUE TO THE 911 DIALING CHARACTERISTICS AND LIMITATIONS SET FORTH IN THIS AGREEMENT. CUSTOMER AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS TELAVA, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES AND AGENTS AND ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICES TO CUSTOMER IN CONNECTION WITH THE SERVICES, FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, FINES, PENALTIES, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEY FEES) BY, OR ON BEHALF OF, CUSTOMER OR ANY THIRD PARTY OR USER OF THE SERVICE RELATING TO THE FAILURE OR OUTAGE OF THE SERVICE, INCLUDING THOSE RELATED TO 911 DIALING.

4. EQUIPMENT - To provide the Services, Telava may provide certain equipment to Customer, including Provider Equipment (as defined below) and Customer Premise Equipment (as defined below). All equipment shipments are F.O.B. Telava's facility. Telava's liability for delivery shall cease, and title (if applicable) and all risk of loss or damage shall pass to Customer upon delivery to Customer. Customer will be provided a twelve (12) month warranty from the date of purchase of equipment. Customer shall be required to obtain an authorization from Telava to return any equipment. Telava will provide replacement equipment only if the equipment is deemed to be defective and covered under the warranty. Telava will not cover replacement for lost, stolen or modified equipment. Equipment returned by Customer that is not covered under warranty may be refused by Telava and Customer will be responsible for all return shipping charges. To the extent that this Agreement includes the installation, management and maintenance of Telava owned equipment, as described on the Customer Sales Order Form, at each location shown thereon (the "Provider Equipment") and certain customer premise equipment, including IP phones (the "Customer Premise Equipment", together with Provider Equipment, the "Equipment"), the parties agree as follows:

4.1. As part of the Services, to the extent Telava may furnish telecommunication and digital transmission connections and links, switches, routers, telephones, and other hardware, they shall be considered Provider Equipment hereunder.

4.2. As part of the Services, to the extent Customer purchases Certain Premise Equipment pursuant to the Customer Premise Equipment Purchase Agreement, they shall be considered Certain Premise Equipment hereunder.

4.3. Customer shall take such actions as are directed by Telava to protect the Equipment and shall keep such Equipment free and clear from all liens, claims and encumbrances. Customer acknowledges that Telava may take whatever steps deemed necessary to perfect and protect its interest in the Equipment, including, but not limited to the filing of a Uniform Commercial Code financing statement, with respect to which Customer hereby grants to Telava a limited power of attorney to execute any such document on Customer's behalf.

4.4. Customer bears the entire risk of loss, theft, destruction or damage to the Equipment and Customer shall maintain insurance covering each piece of Equipment in an amount equal to the replacement value thereof with an insurer acceptable in the sole discretion of Telava.

4.5. Customer shall not move, configure, reconfigure, program or otherwise affect the Equipment in any manner without the prior written consent of Telava.

4.6. TELAVA MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT, ITS MERCHANTABILITY, OR ITS FITNESS FOR A PARTICULAR PURPOSE.

4.7. Telava shall not be liable to Customer or any other person for direct, indirect, special, incidental or consequential damages arising from Customer's use of the Equipment or for damages based on strict or absolute tort liability or Telava's negligence.

4.8. Customer hereby acknowledges that any manufacturer's or supplier's warranties with respect to the Equipment are passed on to Customer by Telava in good operating condition to the extent assignable.

4.9. At the end of the Term, Customer shall return any Telava owned Equipment or leased Equipment to Telava, at Customer's expense.

4.10. Customer shall provide appropriate equipment space, environment, ducting and electrical power to enable the Equipment to be installed and maintained and Telava to provide the Services.

4.11. Customer hereby agrees to comply with the conditions of any license and/or warranty of any Equipment supplied by Telava.

5. TELEPHONE NUMBER - Any telephone number provided by Telava ("**Number**") to the Customer shall be considered leased and not sold. Customer shall not use the Number with any device other than the Equipment without the express written permission of Telava. Telava reserves the right to change, cancel or move the Number at its sole discretion. At Telava's discretion, Telava may release the Number to Customer at the end of the Term.

6. PROHIBITED USES - Any use of the Services or any other action that causes a disruption in the network integrity of Telava or its vendors, whether directly or indirectly, is strictly prohibited and could result in termination of the Services at the sole discretion of Telava. Customer understands that neither Telava nor its vendors are responsible for the content of the transmissions that may pass through the Internet and/or the Services. Customer agrees that it will NOT use the Services in ways that violate laws (including but not limited to laws prohibiting transmission of unsolicited fax advertisements), infringe the rights of others, or interfere with the users, services, or equipment of the network. Customer agrees and represents that it is purchasing the Services and/or the Equipment for its own internal use only, and shall not resell, transfer or make a charge for the Services or the Equipment without the advance express written permission of Telava.

Telava's Service Plans for Business Customers that offer unlimited minutes of PSTN calls ("**Unlimited PSTN Plans**") are for reasonable business use of Customer only. Telava defines the reasonable business use by Customer as 2,000 minutes per month. Such use shall not include certain activities including, but not limited to, any autodialing, continuous or extensive call forwarding, continuous connectivity, fax broadcast, fax blasting, telemarketing (including without limitation charitable or political solicitation or polling), call center operations, junk faxing, fax spamming, calling/faxing any person (through the use of distribution lists or otherwise) who has not given specific permission to be included in such a process or any other activity that would be inconsistent with reasonable business usage. Customer shall not transmit through the Service any unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene or otherwise objectionable material of any kind or nature. Customer further agrees not to transmit any material that encourages conduct that could constitute a criminal offense, give rise to civil liability or otherwise violate any applicable local, state, national or international law or regulation. Any use found to be inconsistent with this restriction will result in termination of the Service. Telava reserves the right to immediately terminate or modify the pricing of Services of any Customer using Unlimited PSTN Plans if Telava determines, in its sole discretion, that Customer is not using the Unlimited PSTN Plans for Customer's reasonable business use.

7. CHANGES TO THE AGREEMENT, SERVICES OR PLAN - Telava reserves the right to make changes to the terms and conditions of this Agreement. In the event of a change of such terms and conditions, Telava will post the change to the web site currently located at <http://www.telava.com/legal.aspx>. Customer reserves the right to cancel this Agreement if it finds the change in terms and conditions to be unacceptable. However, a change in international toll rates does not represent a change in terms to the Agreement. Any cancellation must be in writing and presented to Telava within fifteen (15) days of Telava's notice of the change. Customer may request a Plan change at anytime, subject to any applicable change of service fee and additional terms and conditions. The Plan change will take effect in the first month after the Plan is changed.

8. NOTICE - Notice will be considered received by Customers and such changes will become binding to Customers, on the effective date of changes are posted to the web site ("**Change Date**"), and no additional notice will be required. If Customer does not send Telava notification of their desire to terminate this Agreement or uses the Service after the Change Date, Customer is deemed to have accepted and consented to the change of terms and conditions of the Service. If Customer does not consent to the change of Service and terminates this Agreement, Customer will be responsible for any sums due hereunder in addition to any applicable disconnection fee pursuant to Section 10. Customer may request a Plan change at anytime, subject to any applicable change of service fee and additional terms and conditions.

All notices to Telava must be in writing and may be mailed to:

Telava
Attn: Contract Department
353 Sacramento Street
Suite 1500
San Francisco, CA 94111
Notices may also be faxed to 415-321-3496 or sent by electronic mail to notification@telava.com

9. TERMINATION - Customer agrees to provide Telava with thirty (30) days written notice of termination. Customer shall be responsible for the full monthly service fee for the month after which the notice of termination of Service is provided to Telava. Telava reserves the right, at its sole discretion, to suspend, terminate or change the Services without advance notice for any reason, including without limitation, misuse of the Services in any way, Customer's breach of this Agreement, Customer's failure to pay any sum due hereunder, suspected fraud or other activity by Customer that adversely affects the Services, Telava, Telava's network or other Customers' use of the Services. Telava reserves the right to determine, at its sole discretion, what constitutes misuse of the Services and Customer agrees that Telava's determination is final and binding on Customer. Telava may require an activation fee to change or resume a terminated or suspended account. All current and past due balances for Services must be paid in full upon termination.

If Customer chooses to cancel the Service or any portion of the Service prior to the end of the current Term, a disconnection fee of \$150 per extension/trunk will be charged. Certain third-party products and service included in the Service, which may include broadband services, managed routers and customer leased telephones may not be eligible for early termination. In such an event, Customer shall be liable for payment of all such third-party products and services until the end of the Term of the Agreement.

10. PRIVACY - Telava utilizes the public Internet and third-party networks to provide fax, voice and video communication services. Accordingly, Telava cannot guarantee the security of fax, voice and video communications of Customer. Telava is committed to respecting a Customer's privacy. Once the Customer chooses to provide personally identifiable information, it will only be used in the context of the Customer's relationship with Telava. Telava will not sell, rent, or lease Customer's personally identifiable information to others. Unless required by law or subpoena or if Customer's prior permission is obtained, Telava will only share the personal data Customer provides with other Telava entities and/or business partners that are acting on Telava's behalf to complete the activities described herein. Such Telava entities and/or national or international business partners are governed by Telava's privacy policies with respect to the use of this data. Telava is required to file numerous reports with different administrative bodies. As such, Telava may provide aggregate statistics about customers, sales and traffic patterns. None of these reports or statistics will include personally identifiable information. However, Telava reserves the right to use personally identifiable information to investigate and help prevent potentially unlawful activity that threatens either Telava or any company affiliated with Telava. Moreover, upon the appropriate request of a government agency, law enforcement agency, court or as otherwise required by law, Telava may disclose personally identifiable information. For full privacy policy, please go to www.telava.com/privacy.

11. RETURNS AND ADJUSTMENTS - No Equipment may be returned by Customer for any reason without prior approval of Telava. All returns shall be in original packaging or equivalent. Customer shall be responsible for all costs related to shipping to Telava any Equipment that is being returned. Any Equipment returned to Telava without prior authorization for its return or proper packaging may be refused. In order to obtain an appropriate refund, upon cancellation Customer must immediately obtain a return material authorization (RMA) number from Telava, return to Telava any Equipment provided or leased hereunder, undamaged and in good working condition, in its original packaging and with its original content or otherwise will be immediately responsible for paying to Telava an amount equal to the fair retail price of the Equipment minus any payments Customer had previously paid specifically for such Equipment.

12. TRAINING AND TECHNICAL SUPPORT - Telava will provide online or telephone training and system operation instruction immediately after installation and commencement of Services. Training will be provided by Telava customer support staff and will be customized for the Customer's business requirements. Telava will also provide Customer with ongoing, prescheduled online training sessions through webinars by the Telava Customer Support department. Additional personalized onsite training is available at an extra cost.

13. START DATE AND ACCEPTANCE - For the purposes of this Agreement, "start date" is defined as the date upon which the first Equipment is installed at the premises and is capable of providing substantially all of the basic services for which such Equipment is intended. The "estimated in service date" is only an approximate date of when the Equipment will be installed and ready for service. Provider shall not be liable for special consequential or punitive damages for causes beyond its reasonable control or unforeseen circumstances causing delays in delivery or

installation of the Equipment. Customer agrees not to withhold any scheduled payments due to such problems. Customer agrees to pay any remaining payment that is due and shall confirm the cutover date by executing a Delivery and Acceptance certificate. It shall be conclusively presumed that Customer's execution of the Delivery and Acceptance certificate confirms Customer's inspection, satisfaction and unqualified acceptance of the Equipment.

14. BREACH - In the event of Customer's breach of the terms of this Agreement, including without limitation, failure to pay any sum due hereunder, Customer shall reimburse Telava for all attorney, court, collection and other costs incurred by Telava in the enforcement of Telava's rights hereunder and Telava may keep any deposits or other payments made by Customer.

15. INDEMNIFICATION - Customer shall indemnify Telava, its affiliates, officers, directors, licensees and licensors from any and all claims and expenses, including, without limitation, reasonable attorney's fees arising from Customer's breach of any provision of this Agreement or asserted by third parties against Telava arising from Customer's use of the Equipment or the Services or from any other action or inaction by Customer.

16. DISCLAIMER OF CONSEQUENTIAL DAMAGES - IN NO EVENT SHALL TELAVA OR ITS VENDORS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES OR FOR ANY DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF DATA, LOSS OF REVENUE OR PROFITS, OR ARISING OUT OF OR IN CONNECTION WITH THE USE OR INABILITY TO USE SERVICES OR PRODUCTS PROVIDED HEREUNDER WHETHER DUE TO A BREACH OF CONTRACT, BREACH OF WARRANTY, THE NEGLIGENCE OF TELAVA OR ITS VENDORS OR OTHERWISE.

17. WARRANTY AND LIABILITY LIMITATIONS - TELAVA MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NEITHER TELAVA NOR ITS VENDORS WILL BE LIABLE FOR UNAUTHORIZED ACCESS TO TELAVA'S OR CUSTOMER'S TRANSMISSION FACILITIES OR PREMISE 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 DEVICES, OR ANY OTHER METHOD, REGARDLESS OF WHETHER SUCH DAMAGE OCCURS AS A RESULT OF TELAVA'S OR ITS VENDORS' NEGLIGENCE. ANY CLAIM AGAINST TELAVA MUST BE MADE WITHIN 30 DAYS OF THE EVENT OF THE CLAIM OR 30 DAYS FROM THE TERMINATION OF SERVICE, WHICHEVER IS EARLIER AND TELAVA HAS NO LIABILITY THEREAFTER. TELAVA'S LIABILITY IS LIMITED TO REPAIR, REPLACEMENT, CREDIT OR REFUND. TELAVA MAY ELECT TO PROVIDE A REFUND IN LIEU OF CREDIT, REPLACEMENT OR REPAIR. ALL WARRANTIES COVER ONLY DEFECTS ARISING UNDER NORMAL USE AND DO NOT INCLUDE MALFUNCTIONS OR FAILURES RESULTING FROM MISUSE, ABUSE, NEGLIGENCE, ALTERATION, MODIFICATION, IMPROPER INSTALLATION, OR REPAIRS BY ANYONE OTHER THAN TELAVA. IN NO EVENT SHALL TELAVA'S TOTAL LIABILITY HEREUNDER EXCEED THE AMOUNTS PAID BY CUSTOMER TO TELAVA IN THE PRIOR TWELVE (12) MONTHS FROM DATE OF CLAIM.

18. CUSTOMER SATISFACTION GUARANTEE – If Customer is unsatisfied with Telava's Services and if for any reason Customer wishes to cancel all or part of Customer's Service bundle within 30 days of activation, the customer may obtain a refund of service and equipment fees. To cancel and obtain a refund, Customer must cancel their Service within 30 days of the activation of their account by completing a cancellation form. Returns require a RMA number and Customer is responsible for return shipping charges. Customer must contact Customer Care to cancel Service and obtain a RMA number. Customer will be refunded a service fee, leasing fee (if applicable) and a disconnect fee in a timely manner after Telava receives Customer's Equipment, cancellation notice and any leased equipment. Equipment returned without a valid RMA number will not be eligible for the Customer Satisfaction Guarantee. Customer is responsible for all long distance and directory assistance call charges. Equipment must be returned in the original packaging in good working condition, with the UPC or bar code intact. All components, manuals and registration card(s) must be included. All returned equipment may incur a 25% restocking fee of the purchase price. Equipment must be returned at Customer's expense to a local dealer or through a commercial carrier. Customer must return equipment within seven (7) days of cancellation. The Customer Satisfaction Guarantee will not be issued if all of the above requirements are not met.

19. EXPORT COMPLIANCE - Customer agrees to comply with U.S. export laws concerning the transmission of technical data and other regulated materials via the Services. Customer agrees to comply with applicable local, state and federal regulations governing the locality in which the Equipment and Services are used.

20. PHONE NUMBERS AND WEB PORTAL DISCONTINUANCE - Upon expiration, cancellation or termination of the Services, Customer shall relinquish and discontinue use of any telephone numbers, voice mail or conference bridge access numbers and/or web portals assigned to Customer by Telava or its vendors.

21. SURVIVAL - The provisions of section 3, 4, 12, 14, 15, 16, 17, 20, 22 and 23 shall survive any termination of this Agreement.

22. FORCE MAJEURE (EVENTS BEYOND OUR CONTROL) - Telava shall not be liable for any delay in performance directly or indirectly caused by or resulting from acts of God, fire, flood, accident, riot, war, government intervention, embargoes, strikes, labor difficulties, equipment failure, late delivery by suppliers or other difficulties of Telava as may occur in spite of Telava's reasonable efforts.

23. BROADBAND ACCESS SERVICE - If Telava supplies broadband access services to Customer in conjunction with other communications services offered, Customer will be responsible to Telava for all charges from the underlying broadband access service supplier including any setup charges incurred prior to activation and termination charges incurred after this Agreement has ended. In the event that Telava is supplying broadband access services, Customer hereby authorizes Telava to begin the process of activating service including providing the broadband access circuit to Customer's location(s). Customer confirms that Customer will be responsible for broadband access service charges even if: a) Customer delays activation of Customer's services; b) Customer terminates this Agreement; c) Customer is unable to lease or obtain Customer Premise Equipment; or d) if Customer takes any other action that would cause Telava to incur broadband access service charges as a result of this order. Any and all network hardware installed for operation of the broadband circuit, excluding all Customer Premise Equipments purchased by the Customer, shall remain the property of Telava during the term of this Agreement and after termination of Services.

24. SOFTWARE COPYRIGHT - Any software used by Telava to provide the Services and any software provided to Customer in conjunction with providing the Services are protected by copyright law and international treaty provisions. Customer may not copy the software or any portion of it.

25. ASSIGNMENT - Telava may assign this Agreement without Customer's prior consent and all of Telava's rights, title and interest herein shall inure to the benefit of such assignee, its successors and assigns. Customer shall not assign, without the prior written consent of Telava, which shall not be unreasonably withheld, its rights, duties or obligations under this Agreement to any person or entity, in whole or in part, whether by assignment, merger, transfer of assets, sale of stock, operation of law or otherwise, and any attempt to do so shall be deemed a material breach of this Agreement. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

26. ENTIRE AGREEMENT- These terms and conditions together with those set forth in the Service Order Agreement ("SOA" or "MSOA"), including any applicable attachments, as well as any applicable tariffs, Telava's Acceptable Use Policy ("AUP") found at www.telava.com/aup and the General Terms and Conditions found at www.telava.com/legal, all of which are incorporated herein by reference and made part of the Agreement govern Telava's provision of VINCE Hosted VoIP Basic Services.

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