



Thank you for choosing VoiceCool!

Promotion  
offer ends  
June 30,  
2007!

## Service Agreement

Please complete this order form and fax it back to us at (416) 214-6238.

### 1. ACCOUNT INFORMATION

Name:    Email:   
(Please Print) First Last

Service Address (where you will be using your VoiceCool service from):

# Street City Province Postal Code  
Phone  -  Promotion Code

### 2. SERVICE (please check all that apply)

Plan	Minutes	Monthly Fee	Annual Fee
<input type="checkbox"/> A) VoiceCool Local	Unlimited Local	<input type="checkbox"/> \$9.99 for the first two months; \$19.99 thereafter	<input type="checkbox"/> \$199.99
<input type="checkbox"/> B) VoiceCool 500	Unlimited local + 500 North America	<input type="checkbox"/> \$12.99 for the first two months; \$24.99 thereafter	<input type="checkbox"/> \$249.99
<input type="checkbox"/> C) VoiceCool Unlimited	Unlimited North America	<input type="checkbox"/> \$14.99 for the first two months; \$29.99 thereafter	<input type="checkbox"/> \$299.99
<input type="checkbox"/> D) VoiceCool Adapter	FREE! (\$89 value)		
<input type="checkbox"/> E) CoolBlue phone	FREE! (\$40 value)		
<input type="checkbox"/> Toronto PST (6%)	<input type="checkbox"/> Vancouver PST (7%)		
GST (8%)			
TOTAL FEES			

**30 Day Money Back Guarantee!** Available to new VoiceCool subscribers only. Based on a 12-month subscription term. Both VoiceCool monthly and annual plans include a 30-day money back guarantee. You will receive a full refund of the monthly fee paid by you, if you cancel your account, for any reason, within 30 days of activation of your account. See full terms and conditions for applicable terms.

Assign me a new VoiceCool phone number	<input type="checkbox"/>	<input type="checkbox"/> Toronto <input type="checkbox"/> Vancouver Select the city of your choice.
Keep my existing number	<input type="checkbox"/>	<input type="text"/> - <input type="text"/> Please enter the phone number you would like to transfer. <b>Important Note: Your phone number may not be transferable to VoiceCool. You will be contacted by a VoiceCool Representative if the number cannot be transferred.</b>

### 2a. TRANSFER YOUR NUMBER

Complete this section if you selected "Keep my existing number."

If you wish to retain your existing phone number for use with VoiceCool, you need to authorize VoiceCool to act on your behalf to transfer your number from your existing phone company to us.

Name of your Telephone Service Provider:	
Your Account Number: (as shown on your current Phone Company invoice)	
Your Full Name: (as shown on your current Phone Company invoice)	
Your Service Address: (as shown on your current Phone Company invoice)	
<input type="checkbox"/> I authorize VoiceCool to obtain equipment records from my current phone company for purposes of migration to VoiceCool.	




Thank you for choosing VoiceCool!

### 3. 911 Information Required

Please note that VoiceCool offers an alternative form of 911 service, which has some limitations and differences compared to traditional telephone service. Your 911 calls will be automatically routed to a specialized Call Centre that handles emergency calls from VoIP subscribers. You should be prepared to provide or confirm your address and call-back number with the operator. You should ensure the service address (the physical location from where you will be using your VoiceCool service) is kept current at all times. If you move your device to a new location and/or if you add a new line to your account, you must re-register your new address. VoiceCool 911 operates differently from traditional 911. See full VoiceCool 911 Terms of Service below.

☐ I have read, understood and accept the VoiceCool 911 Terms of Service.

<b>4. PAYMENT METHOD</b> (please check one only)		<b>A valid credit card is mandatory for the VoiceCool Service, as it will be used to recharge your account. The Card MUST belong to the Account Holder.</b>	
<b>Credit Card Information</b> (We only accept Visa or MasterCard) 	<input type="checkbox"/> Visa	<input type="checkbox"/> MasterCard	
	<b>Credit Card Number:</b>		
	<b>Expiry Date:</b>		
	Month                      Year		
<b>Signature:</b>	<b>Name on Credit Card:</b>		
<b>Billing Name:</b> (Please Print)	First	Last	<b>Phone</b>
<b>Address:</b>	#	Street	City                      Province                      Postal Code

These Terms and Conditions of Service constitute the agreement ("Agreement") by and between 1429481 Ontario Inc. o/a Pathway Communications Suite 500, 105 Commerce Valley Dr. W., Markham, Ontario L3T 7W3 ("**Pathway**") and Syntagma Network Services Ltd., 1100-1200 West 73rd Avenue, Vancouver, BC, V6P 6G5, ("**Syntagma**") (hereinafter individually and collectively referred to as "**VoiceCool™**", "**we**" or "**us**") operators of the "VoiceCool™" Residential Voice over IP ("VoIP") Telephone Service or Long Distance services and any related products or services (all of which are referred to as "Service") and the User ("You", "User" or "Customer") of the Service. This Agreement governs both the Service and any devices, such as an IP phone, Multimedia Terminal Adapter, Analog Telephone Adapter or any other IP connection device ("Device" or "Equipment"), used in conjunction with the Service and it applies to all lines on each VoiceCool™ account. If you purchased the Device, Equipment and Service from a retail store, dealer, reseller or provider other than VoiceCool™, you are a "Retail Customer" for purposes of this Agreement.

By signing this Agreement or using the Service you represent that you have read and fully understand this Agreement and agree that this Agreement becomes a legally binding contract between you and VoiceCool™. In addition to the other representations, warranties and agreements you make under this Agreement, you specifically represent and warrant that the person signing on your behalf is authorized to sign for, and bind, the Customer named herein. You confirm the information you have provided to VoiceCool™ is true to the best of your knowledge and that you are 18 years of age or older.

\_\_\_\_\_  
Signature of Customer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Customer



VoiceCool™

Thank you for choosing VoiceCool!

## VOICECOOL™ TERMS AND CONDITIONS OF SERVICE

These Terms and Conditions of Service constitute the agreement ("Agreement") by and between 1429481 Ontario Inc. o/a Pathway Communications Suite 500, 105 Commerce Valley Dr. W., Markham, Ontario L3T 7W3 ("Pathway") and Syntagma Network Services Ltd., 1100-1200 West 73rd Avenue, Vancouver, BC, V6P 6G5, ("Syntagma") (hereinafter individually and collectively referred to as "VoiceCool™", "we" or "us") operators of the "VoiceCool™" Residential or Business Voice over IP Telephone Service ("VoIP") or Long Distance services and any related products or services (each of which is referred to as a "Service") and the user ("You", "User" or "Customer") of the Service. This Agreement governs both the Service and any devices, such as an IP phone, Multimedia Terminal Adapter, Analog Telephone Adapter or any other IP connection device ("Device" or "Equipment"), used in conjunction with the Service and it applies to all lines on each VoiceCool™ account. If you purchased Equipment from a retail store, dealer or provider other than from VoiceCool™, you are a "Retail Customer" for purposes of this Agreement.

By signing this Agreement, or using the Service, you represent that you have read and fully understand this Agreement and agree that this Agreement becomes a legally binding contract between you and VoiceCool™. In addition to the other representations, warranties and agreements you make under this Agreement, you specifically represent and warrant that the person signing on your behalf is authorized to sign for, and bind, the Customer named herein. You confirm the information you have provided to VoiceCool™ is true to the best of your knowledge and that you are 18 years of age or older.

### 1.0 EMERGENCY SERVICES: 9-1-1 DIALING

- 1.1 **Non-Availability of Traditional 9-1-1 Service.** VoiceCool™ offers a form of 9-1-1 service (9-1-1 Dialling), which has some important differences and limitations when compared with 9-1-1 services available in conjunction with traditional telephone service. The 911 service provided by VoiceCool™ is not the traditional 911 emergency service. Calls will be automatically routed to a specialised Call Centre that handles emergency calls from VoIP subscribers. The specialized emergency center will be different from the public safety answering point, which handles traditional emergency calls. The call centre operator will request or confirm your location information and may then transfer your 9-1-1 call to an emergency response centre nearest to your location. You should be prepared to provide or confirm your address and call-back number with the operator. Do not hang up unless told directly to do so and if disconnected, you should dial 9-1-1 again.
- 1.2 **Registration of Physical Location.** You should ensure your location information, when registered with VoiceCool™, is kept current at all times. In case you are not able to speak during the 9-1-1 call, the call taker would dispatch emergency response vehicles to your last registered address. You must register your physical location from where you will be using the service, with that phone number, with VoiceCool™. If you move your device to a new location and/or if you add a new line to your account, you must re-register your new address. If you do not register your current or new location or if you make any changes to the VoIP services without first notifying VoiceCool™ or if you choose to operate your service outside of your registered address, the 911 Emergency feature will not operate properly and your ability to access the 911 Emergency Centre and feature will be adversely affected. Your 911 Emergency feature will not be activated until you receive confirmation from VoiceCool™, stating and confirming the details of your account and the status of the 911 Emergency feature.
- 1.3 **Service Outages.** You understand and acknowledge that your VoiceCool™ Service including 9-1-1 Dialling service will not function in the event of a power or broadband outage, or if your broadband ISP access or your VoiceCool™ Service is suspended or disconnected. If there are service outages or disruptions for any reason, such outages will prevent all VoiceCool™ Services, including the 911 Emergency feature from functioning. Following a power failure or disruption, you may need to reset or reconfigure your Device prior to utilizing the service, including 9-1-1 Dialling prior to using the VoIP services again.
- 1.4 **Re-Registration Requirements.** If you change your number or add or port new numbers, you must re-activate the service in order for all features to function properly, including the 911 Emergency feature. You must register your location of use of each changed, newly added or newly ported phone number.
- 1.5 **Reduced Speed of Answered 9-1-1 Calls.** There may be a greater possibility of network congestion and/or reduced speed in the routing or answering of 9-1-1 Dialling calls made utilizing the Service as compared to traditional 9-1-1 Dialling over traditional public telephone networks.
- 1.6 **Conveying Limitations To Other Household Residents And Guests.** You should inform any household residents, guests and other persons who may be present at the physical location where you utilize the VoiceCool™ service, of the important differences in and limitations of VoIP 9-1-1 Dialling service as compared with traditional 9-1-1 service set out above.
- 1.7 **Disclaimer of Liability and Indemnification.** We do not have any control over whether, or the manner in which, calls using VoiceCool™'s 9-1-1 Dialling service are answered or addressed by any local emergency response centre. We disclaim all responsibility for the conduct of local emergency response Centres and the national emergency calling centre. We rely on third parties to assist us in routing 9-1-1 Dialling calls to local emergency response centres and to a National Emergency Calling centre. We disclaim 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 VoiceCool™ nor its officers or employees may be held liable for any claim, damage, or loss, and you hereby waive any and all such claims or causes of action, arising from or relating to our 9-1-1 Dialling service. You shall defend, indemnify, and hold harmless VoiceCool™, its officers, directors, employees, affiliates and agents and any other service provider who furnishes services to you in connection the Service, from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without limitation, legal fees and expenses) by, or on behalf of, you or any third party relating to the absence, failure or outage of the Service, including 9-1-1 Dialling, incorrectly routed 9-1-1 Dialling calls, and/or the inability of any user of the Service to be able to use 9-1-1 Dialling or access emergency service personnel.
- 1.8 **Alternate 9-1-1 Arrangements.** If you are not comfortable with the limitations of the 9-1-1 Dialling service, you should consider having an alternate means of accessing traditional 9-1-1 or E9-1-1 services or disconnecting the Service.

### 2.0 SERVICE TERM

- 2.1 **Term.** The Service is offered on an annual, twelve month basis with a term that begins on the date that VoiceCool™ activates your Service and ends on the same date in the same month in the following year. Subsequent terms of this Agreement will automatically renew on a twelve month, annual, basis unless you give us written notice of your intent not to renew, at least two (2) months before the end of the annual term in which the notice is given. You are purchasing the Service for a full annual term, meaning that if you attempt to disconnect Service prior to the end of an annual term, you will be responsible for the full year's charges to the end of the then-current term, including, without limitation, unbilled charges, plus a disconnection fee, if applicable, all of which will immediately become due and payable. You will also be responsible for an additional two full months' charges in the event that you do not provide the requisite two-months' notice of disconnection prior to the expiration of the then-current term. Expiration of the term or Service disconnection will not excuse you from paying all accrued and unpaid charges due under this Agreement.
- 2.2 **Other Term Commitments.** If you accept an equipment upgrade or other promotion, such as free or discounted fee for months of service, a rebate or other incentive, there may be a minimum term commitment associated with the benefit you accepted. Your term begins the date you activate the new equipment or accept the promotion and ends on the last day of the commitment period. The commitment period will be disclosed as part of the promotion. If you disconnect service prior to the end of the commitment period, you agree to pay VoiceCool™ a recovery fee for the equipment and/or promotion you accepted. Recovery fees are cumulative and in addition to any other charges or fees you may owe VoiceCool™ and any fees or charges VoiceCool™ requires upon service disconnection. Each recovery fee is an amount equal to the difference between the price you paid and the regular price of the good or service at the time you accepted the equipment or promotion.

### 3.0 TYPES OF SERVICE



- 3.1 **VoiceCool™'s Residential Service.** If you subscribe to VoiceCool™'s Residential Services Plan, the Service and the Device are provided to you solely for residential use. You shall not resell or transfer the Service or the Device to another party without our prior written consent. You are prohibited from using the Service or the Device for auto-dialling, continuous or extensive call forwarding, telemarketing (including, without limitation, charitable or political solicitation or polling), fax or voicemail broadcasting or fax or voicemail blasting. We reserve the right to immediately disconnect or modify your Service if we determine, in our sole and absolute discretion, that your use of the Service or the Device is, or at any time was, inconsistent with normal residential usage patterns. In addition, you will be required to pay our higher rates for commercial service for all periods in which your use of the Service or the Device was inconsistent with normal residential use.
- 3.2 **VoiceCool™'s Business Service.** If you subscribe to VoiceCool™'s Business Services Plan, the Service and Device are provided to you as a small business user or business traveler. You shall not resell or transfer the Service or the Device to another party without our prior written consent. You are prohibited from using the Service or the Device for auto-dialling, continuous or extensive call forwarding, telemarketing (including, without limitation, charitable or political solicitation or polling), fax or voicemail broadcasting or fax or voicemail blasting. We reserve the right to immediately disconnect or modify your Service if we determine, in our sole and absolute discretion, that your use of the Service or the Device is, or at any time was, inconsistent with normal small business or business travel usage patterns, that you have at any time used the Service or the Device for any of the aforementioned or similar activities.
- 4.0 USE OF THE SERVICE OR DEVICE**
- 4.1 **Lawful Use.** You shall use the Service and the Device only for lawful purposes. We reserve the right to immediately disconnect your Service if, in our sole and absolute discretion, we determine that you have used the Service or the Device for an unlawful purpose. In the event of such disconnection you will be responsible for all charges to the end of the current annual term, including, without limitation, unbilled charges, plus a disconnection fee, if applicable, all of which will become immediately due and payable upon Service disconnection. If we believe that you have used the Service or the Device for an unlawful purpose, we may forward the relevant communication and other information, including your identity, to the appropriate authorities for investigation and prosecution. You hereby consent to our forwarding of any such communications and information to these authorities. In addition, VoiceCool™ 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.
- 4.2 **Appropriate Conduct.** You shall not use the Service or the Device in any way that is threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy or indicative of any similar behaviour. We reserve the right to immediately disconnect your Service without notice if, in our sole and absolute discretion, we determine that you have used the Service or the Device in any of the aforementioned ways. In the event of such disconnection, you will be responsible for all charges to the end of the current term, including, without limitation, unbilled charges, plus a disconnection fee, if applicable, all of which will become immediately due and payable upon Service disconnection. If we believe that you have used the Service or the Device in any of the aforementioned ways, we may forward the relevant communication and other information, including your identity, to the appropriate authorities for investigation and prosecution. You hereby consent to our forwarding of any such communications and information to these authorities. In addition, VoiceCool™ 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, VoiceCool™ reserves all of its rights at law and equity to proceed against anyone who uses the Services illegally or improperly.
- 4.3 **Use of Service Outside Canada.** Although it is possible to use the Service to place calls to foreign countries from within Canada, and to use your adapter to make calls while outside of Canada, we do not warrant that the Service will work in any country other than Canada and the United States. VoiceCool™'s Service is designed to work with unencumbered high-speed Internet connections. However, if the high-speed internet connection you are using is outside the United States, Canada or the UK, and/or your ISP places restrictions on the usage of VoIP services, VoiceCool™ does not represent or warrant that the VoiceCool™ Service will function or that the use of the VoiceCool™ Service by you will be permitted by any jurisdiction or by any or all ISPs. If you use the Service or the Device outside of Canada and the United States you will be solely responsible for any violations of local laws and regulations resulting from such use. We reserve the right to disconnect your Service immediately if we determine, in our sole and absolute discretion, that you have used the Service or the Device in violation of laws of jurisdictions outside Canada and the U.S.
- 4.4 **Unauthorized Usage.** You are not granted any license to use the firmware or software used to provide the Service or provided to you in conjunction with providing the Service, or embedded in the Device, other than as a non-transferable, revocable license to use such firmware or software (without making any modification thereto) strictly in accordance with the terms and conditions of this Agreement. You expressly agree that the Device is exclusively for use in connection with the Service and that we will not provide any passwords, codes or other information or assistance that would enable you to use the Device for any other purpose. We reserve the right to prohibit the use of any Device that we have not provided to you, or which has not been pre-approved by us for use by you. You hereby represent and warrant that you possess all required rights, including software and/or firmware licenses, to use any interface device that we have not provided to you. In addition, you shall indemnify and hold us harmless against any and all liability arising out of your use of such interface device with the Service. You 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.
- 4.5 **Excess Use.** In the event of excess usage of North American calling minutes, additional charges will apply. We reserve the right to suspend or terminate the Service if, in our sole and absolute discretion, your usage is excessive and not consistent with regular Residential or Business calling patterns. Usage is deemed excess when VoiceCool Unlimited services are in excess of 2,000 minutes per month.
- 4.6 **Tampering with the Device or Service.** You shall not, in any manner, tamper with, modify, change the electronic serial number or equipment identifier of the Device or perform a factory reset of the Device without our prior written consent. We reserve the right to disconnect your Service if we believe, in our sole and absolute discretion, that you have tampered with the Device. In the event of such disconnection, you will remain responsible for the full charges to the end of the current term, including, without limitation, unbilled charges, plus a disconnection fee, if applicable, all of which will immediately become due and payable. You shall not attempt to hack or otherwise disrupt the Service or make any use of the Service that is inconsistent with its intended purpose.
- 4.7 **Theft of Service.** You shall not use the Service in a manner calculated to avoid VoiceCool™ policies, procedures or payment requirements. You shall not obtain or use the Services in an improper manner. You shall notify us immediately, in writing or by calling our customer support line, if the Device is stolen or if you become aware at any time that your Service is being stolen, fraudulently used or otherwise being used in an unauthorized manner. When you call or write, you must provide your name, account number and a detailed description of the circumstances of the Device theft, fraudulent use or unauthorized use of Service. Failure to do so in a timely manner may result in the disconnection of your Service and additional charges to you. Until such time as we receive notice of the theft, fraudulent use or unauthorized use, you will be liable for all use of the Service using a Device stolen from you and any and all stolen, fraudulent or unauthorized use of the Service. VoiceCool™ reserves all of its rights at law and equity to proceed against anyone who uses the Services illegally or improperly.
- 4.8 **Copyright and Trademarks:** The Service and Device and any firmware or software used to provide the Service or provided to you in conjunction with providing the Service, or embedded in the Device, and all Services, information, documents and materials on our websites are protected by the trademark, copyright or other intellectual property rights of their respective owners and by laws and international treaty provisions. All VoiceCool™ websites, corporate names, service marks, trademarks, trade names, logos and domain names (collectively "Marks") are and will, at all time, remain our exclusive property. Nothing in this Agreement grants you the right or license to use any of our Marks.
- 5.0 DEVICE AND EQUIPMENT**
- 5.1 **Warranties.** The Device or Equipment provided to the Customer from VoiceCool, is covered by standard manufacturers' warranties. Should a defect occur with the Device during the first month of usage, VoiceCool will replace the Device free of charge. Should a defect occur in the Device after the first month of usage, you, the Customer, will be responsible for contacting the Device's manufacturer for service, repair or replacement. Disassembly



of, tampering with, lending out, repairing, failing to store the Device in a cool, dry, and well-ventilated area or carelessness in the use of the Device may nullify both VoiceCool's and the manufacturer's warranty. The Customer assumes complete ownership of the Device upon payment of full set-up and shipping fees to VoiceCool and upon the receipt of the Device from VoiceCool.

- 5.2 **Device or Equipment belonging to VoiceCool™.** Unless you have purchased the Device from VoiceCool™, you agree that the Device will, at all times remain the property of VoiceCool™ and that you have no right, title or interest therein. This condition also applies to circumstances where a Device has been provided to you, at no charge, as part of a VoiceCool promotional offer. If, while in your care, the Equipment is damaged, tampered with, lost, stolen, or if, in VoiceCool™'s sole discretion, the Equipment is returned in an unusable condition, you agree to pay the replacement value of the Equipment forthwith. If, in VoiceCool™'s sole discretion, the Equipment is not damaged beyond repair, you agree to immediately place such Equipment in good repair, at your sole cost, at locations specified by VoiceCool™. You acknowledge that performing a reset of the Equipment without permission from VoiceCool™ may cause Service malfunction and any damage to the Equipment caused by such malfunction will be your responsibility. Where the Equipment is owned by VoiceCool™, You will be responsible for charges for damage to the Equipment.

- 5.3 **Return of Device.** If you purchased the Service from a VoiceCool™ authorised Retail Store or Reseller, you may only return the Device to the retail store, reseller, dealer or other provider from which you purchased the Service or Device. All returns will be subject to the return policy of such retail store, dealer or other provider. We will not accept any Device returned to us if it was purchased from a VoiceCool™ - authorised store, reseller, dealer or other provider. You must contact VoiceCool™'s Customer Care Department and advise us that you wish to cancel your service. If you enrolled for the Service, directly with VoiceCool™, under the terms of a special promotional offer with a money-back guarantee you may return the Device to us before the expiration of the money-back guarantee period or end of any trial period or similar trial promotion offered by VoiceCool™, if such trial period or promotion was in force and was published on VoiceCool™'s VoIP Service web site when you purchased the Service. In such event, you must:
- Return the Device to us within ten (10) days of the date you cancelled Service.
  - Return the Device to us in original condition, reasonable wear and tear excluded;
  - Return original proof of purchase with the Device, together with the original packaging, all parts, accessories, and documentation;
  - Contact VoiceCool™'s Customer Care Department in writing and advise us of your intention to cancel the service and return the device, prior to returning the Device to us.
  - Receive confirmation from VoiceCool™'s Customer Care Department, in writing, that your request for cancellation of Service has been received.
  - Pay all costs of shipping the Device back to us (unless we indicate otherwise).
  - Write, on your packing slip and on the outside of the box: your name, address, phone number, and VoiceCool™ Account Number.

- 5.4 **Device Damaged On Receipt.** If you receive a Device that is visibly damaged, you must note the damage on the carrier's freight bill or receipt and keep a copy. In such event, you must keep the original carton, all packing materials and parts intact in the same condition in which they were received from the carrier and contact our customer care department within two business days of receipt of the damaged device.

- 5.5 **Ownership and Risk of Loss.** You will own the Device and bear all risk of loss of, theft of, casualty to or damage to the Device, from the time it is shipped to you until the time (if any) when the Device is returned to us in accordance with this Agreement.

- 6.0 **MONEY BACK GUARANTEE.** Any Money Back Guarantee offered as part of a sales or marketing promotion by VoiceCool™ applies only to new VoiceCool™ Customers who subscribe to the Service before the end of the promotion date, or other date specified by VoiceCool™ on its web site. You will receive a refund of the actual the monthly fee paid by you, if you cancel your account, for any reason, before the end of the specified and published period to which the Money Back Guarantee applies. You will, however, be responsible for paying all long distance calling charges which are not included in the monthly calling plan as well as those that are in excess of the permitted number of North American Long distance calling minutes described in Section 4.5 of this Agreement. The following additional conditions apply if you make use of the VoiceCool™ promotional Money Back Guarantee offer and cancel your VoiceCool™ account before the end of the specified and published period to which the Money Back Guarantee applies:

- You must email VoiceCool™ at [accounts@voicecool.com](mailto:accounts@voicecool.com) indicating your intention to cancel your service
- You must receive confirmation by email that your request for cancellation has been received.
- You will return the Device, CoolBlue Phone and all other Equipment and accessories to VoiceCool™ within ten days of cancellation of service.
- All returned equipment must be in fully usable and in good working condition, in the original packaging with the UPC or bar code intact. All components, accessories, manuals and documentation must be enclosed.
- If you do not return the equipment within ten days of the date of your service cancellation, a disconnection fee of \$139.99 will apply.

## 7.0 NUMBER PORTABILITY

- 7.1 **Number Transfer.** Upon disconnection of your Service, we may, in our sole and absolute discretion, subject to applicable law, release to your new service provider the telephone number that you ported (transferred or moved over) to us from your previous service provider and used in connection with your Service if:
- Such new service provider is able to accept such number;
  - Your account has been properly terminated;
  - Your account is completely current, including payment for all charges and applicable disconnection fees; and
  - You request the transfer upon disconnecting your account, and take the steps necessary to initiate a number port request with your new service provider.

## 8.0 SERVICE LIMITATIONS

- 8.1 **Not a traditional phone system.** The Service is not a traditional phone or telecommunications service and VoiceCool™ provides this on a best efforts basis. Important distinctions exist between traditional telecommunications services and the Service offering that we provide. The Service is subject to different regulatory treatment than traditional telecommunications services. This treatment may limit or otherwise affect your rights of redress before regulatory agencies. You acknowledge the following specific limitations of the Service:

- 8.2 **No Operator Assisted Calling; No x11/8xx Calling.** The Service does not support 0+ or Operator Assisted Calling (including, without limitation, collect calls, third party billing calls or calling card calls). The Service does not support 311, 511 and/or other x11 or 8xx numbers (other than certain specified dialling such as 9-1-1 and 4-1-1, which are provided for elsewhere in this Agreement).

- 8.3 **No Directory Listing.** The phone numbers you obtain from us will not be listed in any telephone directories. Phone numbers transferred from your local phone company may, however, be listed unless you have specifically notified us otherwise. As a result, someone with your phone number may not be able to utilize a reverse directory to look up your address.

- 8.4 **Change of Number.** You have no property right in any phone number assigned to or used by you. We shall be entitled to change any such number where we determine, in our sole discretion, that such a change is necessary. We shall give you reasonable advance written notice of such a change, except in cases of emergency, where oral notice shall be given.

- 8.5 **Incompatibility with Home Security Systems.** The Service may not be compatible with home security systems. You may be required to maintain a telephone connection through your local exchange carrier in order to use any alarm monitoring functions for any security system installed in your home or business. You are responsible for contacting the alarm monitoring company to test the compatibility of any alarm monitoring or security system with the Service.

- 8.6 **Incompatibility with Certain Broadband and Cable Modem Services.** You acknowledge that the Service presently is not compatible with prior versions of the AOL broadband service and there may be other services with which the Service may be determined to be incompatible. You further acknowledge that some providers of broadband service may provide modems that prevent the transmission of communications using the Service. We do not warrant that the Services will be compatible with all broadband services and expressly disclaim any express or implied warranties or conditions regarding the compatibility of the Service with any particular broadband service.





- 8.7 **Provision of Service.** The Service is only available where VoiceCool™ is able to provide such Service. You acknowledge and agree that VoiceCool™ may conduct a preliminary check to determine if the Service is available in your area. VoiceCool™ is not required to provide Service to a you where:
- VoiceCool™ would have to incur unusual expenses which you will not pay; for example, special construction;
  - You owe amounts to VoiceCool™ that are past due other than as a guarantor;
  - You do not provide credit information satisfactory to VoiceCool™ or reasonable deposit.

### 9.0 SPECIFIC CUSTOMER RESPONSIBILITIES

- 9.1 The delivery of the Service requires your active participation, support and cooperation and, in consideration of this need, you agree to provide VoiceCool™ with the necessary support, information and access required to perform and deliver the Service. This includes, but is not limited to:
- Physical and/or remote access to computers and computer programs, firewalls, routers, switches, phone systems, databases;
  - Software and system passwords and license information;
  - Implementation of VoiceCool™'s recommendations and suggestions related to the Service
  - Other information and actions required, in VoiceCool™'s sole opinion, to be undertaken by you for delivery of the Service to you.
- 9.2 VoiceCool™ will deliver the Service only if such support, actions and access are fully available from you in the form and at the location and time required by VoiceCool™. Specifically, you shall:
- Comply with restrictions on use of the Service
  - Comply with any usage policies or instructions communicated to you by VoiceCool™, as modified from time to time
  - Not tamper with or change the Service, Service conditions, Service components, Devices or Equipment
  - Be responsible for the proper care and maintenance of data, Devices, equipment and software necessary for use or used in conjunction with the Service.

### 10.0 CHARGES AND FEES

- 10.1 **VoiceCool Charges to Credit Card.** When you enrol for the VoiceCool™ Service, you must provide us with a valid email address and a valid Credit Card number from a card issuer that we accept. All your monthly, local and International call charges will be billed to this Credit Card. We reserve the right to stop accepting Credit Cards from one or more issuers. If your Credit Card expires, or you close your account, or your billing address changes, or your Credit Card is cancelled and replaced on account of loss or theft, you must advise us at once. We will bill all charges, applicable taxes and surcharges monthly, in advance, (except for certain usage-based charges, which will be billed monthly in arrears, and any other charges which we decide to bill in arrears) to your credit card.

- 10.2 **Fees charged monthly in advance.** Fees charged by VoiceCool™ to you include, but are not limited to the following charges, which are billed to, and payable by you in advance of the month in which the Service is set up or used:

- Activation fees
- Monthly service fees
- International usage charges
- Advanced feature charges
- Premium services
- Add-on services
- Equipment purchases or rentals
- On site set up and installation
- Programming and configuration
- Disconnection fees
- Taxes
- Shipping and handling charges.

- 10.3 **Fee schedule.** The amount of fees and charges applicable to services will be published on VoiceCool™'s website and may change from time to time at our sole discretion. Notification of monthly invoices will be sent to you via your email address on file with us or will be made available at VoiceCool™'s web site. We reserve the right to bill at more frequent intervals if the amount you owe to us at any time exceeds \$50. Any usage charges will be billed in increments that are rounded up to the nearest minute except as otherwise set forth in the rate schedules found on our website. The fees are defined as follows and may be added to, changed, altered or modified at any time:

- Set up Fee* - This fee covers charges for setting up your account and activating you on our system.
- Monthly Service Fee* - This is the basic charge associated with your service. This fee includes the calling charges defined by your Service Plan, the features associated with your plan and basic account services.
- Free Minutes Included* - This refers to the number of free PSTN local, trans-Canadian or US calling minutes that are specifically included free with your Service on your plan.
- Over-Usage Charges* - If you exceed the number of free PSTN calling minutes included in your Service Plan, VoiceCool™ will bill you for the minutes you use above your allowance. VoiceCool™ will also bill you for calls to directory assistance and other information services.
- International Call Charges* - These are the fees associated with calls to locations outside of Canada and the United States. You are required to pay for all International Call Charges.
- VoIP to VoIP VoiceCool™ Calls* - These are VoIP calls made directly to other users of VoiceCool™'s VoIP Service. You will not be charged for these calls.
- Advanced Features, Premium Services, Other Service Add-Ons* - VoiceCool™ charges additional fees for enhanced features and services which are not included in your Monthly Service Fee. In addition to fees for enhanced features you will be charged for any On-site Incident Response, Programming and Configuration Charges and Consulting Fees that you avail of, from VoiceCool™.
- Equipment Purchase or Rental* - This refers to the Devices or Equipment required for use of the VoiceCool™ service. You will be required to pay for these services.
- Disconnection Fees* - This is a fee charged for each Device in the event that you terminate your Service before completion of your Service Agreement Term or in the event you register for and use a VoiceCool™ sales promotion, and cancel your service at the end of the promotion.
- Taxes* - VoiceCool™ is required to bill and collect local, provincial and federal taxes imposed on VoiceCool™ customers by the various taxing authorities. VoiceCool™ passes all taxes it collects on to the appropriate taxing authority.

- 10.4 **Billing Disputes.** You must notify us, in writing, within seven days after receiving your Credit Card Statement or VoiceCool™ Invoice if you wish to dispute any VoiceCool™ charges on that statement or Invoice. Failing this, you will be deemed to have waived any right to contest such charges. All notices of disputed charges should be directed to VoiceCool™ Communications' Accounting Department at Suite 500, 105 Commerce Valley Dr. W., Markham, Ontario L3T 7W3.

### 11.0 PAYMENTS AND COLLECTION.

- 11.1 **Payment.** We accept payment for VoiceCool™ Services by Credit Card only. Your subscription to this Service authorizes us to charge your Credit Card. This authorization will remain valid until 30 days after we receive written notice from you terminating our authority to charge your Credit Card, whereupon we will charge your Credit Card for the disconnection fee, if applicable, and any and all other outstanding charges and disconnect your Service. We may disconnect your Service at any time in our sole and absolute discretion if any charge to your credit card is declined or reversed, your credit card expires and you have not provided us with a valid replacement credit card or in case of any other non-payment of account charges.
- 11.2 **Payment by cheque.** At our option, we may agree to bill VoiceCool™ Service via Invoice and accept payment via a valid company cheque. In such event, the Fee, including applicable taxes, are due and payable by the due date indicated on the VoiceCool™ invoice or, if no due date is shown,



within 30 days of the date on the invoice. A late payment penalty of 1.5% per month of the amounts outstanding more than thirty days from the date of invoice, applies in all cases. Unsuccessful resolution of a technical or other problem cannot, and will not, be a condition for withholding payment of the Fee.

**11.3 On-site visits to Customer offices or locations.** The Fee for on-site visits to Customers' office or location are as follows:

- i. During regular hours (9:00 am to 5:00 pm EST) at a rate of \$80 per hour. After regular hours, including on public holidays and weekends, at a rate of \$120 per hour. The minimum Fee for an on-site visit is one hour. Time in excess of the first hour is calculated in increments of 30 minutes.
- ii. Mileage is charged at the rate of \$0.50 per km. actually traveled plus additional, actual out-of-pocket expenses incurred.
- iii. Travel time is billed at 75% of the applicable hourly rate. For travel outside of the Greater Metropolitan area of any Canadian City (such as Toronto, Vancouver, Montreal or Calgary), a two-hour travel minimum is used.
- iv. Other rate premiums will apply for on-site visits to offices or locations located outside of Greater Metropolitan area of any Canadian City.

**11.4 Monthly billing cycle.** Notwithstanding that the VoiceCool™ Fees may be referred to, or advertised as, "monthly", the actual billing period is thirty (30) days, regardless of the length of each month. All payments for use of the Services are due every thirty (30) days, commencing from the date the Agreement comes into effect and continuing until termination of the Agreement.

**11.5 Payments in default.** If your account is more than 15 days late in any payment, it will be deemed to be in default. Payments made by cheque which are returned for lack of funds or any other reasons will be in immediate default and subject to an additional returned cheque charge (currently \$50) which must be paid before your Account is made to be in good standing.

**11.6 Credit Inquiries.** You hereby expressly consent and grant VoiceCool™ the right to make all credit inquiries necessary from time to time.

**11.7 Collection.** If your Service is disconnected, you will remain fully liable to us for all charges pursuant to this Agreement and any and all costs we incur to collect such amounts, including, without limitation, collection costs and legal fees and expenses.

**11.8 Taxes.** You are responsible for payment of all applicable federal, provincial, municipal, local or other governmental sales, use, excise, value-added, personal property, public utility, goods and services, harmonized or other taxes, fees or charges now in force or enacted in the future, that arise from or as a result of your subscription or use or payment for the Service or a Device. Such amounts are in addition to payment for the Service or Devices and will be billed to you as set forth in this Agreement. If you are exempt from payment of such taxes, you must provide us with an original certificate that satisfies applicable legal requirements attesting to tax-exempt status. Tax exemption will only apply from and after the date we receive such certificate.

**11.9 Disconnection Fee** You will be charged a Disconnection Fee of \$49.99 CDN per voice line if your Service is cancelled, or disconnected on account of your breach of any provision of this Agreement.

### 12.0 LIMITATION OF LIABILITY

**12.1 Limitation of Liability.** We will not be liable for any delay or failure to provide the Service, including 9-1-1 Dialling, at any time or from time to time, or any interruption or degradation of voice quality that is caused by any of the following:

- i. An act or omission of an underlying carrier, service provider, vendor or other third party;
- ii. Failure, shortage, upgrade or modification of equipment, network or facility;
- iii. Equipment or facility relocation;
- iv. Service, equipment, network or facility failure caused by the loss of power to you;
- v. Outage of, or blocking of ports by your ISP or Broadband Service Provider or other impediment to usage of the service caused by any third party;
- vi. Any act or omission by you or any person using the service or device provided to you; or any other cause that is beyond our control, including, without limitation, a failure of or defect in any device, the failure of an incoming or outgoing communication, the inability of communications (including, without limitation, 9-1-1 dialling) to be connected or completed, or forwarded.
- vii. 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;

*Our aggregate liability under this Agreement will, in no event, exceed an amount equivalent to one month's Service Fee.*

**12.2 Disclaimer of Liability for Damages.** IN NO EVENT WILL VOICECOOL™, PATHWAY, SYNTAGMA AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS OR ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICES TO YOU IN CONNECTION WITH THIS AGREEMENT OR THE SERVICE BE LIABLE FOR ANY DIRECT, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY 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 9-1-1 DIALING SERVICE OR TO OBTAIN EMERGENCY HELP. THE LIMITATIONS SET FORTH HEREIN APPLY TO CLAIMS FOUNDED IN BREACH OF CONTRACT, BREACH OF WARRANTY OR CONDITION, PRODUCT LIABILITY, TORT (INCLUDING NEGLIGENCE), INTELLECTUAL PROPERTY INFRINGEMENT, STRICT LIABILITY, FUNDAMENTAL BREACH, BREACH OF A FUNDAMENTAL TERM AND ANY AND ALL OTHER THEORIES OF LIABILITY WHETHER OR NOT WE WERE INFORMED OF THE LIKELIHOOD OF ANY PARTICULAR TYPE OF DAMAGES.

### 13.0 INDEMNITY AND SURVIVAL

**13.1 Indemnification.** You agree to defend, indemnify, and hold harmless VoiceCool™, Pathway, Syntagma and their respective officers, directors, employees, affiliates and agents and any other service provider who furnishes services to you in connection with this Agreement or the Service, from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without limitation, legal fees and expenses) by, or on behalf of, you or any third party or user of the Service, relating to this Agreement or the Services, including, without limitation, 9-1-1 Dialling, or the Device.

**13.2 Survival.** The provisions of this Agreement, that by their sense and context are intended to survive the termination or expiration of this Agreement, shall survive.

### 14.0 NO WARRANTIES ON SERVICE.

**14.1** To the extent permitted by applicable law, WE MAKE NO WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, REASONABLY ACCEPTABLE QUALITY, FITNESS OF THE SERVICE OR DEVICE FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY WARRANTY OR CONDITION ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE OR ANY WARRANTY OR CONDITION THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS. WITHOUT LIMITING THE FOREGOING, WE PROVIDE NO WARRANTY OR CONDITION THAT THE SERVICE OR DEVICE WILL BE WITHOUT FAILURE, DELAY, INTERRUPTION, ERROR, DEGRADATION OF VOICE QUALITY OR LOSS OF CONTENT, DATA OR INFORMATION. NEITHER VOICECOOL™ NOR ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS, OR ANY OTHER SERVICE PROVIDER OR VENDOR WHO FURNISHES SERVICES DEVICES, OR PRODUCTS TO CUSTOMER IN CONNECTION WITH THIS AGREEMENT OR THE SERVICE, WILL BE LIABLE FOR UNAUTHORIZED ACCESS TO OUR OR YOUR 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 DEVICES OR ANY OTHER METHOD, REGARDLESS OF WHETHER SUCH DAMAGE OCCURS AS A RESULT OF VOICECOOL™'S OR ITS SERVICE PROVIDER'S OR VENDORS' NEGLIGENCE. STATEMENTS AND DESCRIPTIONS CONCERNING THE SERVICE OR DEVICE, IF ANY, BY VOICECOOL™ OR VOICECOOL™'S AGENTS OR INSTALLERS ARE INFORMATIONAL AND ARE NOT GIVEN AS A WARRANTY OR CONDITION OF ANY KIND.

### 15.0 DEVICE WARRANTIES.



- 15.1 **Limited Warranty.** All Equipment and Devices used with, or in conjunction with, the Service, are covered by the warranties, if any, of the Manufacturers of the specific Equipment or Devices. Except as set forth herein, if you received the Equipment or Device new from us and the Device included a limited warranty at the time of receipt, the limited warranty provided by the Manufacturer of the Equipment or Devices will be applicable to the Device or Equipment. You should read the information related to the limitation and disclaimer of such Equipment and Devices. Remedies for breach of any such warranties will be limited to those expressly set forth in such documentation by the Manufacturer of Equipment or Devices.
- 15.2 **No Warranty.** If your Device did not include a limited warranty at the time of receipt, to the extent permitted by applicable law, you are accepting the Device "as is", and you are not entitled to replacement, repair or refund in the event of any defect.
- 15.3 **Disclaimer.** To the extent permitted by applicable law, OTHER THAN WARRANTIES AS TO THE DEVICE EXPRESSLY SET FORTH IN THE DOCUMENTATION PROVIDED WITH THE DEVICE BY THE MANUFACTURER OF THE DEVICE, WE MAKE NO WARRANTIES OR CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIM ANY WARRANTY OR CONDITION OF MERCHANTABILITY, REASONABLY ACCEPTABLE QUALITY, FITNESS OF THE DEVICE FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY WARRANTY OR CONDITION ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE OR ANY WARRANTY OR CONDITION THAT THE DEVICE OR ANY FIRMWARE OR SOFTWARE IS "ERROR FREE" OR WILL MEET CUSTOMER'S REQUIREMENTS. THE FOREGOING WILL NOT BE DEEMED TO LIMIT ANY DISCLAIMER OR LIMITATION OF WARRANTY OR CONDITION SET FORTH IN THE DOCUMENTATION PROVIDED WITH THE DEVICE.
- 15.4 **No Third Party Beneficiaries.** No provision of this Agreement provides any person or entity who is not a party to this Agreement, with any remedy, claim, liability, reimbursement, or cause of action or creates any other third party beneficiary rights. You may not assign this Agreement or the benefits under it.
- 15.5 **Content.** You will be liable for any and all liability that may arise out of the content transmitted by or to you or any person, whether authorized or unauthorized, using your Service or Device (each such person, a "User"). You shall ensure that your and your User's use of the Service and content comply at all times with all applicable laws, regulations and written and electronic instructions for use. We reserve the right to disconnect or suspend your Services and remove your or your Users' content from the Service, if we determine, in our sole and absolute discretion, that such use or content does not conform with the requirements set forth in this Agreement or interferes with our ability to provide Services to you or others. Our action or inaction under this Section will not constitute any review or approval of your or Users' use or content.
- 16.0 PRIVACY**
- 16.1 **Network Security.** VoiceCool™'s Service utilizes, in whole or in part, the public Internet and third party networks to transmit voice and other communications. VoiceCool™ is not liable for any lack of privacy which may be experienced with regard to the Service. Please refer to our Privacy Policy at [www.voicecool.com](http://www.voicecool.com) for additional information.
- 16.2 **Personal Information.** To the extent that personal information is provided by the customer in connection with this Agreement, the customer confirms that he or she consents, and that all other necessary consents have been obtained, to the use and collection by, and disclosure to, VoiceCool™, assignees of VoiceCool™, and their respective affiliates, agents and contractors for the following purposes: (i) providing products and services to the customer, (ii) contract management and administration, (iii) establishing a customer relationship and communicating with customers, (iv) developing, implementing and managing products and services for customers, (v) assisting in law enforcement purposes and collecting unpaid debts, (vi) protecting, managing and promoting their business interests and activities; (vii) providing information to the customer on other products and services which may be available; and (viii) otherwise as required or permitted by law. The customer may withdraw his or her consent in respect of clause (vii) above, without affecting his or her other arrangements with VoiceCool™, by notifying VoiceCool™ in writing at [info@pathcom.com](mailto:info@pathcom.com). Further information on VoiceCool's privacy policies, as well as access to any such personal information for purposes of review, correction and updating, may also be obtained by writing to VoiceCool™ at Suite 500, 105 Commerce Valley Dr. W., Markham, Ontario L3T 7W3. For the purposes of this, "personal information" does not include the name, address and telephone number of a subscriber that appears in a publicly available telephone directory.
- 17.0 MISCELLANEOUS**
- 17.1 **Governing Law.** This Agreement and the relationship between you and us is governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein without regard to its conflict of law provisions. To the extent court action is initiated to enforce an arbitration award or for any other reason, you shall submit to the personal and exclusive jurisdiction of the courts located within the Province of Ontario and waive any objection as to venue or inconvenient forum.
- 17.2 **Mandatory Arbitration and No Jury Trial.** Except to the extent contrary to applicable law, any dispute or claim between you, any member of your household or any guest or employee of yours and us, arising out of, or relating to, the Service or Device will be resolved by arbitration before a single arbitrator administered by a Canadian arbitration organization of our choosing. The arbitration shall take place in Toronto, Ontario and shall be conducted in English. The arbitrator's decision will follow the plain meaning of the relevant documents, and will be final and binding. Without limiting the foregoing, the parties agree that no arbitrator has the authority to: (i) award relief in excess of what this Agreement provides; or (ii) award punitive or exemplary damages. Judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE SERVICE MUST BE FILED WITHIN ONE (1) YEAR AFTER SUCH CLAIM OR CAUSE OF ACTION AROSE OR BE FOREVER BARRED, except to the extent such a limitation is prohibited by applicable law. All claims shall be arbitrated individually. Except to the extent contrary to applicable law, you shall not bring, or join any class action of any kind in court or in arbitration or seek to consolidate or bring previously consolidated claims in arbitration. THIS ARBITRATION PROVISION CONSTITUTES A WAIVER OF ANY RIGHT TO A JURY TRIAL AND AN AGREEMENT TO BE SUBJECT TO JURISDICTION IN, AND CONDUCT ARBITRAL PROCEEDINGS IN, ONTARIO.
- 17.3 **No Waiver of Rights.** Our failure to exercise or enforce any right or provision of this Agreement will not constitute a waiver of such right or provision.
- 17.4 **Entire Agreement.** This Agreement, including any future modifications as may occur within the terms of the Agreement, and the rates for Services found on our website constitute the entire agreement between you and VoiceCool™ and govern the use of the Service by you, members of your household, guests and employees. This Agreement supersedes any prior agreements between you and VoiceCool™ for the Service and any and all prior or contemporaneous statements, understandings, writings, commitments, or representations concerning its subject matter.
- 17.5 **Severability.** If any part of this Agreement is legally declared invalid or unenforceable, all other parts of this Agreement will remain valid and enforceable. Such invalidity or non-enforceability will not invalidate or render unenforceable any other portion of this Agreement.
- 17.6 **Notices and Other Communications.** Any notice or other communication from you to VoiceCool™ must be in writing and must be provided by personal delivery or by e-mail or facsimile to VoiceCool™ at our e-mail address or regular address or facsimile number. Notices delivered in person will be effective on the date of such delivery. Notices delivered by e-mail or facsimile will be effective on the date you are informed by VoiceCool™ by email, of receipt of your notice or communication.
- 17.7 **French Language.** The parties confirm that it is their express wish that this agreement, as well as any other documents relating to this agreement, including notices, schedules and authorizations, have been and shall be drawn up in the English language only. Les parties aux présentes confirment leur volonté expresse que cette convention, de même que tous les documents s'y rattachant, y compris tous avis, annexes et autorisations s'y rattachant, soient rédigés en langue anglaise seulement.
- 17.8 **Future Changes To This Agreement.** We may change the Terms And Conditions of the Service and this Agreement, as well as amounts charged under this Agreement, from time to time. Notices will be considered given and effective on the date posted on VoiceCool™'s web site or as otherwise may be required by applicable law. Subject to applicable law, such changes will become binding on you on the date they are posted to our website and no further notice by us is required upon your continued use of the Service. The Agreement as and when posted or otherwise amended in accordance with applicable law, supersedes all previously agreed to electronic and written terms of service, including, without limitation, any terms included with the packaging of the Device and also supersedes any written terms provided to Customers in connection with retail distribution,





## Thank you for choosing VoiceCool!

including, without limitation, any written terms enclosed within the packaging of the Device. If this Agreement is amended and you do not wish to accept the amendment, you may terminate the Agreement as provided herein.

17.9 **Assignment.** We may assign this Agreement to another entity upon providing you with notice of such assignment.

### VoiceCool™ 911 Terms of Service

VoiceCool 911 Dialing is different than traditional 911, but it is a safe and reliable means of emergency dialing that may differ depending on where you are located when using your VoiceCool service.

Most of our customers have access to either basic 911 or Enhanced 911 (E911) service. With E911 service, when you dial 911, your telephone number and registered address is simultaneously sent to the local emergency center assigned to your location, and emergency operators have access to the information they need to send help and call you back if necessary. Customers in locations where the emergency center is not equipped to receive your telephone number and address have basic 911. With basic 911, the local emergency operator answering the call will not have your call back number or your exact location, so you must be prepared to give them this information. Until you give the operator your phone number, he/she may not be able to call you back or dispatch help if the call is not completed or is not forwarded, is dropped or disconnected, or if you are unable to speak. As additional local emergency centers become capable of receiving our customers' information, VoiceCool will automatically upgrade customers with basic 911 to E911 service. VoiceCool will not give you notice of the upgrade.

You must register with VoiceCool the physical location where you will utilize VoiceCool phone service (Service) for each phone line. Also note that if you move your device to another location, you must register your new location. If you do not register your new location, any 911 calls you make may be sent to an emergency center near your old location. You will register your initial location of use when you subscribe to the Service. This process can take several hours, and you will receive a confirmation email once 911 Dialing has been activated for your initial location or for a newly registered location. Remember that our 911 Dialing service will not function in the event of a broadband or power outage or if your broadband, ISP or VoiceCool phone service is terminated.