

APPENDIX A - OCTOPUS SERVICE TERMS AND CONDITIONS

This Appendix A is a part of and is incorporated into the Octopus Service Quotation and Agreement ("Agreement") for Voice over Internet Protocol (VoIP) and related services between Octopus IP Communications Inc. ("we," "us" or "Octopus"), and the user ("you," "user" or "Customer") of Octopus's services.

1. DEFINITIONS

Equipment – Any device including any of its components, such as an IP phone or any other IP connection device.

Service – The Octopus Business Phone System ("Service") provides a VoIP telephone service as set out in your Octopus Service Quotation, that allows you to make or receive telephone calls over the Internet to or from the public switched telephone network (PSTN). You can make calls to, or receive calls from, other Octopus customers entirely over the Internet.

Quotation – The specific services and related pricing of your Service are identified in the Octopus Service Quotation and Agreement.

2. PREAMBLE

This Appendix A sets out the terms and conditions of both the use of the Service provided, and any Equipment used in conjunction with the Service. By executing the Agreement, you acknowledge that you have read, understood, and agree to be bound by the terms and conditions of Appendix A.

3. TERM

The Service is offered as a Monthly Service or Annual Service.

Monthly Service is offered on a monthly basis for a term that begins on the date that Octopus activates your Service and ends on the day before the same date in the following month. The Agreement will automatically renew on a monthly basis for subsequent terms without further action by you unless you provide Octopus with written notice of non-renewal not less than ten (10) days prior to the end of the monthly term in which the notice is given. You agree that you are purchasing the Service for full monthly terms, meaning that if you terminate the Service prior to the end of a monthly term, you will be responsible for the full month's charges to the end of the then-current term, including without limitation un-billed charges, all of which will immediately become due and payable. Upon expiration of the term or termination of the Service you remain responsible for paying all unpaid and accrued charges due.

Annual Service is offered on an annual basis for a term that begins on the date that Octopus activates your Service and ends on the day before the same date in the following year. The Agreement will automatically renew on an annual basis for subsequent terms without further action by you unless you provide Octopus with written notice of non-renewal not less than ten (10) days prior to the end of the annual term in which the notice is given. You agree that you are purchasing the Service for full annual terms, meaning that if you terminate the Service prior to the end of an annual term, you will be responsible for the full month's charges to the end of the then-current month, including without limitation un-billed charges, all of which will immediately become due and payable, and an early termination penalty of an amount equal to the discount provided to you for Annual Service, plus a 25% administration fee. Upon expiration of the term or termination of the Service you remain responsible for paying all unpaid and accrued charges due.

4. USER REQUIREMENTS

To use the Service, the user must have a high-speed Internet link as provided via DSL, Cable or Ethernet. Typical bandwidth required for a voice call offering maximum quality is 90 Kbps however the Service may operate at reduced quality at 20 Kbps upon request. Equipment procured from Octopus is also required. In the case of a softphone, the user must also have a computer. You may elect to connect via a router, in which case you assume all responsibility regarding the suitability of the router, programming of the router, connection to the Internet and its ability to carry the voice traffic.

5. USE OF SERVICE

- 5.1. AS-IS Basis: The Service and Equipment are provided to you as a small business user for your personal and business use on an AS-IS basis.

- 5.2. Prohibition on Resale: You are not to resell or transfer the Service or Equipment to any other person for any purpose, without express written permission from Octopus in advance.
- 5.3. Acceptable Use: You may allow other individuals in your office to use the Service, however, you are fully responsible for their compliance with the Agreement and for payment of all charges relating to their use of the Service at the rates indicated on the Octopus website (www.OctopusIP.com) for all calls including incoming calls, outgoing calls and calls to voicemail. You agree that the Agreement does not confer the right to use the Service for auto-dialing, continuous or extensive call forwarding, telemarketing (including without limitation charitable or political solicitation or polling), fax broadcasting, fax blasting or any other activity that would be inconsistent with normal Octopus small business usage patterns.

Users may only make one call at a time per account. You agree that your use of the Service to make simultaneous calls will obligate you to pay Octopus for additional accounts for all periods, including past periods, in which you made simultaneous calls.

You agree to manage your Service through the IP-PBX Online Controls and other capabilities responsibly.

Octopus reserves the right to immediately terminate or modify the Service if Octopus determines, at its sole discretion, that Customer's Service is being used in a manner that is in default of any of the terms of the Agreement.

- 5.4. Technical Support: Octopus provides technical support to users via telephone and email (Support@OctopusIP.com) for the Service and Equipment provided hereunder. Support for other applications and uses is not provided or implied.

6. USE POLICY AND PROHIBITIONS

- 6.1. Proper Use: You agree to abide by the following policy concerning use, as may be modified from time to time and communicated to you via the Octopus website, by email or otherwise. By using the Service you (a) shall abide by all applicable laws, rules, and regulations relating to, without limitation, the electronic use, posting or transmission of content, software or other matter; and (b) shall not (nor allow any person to) (i) use the Service or the Octopus website in any manner which is illegal, fraudulent or deceptive, harassing, threatening, harmful, libelous, defamatory, abusive, slanderous, hateful, sexually, racially or ethnically objectionable, vulgar, pornographic, obscene, or otherwise objectionable or encourages conduct that would constitute a criminal offense, gives rise to a civil liability, or otherwise violates any applicable local, provincial, state, national or international law; (ii) attempt to gain unauthorized access to the Octopus database or other Octopus network or computer systems; or (iii) interfere with another's use and enjoyment of the Octopus Service. Furthermore, you may not, nor may you allow others, directly or indirectly, to attempt to or actually: (a) disrupt, disable, impair, interfere with, overburden, alter or modify the Service or restrict or inhibit in any way any other visitor or user from accessing or using the Service, including, without limitation, by means of "hacking," "cracking" or defacing any portion of the Service, the Equipment and/or any activities being conducted on or through the Service; (b) transmit any software, routine or other materials that contain any virus, worm, time bomb, "Trojan horse," or other harmful, destructive or disruptive component; (c) use any robot, spider, site search/retrieval application, or other manual or automated device or process to retrieve, index, "data mine" or in any way reproduce or circumvent the navigational structure or presentation of the Service; or (d) collect or harvest any information about other visitors or users of the Service and/or any of Octopus's officers, directors, employees, agents, partners or content providers by any means including, but not limited to, those described in the Agreement. You may not, nor may you allow others, directly or indirectly, to obtain or attempt to obtain any materials or information through any means not made expressly available through the Service. Without limitation, Octopus reserves the right to terminate your Service immediately, resulting in the immediate payment of all amounts due, without advance notice, if you violate the above restriction. Further, you will be liable to Octopus and other third parties for any prejudice suffered as a result of your unauthorized use of the Service.
- 6.2. Unauthorized Use: You agree to immediately notify Octopus of any unauthorized use of your account or any other breach of security known to you.
- 6.3. Use of Equipment: You agree that the Equipment is exclusively for use in connection with the Service. You agree not to tamper with the Equipment in any manner, including, without limitation, changing the electronic serial number or identifier, or performing a factory reset, or otherwise altering the firmware.
- 6.4. Stolen Equipment: You must notify Octopus immediately, in writing by email, or by calling the Octopus customer support line, if any component of the Equipment is stolen or used fraudulently. When you call or write you must provide your account number and a detailed description of the circumstances of the theft or fraudulent use of the Equipment.

- 6.5. Use of Software: Any software made available to you by Octopus is governed by the Agreement and the terms set forth in the applicable third party license agreement with Octopus. You may not reverse engineer, decompile or otherwise attempt to discover the source code of the software available on the website. Without limiting the foregoing, copying or reproduction of the software to any other server or location for further reproduction or redistribution is expressly prohibited.

7. SERVICE LIMITATIONS

- 7.1. Use of Service and Equipment by Customers Outside Canada and the United States: Octopus does not presently offer to or support the Service for customers located outside Canada and the United States. If Equipment is installed outside Canada and the United States and the Service is used, there is the risk that such activity violates laws in the country where you do so. You are liable for any and all use of the Service and/or Equipment by any person making use of the Service or Equipment provided to you. Octopus accepts no liability. Further, Octopus reserves the right, at its discretion, to limit or terminate your ability to access the Service from selected countries.
- 7.2. Telephone Number: Any telephone number provided by Octopus to you shall be leased and not sold. You may not use the number with any equipment other than the Equipment without the express written permission of Octopus. Octopus reserves the right to change, cancel or move the number at its sole discretion.
- 7.3. 900 and 976 Numbers: Octopus Service may not access certain special service phone numbers such as, without limitation, 900 and 976 numbers. Octopus reserves the right to limit your ability to call any such number at its sole discretion.
- 7.4. Service Outage or Deterioration Due to Third Parties: You acknowledge and understand that the Service will not operate in the event of a power failure, or a failure of the Internet link. Excessive congestion of the Internet link may lead to deterioration in Service quality, which in turn may lead to Service failure.
- 7.5. Service Outage Due to Suspension of Your Account: You acknowledge and understand that should your account be suspended due to non-payment or other breach of the Agreement, the Service will not function.
- 7.6. Not a Traditional Telephone Service: You recognize, acknowledge and understand that the Service is not a traditional telephone service. Differences exist between traditional telephone service and the Octopus Service including but not limited to the lack of traditional 911 services and privacy, as explained below. The Service is subject to a different regulatory treatment than traditional telephone service and this treatment may limit or affect your rights of redress before the CRTC.
- 7.7. Privacy: Octopus utilizes the public Internet and third party networks to provide fax, voice and video communication services. Accordingly, Octopus cannot guarantee the security of fax, voice and video communications of the user. Octopus is committed to respecting the user's privacy. Once the user chooses to provide personally identifiable information, it will only be used in the context of the user's relationship with Octopus. Octopus will not sell, rent, or lease the user's personally identifiable information to others. Unless required by law or subpoena or if the user's prior permission is obtained, Octopus will only share the personal data the user provides with other Octopus entities and/or business partners that are acting on Octopus's behalf to provide the Service described herein. Such Octopus entities and/or national or international business partners are governed by Octopus's privacy policies with respect to the use of this data. However, Octopus reserves the right to use personally identifiable information to investigate and help prevent potentially unlawful activity that threatens either Octopus or any company affiliated with Octopus. Moreover, upon the appropriate request of a government agency, law enforcement agency, court or as otherwise required by law, Octopus may disclose personally identifiable information.

8. EMERGENCY SERVICES – 911 DIALING

- 8.1. Overview: As an Octopus Customer, and within the complete Service, you subscribe to a Voice over Internet Protocol ("VoIP") telephone service ("VoIP Service") provided by Octopus according to the terms and conditions of the Agreement. The Service supports three different ways in which VoIP service can be deployed:
- (a) Fixed/native – From a fixed address with a telephone number that is native to one of the exchanges within your Public Safety Answering Point ("PSAP") serving area.
 - (b) Fixed/non-native – From a fixed address with a telephone number that is not native to one of the exchanges within your PSAP serving area. For example, you are located in Ottawa but use a Calgary telephone number.
 - (c) Nomadic – On a nomadic basis, where you do not necessarily make calls from a fixed address but position

your Equipment at any location where you have access to a broadband Internet connection.

In all of these deployments Octopus is currently not able to automatically detect whether the VoIP Service is being used from the registered Service address or from some other location. Consequently, in order for you to have access to 911 service, it is imperative that you advise us of the physical location of your Equipment at all times.

Octopus's 911 Service: Following the directives made by the Canadian Radio-television and Telecommunication Commission ("CRTC") pursuant to Telecom Decision CRTC 2005-21, Octopus has, in compliance with such directives, implemented an emergency calling service or 911 service ("911 Service"). In order to use the 911 Service, you will need to activate it according to the instructions you are provided, and which can be found at www.OctopusIP.com. Once the 911 Service is activated, all calls by the customer using the 911 Service will be connected to an intermediary (such as a third party call centre), which in turn will transfer the call to the proper PSAP or emergency services agency as identified by the location information provided by the Customer. This is different from the situation with conventional 911 service where the location of the 911 call is usually automatically identified and the call automatically routed to the proper PSAP or emergency services provider.

8.2. Limitations to the 911 Service: Octopus is advising the Customer of the following inherent limitations to the 911 Service due to the characteristics of VoIP Service.

The 911 Service will not be accessible or available in the following situations:

- (a) You have not successfully activated the 911 Service AND received an email from Octopus confirming your successful activation;
- (b) In case of network congestion;
- (c) A service outage has occurred for any reason, including the following:
 - (i) Power failure or disruption;
 - (ii) Internet connection outage/termination by your Internet service provider; or
 - (iii) Octopus terminates, suspends or cancels your VoIP Service for any of the reasons specified in our Agreement.

The 911 emergency responders that are part of the 911 Service may be delayed if:

- (a) You do not provide us with current and accurate location information (i.e., where you are);
- (b) You do not advise us immediately of any changes that you make to the location information that you initially provided to us as a 911 operator may assume that you are at an old registered address when you are in fact at a different address; or
- (c) Verification of your location information is not completed. It can take up to 24 hours to complete the verification once we receive new location information.

Misroutes of 911 calls occur for many reasons including but not limited to your failure to follow correct activation procedures for 911 calling or your provision to us of incorrect, inaccurate or not current information in connection with the 911 Service.

In the event that an emergency call in progress is interrupted, 911 emergency personnel will be unable to call you at the phone from which you originated the call if:

- (a) You have call forwarding, do not disturb or other features programmed and in use at the time you dial a 911 call; or
- (b) Your telephone ringer is set to OFF.

When you place a 911 call, you should be ready to confirm your location and call back number with the operator who answers your call.

Do not hang up during a 911 call until you are told to do so by the 911 operator, and call back if you get disconnected.

In the interest of the safety of individuals at the location where you or they use the VoIP Service, you are obliged to

inform all potential users of your VoIP Service of these important limitations.

- 8.3. **Limitation of Liability:** Neither Octopus, its affiliated or related companies, nor their officers or employees, shall 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 the VoIP Service and/or the 911 Service, including, without limitation, your inability to dial 911 from your line or to access emergency service personnel unless it is proven that the act or omission causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct on the part of Octopus.

You agree to defend, indemnify, and hold harmless Octopus, its affiliated and related companies, their officers, directors, employees, agents, partners and any other third party service provider who furnishes services to you or to us in connection with your VoIP Service, from and against any and all claims, losses, damages, fines, penalties, costs and expenses (including, without limitation, reasonable legal fees and expenses) by, or on behalf of, you or any third party or user of your VoIP Service relating to the absence, failure or outage of the VoIP Service, including, without limitation, the 911 Service and/or your inability or that of any third person or party or user that you authorize and allow to use and have access to the VoIP Service, to dial 911 or to access emergency service personnel, and any misroutes of 911 calls, arising from but not limited to your failure to follow correct activation procedures for 911 calling or your provision to us of incorrect, inaccurate or not current information in connection with the 911 Service.

Acceptance: Notwithstanding the limitations that are discussed above, and having fully read and understood those limitations as well as the limits of Octopus's liability, you hereby fully acknowledge and accept, without limitation, the VoIP Service and the 911 Service as currently offered.

9. COPYRIGHT – TRADEMARK – UNAUTHORIZED USAGE OF DEVICE, FIRMWARE OR SOFTWARE

The Service and all Service information, documents, software, firmware and materials on Octopus's website, as well as names, trademarks, trade names and service marks ("intellectual property") are the exclusive property of Octopus or its licensors and are protected by intellectual property laws and international treaty provisions. You acknowledge that you are not given any license to use the firmware or software used to provide the Service or provided to Customer in conjunction with providing the Service, or embedded in the Equipment, other than a nontransferable, revocable license to use such firmware or software (without making any modification thereto) strictly in accordance with the terms and conditions of this Appendix A. If you decide to use the Service through interface Equipment not provided by Octopus, which Octopus reserves the right to prohibit in particular cases or generally, you warrant and represent that you possess all required rights, including software and/or firmware licenses, to use that interface Equipment with the Service and you will indemnify and hold harmless Octopus against any and all liability arising out of your use of such interface Equipment with the Service.

10. CHARGES – PAYMENTS – TAXES – DEFAULTS

- 10.1. **Shipment of Equipment:** If the packaging containing any Equipment is visibly damaged upon receipt, please note the damage on the carrier's freight bill or receipt and keep a copy. Keep the original packaging, all packing materials and parts intact and contact Octopus's customer support department immediately (Support@OctopusIP.com). Warranty coverage varies depending on the type of Equipment that you choose, and is set out in the Equipment materials delivered to you.
- 10.2. **Billing:** Monthly fees for the basic and optional features of your Service, all as specified in your Quotation, will be charged monthly in advance. Annual fees for the basic and optional features of your Service, all as specified in your Quotation, will be charged annually in advance. All charges for long distance, local minutes, directory assistance (411), etc. that exceed any included maximums, will be charged in arrears. However, Octopus reserves the right to bill at more frequent intervals if the amount due at any time exceeds \$500. Charges for activation fees, Equipment purchases and shipping and handling will be charged at the time of your order. Octopus will provide you with a monthly on-line billing statement for the Service.
- 10.3. **Payment:** Octopus accepts payments by credit card or cheque.

Credit Card Payment: If paying by credit card, you must give us a valid credit card number when the Service is purchased. If the credit card expires, you close your account or your billing address changes, or the credit card is cancelled and replaced owing to loss or theft, you must advise Octopus. Your execution of the Agreement authorizes Octopus to charge the credit card on file with Octopus, including any modified information given to Octopus if the credit card expires or is replaced, for all charges as described herein. This authorization will remain valid until 30 days after Octopus receives your written notice terminating Octopus's authority to charge your credit card or until all accrued Service charges are paid.

Cheque Payment: If paying by cheque, you must make payment within fifteen business days of the receipt of your monthly online billing statement.

- 10.4. Toll Charges: Long distance charges for calls through the Service will be billed to you at rates established by Octopus and posted on the Octopus website (www.OctopusIP.com). These rates may be changed from time-to-time at Octopus's sole discretion and will be posted on the website. Currently there are no charges between Octopus customers, however charges can be levied at the sole discretion of Octopus and will be posted on the Octopus web site. Call times for each call are rounded up and billed in six (6) second increments. Per call charges are rounded up to the next whole penny. All calls for which we receive answer supervision and last for at least six (6) seconds, as explained below, shall incur a minimum thirty (30) second charge. Octopus relies on answer supervision to determine whether and when a call has been answered. Answer supervision is a signal sent by the carrier connecting the call to indicate the start of call. Answer supervision is generally received when a call is answered, however, answer supervision may also be generated by voicemail systems, private branch exchanges, and inter-exchange switching equipment. Where no answer supervision is received, we will commence billing forty (40) seconds following dial time unless the caller has terminated the call.
- 10.5. Taxes: The customer is responsible for, and shall pay applicable federal (GST), Harmonized Sales Tax (HST) and provincial taxes (PST) or any additional telecommunication or other taxes, fees or charges now in force or enacted in the future, that arise from or as a result of Customer's subscription, use or payment for the Service or purchase or rental of Equipment. Such amounts are in addition to payment for the Service and will be billed to your account.
- 10.6. Late or Non-payment: If any charges for the Service are due but unpaid for any reason including, but not limited to, non-payment or declined credit card payment or automatic withdrawal payment, Octopus may suspend or terminate the Service and all accrued charges shall be immediately due, plus a late fee of the lesser of 1.5% per month or the maximum allowed by law accrued from the date of invoice until payment in full is received by Octopus. If charges cannot be processed in a given month, you will be charged a fee of thirty-five dollars (\$35). A fee of seventy dollars (\$70) will also be charged to activate a suspended account. No suspension or termination of the Service or of the Agreement shall relieve you from paying any amounts due hereunder.
- 10.7. Billing Disputes: You must notify Octopus in writing within thirty (30) days after your monthly statement is posted in your account section on the Octopus website or is sent to your email address, if you dispute any Octopus charges on that statement, or such dispute will be deemed waived. Billing disputes must be sent by mail or email to the following address:

Octopus IP Communications Inc.
Finance Department
56 Sparks Street, Suite 512
Ottawa, Ontario K1P 5A9
Finance@OctopusIP.com

11. TERMINATION – DISCONTINUANCE OF SERVICE

- 11.1. Customer Termination of Service: You may terminate the Service by requesting a Cancellation of Service form from Finance@OctopusIP.com and returning the form once completed at least 10 days prior to the end of your month's term. Service provision will terminate at the end of the then-current month. There will be no refund on your current monthly charge and all usage fees will be charged to you as provided for in the Agreement.
- 11.2. Octopus Termination of Service: Octopus reserves the right to suspend or discontinue providing the Service generally, or to terminate your Service, at any time in its sole discretion. If Octopus discontinues providing the Service generally, or terminates your Service in its discretion without a stated reason, you will only be responsible for charges accrued through the date of termination, including a pro-rated portion of the final month's charges. If your Service is terminated for any stated reason, including without limitation violation of the Agreement, or because of any improper use of the Service or Equipment (such as, but not limited to, your attempt to hack, disrupt, or misuse the Service), you will be responsible for the full month's charges to the end of the current term, including without limitation un-billed charges, all of which will become due and payable immediately.
- 11.3. Non-Payment: Octopus may terminate your Service at any time at its sole discretion, if any charge to your credit card on file with Octopus, or automatic withdrawal from your bank, is declined or reversed or in case of any other non-payment of account charges. Termination of Service for declined card, reversed charges or non-payment leaves you FULLY LIABLE to Octopus for ALL CHARGES ACCRUED BEFORE TERMINATION and for charges incurred by Octopus owing to your non-payment, such as (but not limited to) collection costs and attorneys' fees.

12. WARRANTY – LIMITATION OF LIABILITY – INDEMNIFICATION

- 12.1. No Warranty: Octopus and its affiliates, directors, employees and agents provide the Service "AS IS" and make no warranties of any kind, express or implied, including but not limited to: (a) any implied warranties of merchantability or fitness for a particular purpose of the Service or the Equipment; and (b) a warranty that the Service will operate error-free or without failure, delay, interruption, degradation of voice quality or loss of content, data or information. Neither Octopus nor its officers, directors, employees, affiliates or agents, suppliers or any other service provider or vendor who furnishes services or products to Customer in connection with the Agreement or the Service will be liable for unauthorized access to Octopus's or Customer's transmission facilities or premises equipment or for unauthorized access to, or alteration, theft or destruction of, Customer's data files, programs, procedures or information through accident, fraudulent means or Equipment or any other method, regardless of whether such damage occurs as a result of Octopus's or its service providers' or vendors' negligence. Statements and descriptions concerning the Service or Equipment, if any, by Octopus or Octopus's agents or installers are informational and are not given as a warranty of any kind.
- 12.2. Limitation of Liability: The parties agree that under no circumstances shall Octopus, its officers, directors, employees, agents, partners, suppliers or any other service provider who furnishes services to Customer in connection with the Agreement or the Service be liable to you or any other person, for any actual direct, indirect, consequential, special, incidental, punitive, exemplary or for any other damages, resulting from but not limited to loss of data, or loss of revenue or profits of any kind or nature, regardless of the foreseeability thereof arising out of the provision of the Service or in any way arising out of the Agreement whether resulting from: (a) Customer's use of Service; (b) mistakes, omissions, interruptions, loss, theft or deletions of files, errors, defects, delays in operation or transmission; or (c) any failure of performance or otherwise in connection with the Service or the Agreement, or arising out of or in connection with the use or inability to use the Service, including inability to dial 911 or to access emergency service personnel through the Service, degradation of quality of the Service, failure of Equipment, mistakes, omissions, interruptions, or defects in Equipment, force majeure events such as (but not limited to) acts of god, strikes, fire, war, riot, government actions, that are caused by any reason. The limitations set forth herein apply to claims founded in breach of contract, breach of warranty, product liability, extra-contractual liability and any and all other theories of liability and apply whether or not Octopus was informed of the likelihood of any particular type of damage.
- 12.3. Indemnification: Customer agrees to defend, indemnify, and hold harmless Octopus, its officers, directors, employees, agents, partners and any other service provider who furnishes services to Customer in connection with the Agreement or the Service, from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without limitation, reasonable attorney's fees) by, or on behalf of, the Customer or any third party or user of the Customer's Service, relating to the Agreement or by violation of the Agreement, the Service including but not limited to 911 Service or the Equipment. This paragraph shall survive termination of the Agreement.
- 12.4. No Third Party Beneficiaries: No provision of the Agreement provides any person or entity not a party to the Agreement with any remedy, claim, liability, reimbursement, or cause of action or creates any other third party beneficiary rights.
- 12.5. Content: You are liable for any and all content transmitted by or to you or users of the Service. You shall assure that your or other user's use of the Service and content will at all times comply with all applicable laws, regulations and written and electronic instructions for use.
- 12.6. Maximum Liability: Octopus's maximum and sole liability for damages to you for any cause whatsoever regardless of form of action, including negligence, shall not exceed an amount equal to the Service charges paid by you for the Service during the one (1) month period preceding the event which caused the damages or injury.

13. GOVERNING LAW – RESOLUTION OF DISPUTES

- 13.1. Governing Law: The Agreement and performance hereunder shall be governed by and construed in accordance with the laws in force in the province of Ontario, Canada. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service or the Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred. All disputes arising out of or in connection with the Agreement, or in respect of any legal relationship associated with or derived from the Agreement, shall be arbitrated and finally resolved, pursuant to the Simplified Arbitration Rules of the ADR Institute of Canada, Inc. The place of arbitration shall be Ottawa, Ontario. The language of the arbitration shall be English.
- 13.2. Non-Transferable: The Agreement is not transferable in any way and may not be assigned to any third party. This includes, without limitation, that neither you nor any other person may: (a) resell, timeshare, sublicense, or otherwise

transfer all or any portion of the Service to any other party; nor (b) make commercial use of the Service except for the Customer's business within the legal entity that is a party to the Agreement.

- 13.3. No Waiver: The waiver or failure of Octopus to exercise or enforce, in any respect, any right provided for herein shall not be deemed a waiver of any further right hereunder.
- 13.4. Entire Agreement: The Customer acknowledges that it has read the Agreement together with Appendix A which is an integral part of the Agreement, and the rates posted on the Octopus website, understands it, and agrees to be bound by its terms and further agrees that it is the complete and exclusive statement of the agreement between the parties, which supersedes and cancels all prior proposals, understandings and all other agreements, oral, electronic and written, between the parties relating to the Agreement. Octopus reserves the right to change the terms and conditions of the Agreement from time to time including but not limited to rate changes, Service enhancements, additions, modifications and deletions, and to discontinue all or any portion of the Service or any function or feature thereof in any manner in its sole discretion, with or without notice to, or obligation or liability of any kind to you or to any other person. Notice of any changes to the Service shall be considered given to and received by the Customer and effective on the date posted on the Octopus website. Such changes shall be binding on the Customer.
- 13.5. Severability: If any provision of the Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby.