

## END USER LICENSE AGREEMENT

This End User License Agreement (“Agreement”) is entered into as of \_\_\_\_\_ by and between \_\_\_\_\_ (“Customer”) and Sorenson Communications, LLC, (“Sorenson”), a Utah limited liability company having its principal place of business at 4192 S. Riverboat Road, Salt Lake City, Utah 84123.

WHEREAS, Sorenson offers Video Relay Service (VRS), a telecommunication relay service that allows people with hearing or speech disabilities who use sign language to communicate with voice telephone users; and

WHEREAS, Sorenson will make available to Customer at no cost Hardware and Software that may be used to place deaf-to-hearing VRS calls, to receive hearing-to-deaf VRS calls, and to make and receive non-VRS point-to-point calls; and

WHEREAS, Sorenson will receive compensation from the Telecommunications Relay Service Fund only when Customer uses one of Sorenson’s video interpreters to facilitate a VRS call; and

WHEREAS, Customer desires to obtain from Sorenson VRS and the necessary Hardware or Software to enable its employees, contractors, or other representatives who have hearing or speech disabilities to communicate over the telephone;

NOW THEREFORE, the parties agree as follows:

### **1. Definitions**

In this Agreement, the following words shall have the following meanings:

- A. “Agreement” means this End User License Agreement.
- B. “Customer” means the Customer to whom the Hardware or Software has been licensed and any person who Customer permits to use Sorenson’s Video Relay Service.
- C. “Dispute” means any dispute between the Parties and any dispute relating to use of the Hardware, Software, Sorenson’s services, or any other product or service provided by Sorenson. It includes but is not limited to (1) any and all claims, suits, or other controversies arising out of this Agreement or in any way related to the relationship between the Parties; (2) any and all claims, suits, or other controversies brought by Customer or by any user of the Hardware or Software or services provided under this Agreement (including suits against our employees, officers, agents, affiliates, or other representatives) (3) any and all claims, suits, or other controversies that Sorenson brings against Customer; (4) claims, suits, or other controversies that arise in contract, tort, statute, fraud, or misrepresentation, advertising claims, and claims involving any other legal theory; and (5) claims, suits, or other controversies that arose after this Agreement is terminated.

- D. “Hardware” means any Sorenson videophone, including but not limited to the Sorenson ntouch<sup>(R)</sup> VP, Sorenson VP-100<sup>(R)</sup> Sorenson VP-200<sup>(R)</sup>, or Sorenson Lumina<sup>(R)</sup> videophone and related services provided to Customer by Sorenson, including all its software, features, and functions, as well as any other Sorenson-provided device, such as a router or monitor, that connects to the Hardware within Customer’s premises.
- E. “TRS Fund” means the Telecommunications Relay Service Fund.
- F. “Operating Device” means an electronic device, including but not limited to a computer, electronic tablet (e.g., iPad or similar device), mobile phone, or any other similar electronic device owned by Customer, or which Customer is authorized to use on an ongoing basis, and on which the Software is installed and used.
- G. “Party” or “Parties” means Customer and Sorenson.
- H. “Personally Identifiable Information” means any information that can be used to identify or contact Customer or any user of Sorenson’s VRS.
- I. “Point-to-point call” means a non-VRS call in which the Hardware or Software connects to another video end-point to allow users to communicate directly without the assistance of an interpreter.
- J. “Registered Location” means the most recent address that Customer has provided to Sorenson using the methods identified in this Agreement to identify the physical location where Customer uses the Hardware or Software. If Customer provides updated physical location information to Sorenson, the new information does not become Customer’s Registered Location until Sorenson processes the update and notifies Customer that the Registered Location has been changed.
- K. “Software” means the ntouch<sup>(R)</sup> Software and all explanatory documentation, source code, object code, interfaces, content, fonts, upgrades, modifications, Software Updates, additions, and any data that came with the Software, is provided in association with the Software, or is later released as part of a Software Update.
- L. “Sorenson,” means Sorenson Communications, LLC, and its employees, agents, independent contractors, and affiliated entities authorized to license the Hardware or the Software to you under this Agreement.
- M. “TTY” means traditional text telephone.
- N. “Update” means an update to the Hardware or Software, such as programming repairs, patches, enhanced functions, new or modified plug-ins, and new versions.
- O. “User” means any person who uses the Hardware or Software provided to Customer.

- P. “Video Interpreter” or “VI” means a person who transliterates or interprets conversation between two or more users of VRS.
- Q. “Video Relay Service” or “VRS” means a telecommunications relay service that allows people with hearing or speech disabilities who use sign language to communicate with voice telephone users through video equipment using a Video Interpreter. The video link allows the VI to view and interpret the person’s signed conversation and relay the conversation back and forth with a voice caller.
- R. “VRI” means a video remote interpreting service provided by Sorenson or another provider via a video connection, in which an interpreter functions as a replacement for an on-site interpreter and who is not physically present to interpret for two persons who are together at the same location.

## 2. **Conditions of Use**

- A. **No Unlawful or Wrongful Use:** Customer agrees to do the following and to use reasonable efforts to ensure that its employees, contractors, other representatives, and any other videophone users do the following:
  - i. Comply with all applicable laws with respect to the Hardware and Software and the use of the Hardware and Software or VRS;
  - ii. Not engage or participate in communications or conduct of an abusive, pornographic, lewd, obscene, harassing, fraudulent, or unlawful nature while using the Hardware or Software or VRS;
  - iii. Not record, forward, post on the Internet, or transmit the voice, image, and/or likeness of any Sorenson employee in any way for any purpose, or to store, retrieve, use, or facilitate the use of, the voice, image, and/or likeness of the Sorenson employee in any way other than as necessary to permit the provision of VRS or SignMail(R) service;
  - iv. Not use the Hardware or Software in a way that interferes with Sorenson’s ability to provide VRS or point-to-point communications capability to Customer or other users and not use the Hardware or Software in a way that impinges on any other user or his or her enjoyment or use of the Hardware or Software or any of Sorenson’s services;
  - v. Not use Sorenson’s VRS for any purpose that would result in false claims for TRS Fund compensation;
  - vi. Not use Sorenson’s VRS for any purpose that would result in use of VRS by persons who do not need the service in order to communicate in a functionally equivalent manner to a hearing person using a voice telephone;
  - vii. Not use the Hardware or Software for a VRS call in which the user is not actively participating in the call;

- viii. Not use the Hardware, Software, Sorenson's VRS, or any of Sorenson's systems or servers to infringe on any intellectual property rights, or other proprietary rights, including, but not limited to, trademark, copyright, patent, and trade-secret rights; and
  - ix. Not violate or breach in any way the security of Sorenson's website, Sorenson's networks, or any computer or device owned by Sorenson. Without limiting the foregoing, the following types of computer intrusions are prohibited: disseminating or planting viruses; causing a denial of service attack which interferes with access by authorized users; retrieving personal or proprietary information without authorization; or causing the transmission of any other program, information, code, or command that may damage the integrity or availability of data, a program, a system, or information. Any such intrusions may result in criminal or civil liability.
- B. Suspension or Termination: Sorenson has the right, in its sole discretion, to (1) discontinue or suspend, without advance notice, your use of the Hardware or Software or VRS for any reason or no reason, including if it becomes aware that Customer has breached the Agreement; (2) investigate a potential violation of any provision of the Agreement; (3) disclose to the full extent permitted by law any suspected use of the Hardware or Software or VRS that Sorenson believes is unlawful or injurious to the rights, property, or safety of Sorenson, its employees, users, and/or members of the public; and (4) seek reimbursement and damages in the event of a violation of this Agreement. Sorenson is not required to provide Customer with advance notice before discontinuing or suspending Customer's use of the Hardware, Software, or VRS. To the extent Sorenson notifies Customer of violations of this Agreement, Customer agrees to take reasonable measures to correct them.
- C. Competitive Provider: Customer certifies that it is not obtaining and will not use the Hardware or Software on behalf of another VRS or VRI provider, and that it is not an employee, affiliate, or agent of another VRS or VRI provider.
- D. Connectivity: Customer agrees to provide power and Internet access for the device. Customer further agrees to work with Sorenson to ensure that its firewall and network security do not interfere with connectivity.

### 3. Representations and Warranties

Customer represents and warrants the following:

- A. Customer understands that the cost of VRS calls is paid for by contributions from other telecommunications users to the TRS Fund. Customer will make reasonable efforts to ensure that use of Sorenson's VRS is limited only to persons with a hearing or speech disability who need VRS to be able to communicate effectively with a hearing person via telephone.

- B. Customer will provide Sorenson with truthful and accurate information regarding (i) the name and physical address of the organization, business, or agency where the enterprise or public videophone is located; (ii) the name of the individual associated with the organization, business, or agency who is responsible for the videophone; and (iii) the specific type of location where the videophone will be placed within the organization.
- C. Customer will specify whether the videophone will be: (i) in a private or restricted location (including shared offices, conference rooms, hospital rooms, or other locations where access is restricted) for the use of the organization's deaf employees or other deaf individuals (an "enterprise videophone"); (ii) maintained by a business, organization, government agency, or other entity, and made available for use by the public in a public space, such as a public area of a business, school, hospital, library, airport, or government building (a "public videophone"); or (iii) assigned to a hearing employee or other representative of the organization who knows ASL ("a hearing videophone").
- D. Customer certifies that the videophones will not be used other than in the manner specified by the Customer at the time of installation/activation. Customer agrees that it will immediately notify Sorenson if any of the information required by this section changes, including but not limited to, the identity of the individual responsible for the videophones.
- E. Customer will provide all information and sign any and all agreements, certifications, and consents required by the FCC to be eligible to receive VRS.

#### **4. Videophone Types**

- A. Enterprise Videophones: Customer agrees that videophones designated as enterprise videophones will be maintained by a business, organization, government agency, or other entity and designated for use by Customer's employees or other individuals in private or restricted areas. Customer agrees to make the device available only in a private or restricted location, such as shared offices, conference rooms, hospital rooms, or other locations where access is restricted. Customer agrees not to change the location of the device without notifying Sorenson and obtaining its consent.
- B. Public Videophones: Customer agrees that videophones designated as public videophones will be maintained by a business, organization, government agency, or other entity, and made available for use by the public in a public space, such as a public area of a business, school, hospital, library, airport, or government building. Customer agrees to keep the device in a public space as required by federal law, and will not change the location of the device without notifying Sorenson and obtaining its consent.
- C. Hearing Videophones: Customer agrees that videophones designated as hearing videophones may not be used to place Video Relay Service calls and may be used

only to place point-to-point (non-interpreted) calls that are not billed to the TRS Fund. Customer expressly acknowledges that the device will not be able to place emergency calls, including calls to 911, and agrees to ensure that all users of hearing videophones are aware of this restriction and that they have an alternative means for dialing 911 in case of an emergency.

**5. Privacy Matters**

- A. Customer acknowledges that the use of the Hardware, Software, or Sorenson's VRS, including to place or receive a call or to leave a SignMail(R) (video mail) message, may require a user's image and/or voice to be transmitted over the Internet. Customer further understands that due to the nature of the Internet and/or wireless communications, any privacy right, copyright, or other right or interest in the user's voice, image, or likeness may be lost with respect to any specific transmission as a result of such transmission. Customer releases and agrees to hold Sorenson harmless from any and all responsibility for any loss of rights and/or interests resulting from transmission of users' voice, likeness, and/or image over the Internet. The foregoing shall not be construed as consent to the use of any voice, likeness, or image for purposes other than VRS and point-to-point calls.
- B. Any Personally Identifiable Information that is collected, maintained, or generated by the Hardware or Software will be subject to applicable terms and conditions of Sorenson's Privacy Policy posted on Sorenson's website at: <http://www.sorenson.com/privacy>.

**6. Service and Updates**

- A. Service: Customer agrees that only Sorenson may service or repair the Hardware or Software, and that Customer will not allow anyone other than Sorenson, including but not limited to other VRS providers, to attempt to service or repair the Hardware or Software. Customer may allow a third party to service or repair an Operating Device on which the Software is installed, as long as such third party is not a provider of VRS or otherwise a Sorenson competitor and as long as that third party agrees not to attempt to copy, decompile, modify, extract, disassemble, take apart, or otherwise reverse-engineer or tamper with the Hardware or Software.
- B. Updates: The Hardware or Software periodically may communicate with Sorenson's servers to check for available Updates to the Hardware or Software. If an Update is available, it will be automatically downloaded and installed to the Hardware or Operating Device without notice. Customer agrees not to interfere with the Hardware or Software's ability to automatically request and receive Updates from Sorenson's servers.

**7. Porting**

Customer may transfer or port the Sorenson ten-digit number assigned to Customer to a default provider of VRS other than Sorenson. If Customer already has a local ten-digit telephone number from a provider other than Sorenson, but would like to select Sorenson as its default provider,

Customer may port the telephone number to Sorenson. When Customer ports its number from another provider, it may continue using the same phone number assigned to it by its prior provider. Alternatively, Customer may ask Sorenson to assign Customer a new number and “redirect” the ported number so that callers hear a message that the ported number has been changed. If Sorenson agrees to do so, Sorenson does so solely as a courtesy and has no obligation to ensure that the redirect works correctly. Moreover, if Customer asks Sorenson to redirect a number, Sorenson will generally do so for a maximum of ninety (90) days, after which Sorenson may return the ported number to its numbering provider for assignment to another person. Once Sorenson has returned the ported number to its numbering provider, that number will no longer be assigned to Customer, and Customer will no longer be able to port it to another provider. Therefore, if Customer wants to keep a number, Customer should not ask Sorenson to put it in redirect mode. The Hardware or Software transmits information to, and receives information from, a remote Sorenson server. The FCC’s rules prohibit this information transfer if Sorenson is not the default provider of VRS for the telephone number(s) assigned to the Hardware or Software. As a result, some of the Hardware or Software’s features and functions will not be operational if Sorenson is not the default provider for the number(s) assigned to it.

## **8. Returning the Hardware**

Customer may return the Hardware by contacting Sorenson at vrssales@sorenson.com or placing a point-to-point call to 866-756-6729. Customer is not authorized to and may not give any other VRS provider, or any commercial entity working with or for any other VRS provider, authority to return the Hardware for Customer. This paragraph of the Agreement shall continue to apply after the Agreement expires.

## **9. Safety and Security of Equipment**

Customer agrees to use reasonable efforts to keep the Hardware and Software safe and secure from thieves or vandals, unsupervised or ineligible users, and any other conditions that would likely damage the Hardware or Software or impair its functions. If the Hardware or Software has been stolen or appears to have been damaged, tampered with, or not to be functioning properly, Customer agrees promptly to email Sorenson at vrssupport@sorenson.com or, if possible, to contact our service staff through the Hardware or Software.

## **10. Emergency Calls**

- A. Registered Location: To place an emergency call, users can dial the emergency 911 number through Sorenson’s VRS. To ensure 911 calls are routed to the proper emergency response center and that the emergency response personnel can send help to the user’s physical location, Sorenson (as Customer’s default provider) needs to obtain the address from which emergency calls may be placed. Customer is responsible for providing Sorenson an up-to-date Registered Location. Customer acknowledges that failure to do so may prevent Sorenson from obtaining the user’s location information and routing a call to the appropriate emergency center or providing the user’s physical location. If Customer changes the Registered Location (e.g., Customer moves the videophone to another location), Customer shall update Sorenson with the new location information. After Customer updates

the Registered Location, it will take some time (hours or more if there are issues reading or entering the address information provided) to activate 911 service at the provided address and, if a 911 emergency call is made prior to activation, then the user's call and the Registered Location information may not be automatically routed to the appropriate emergency personnel. Customer can inform Sorenson of the initial or new Registered Location by visiting [www.sorensonvrs.com/moving](http://www.sorensonvrs.com/moving), or calling 800-659-4810 from the Hardware or from the Operating Device with the Software.

- B. Shared Location: Some versions of the Software include an optional functionality called "Share Location." If Customer elect to turn on the "Share Location" feature during a call, the Software will attempt to retrieve the current location via GPS (if using a GPS-enabled Operating Device) and Customer may elect to display its current address to the user, the Sorenson interpreter, and/or to the person to whom the user placed the call. "Share Location" is an entirely optional feature, and it will not identify or otherwise track the user's location unless activated. Sorenson cannot guarantee that the "Share Location" feature will provide correct address information in every situation. Accordingly, Customer acknowledges and agrees that "Share Location" is not a substitute for providing Sorenson with your Registered Location for purposes of 911 emergency calls.
- C. Limitations and Risks: Sorenson recommends that Customer maintain an alternative means of making an emergency call to 911 (for example, through a traditional text telephone or a standard telephone) in the event that Customer is unable to use Sorenson's VRS for any reason. VRS requires that Customer's internet access service be working, and that the videophone is receiving power; it will not work when the power is out. Dialing 911 from a TTY or traditional phone remains the most reliable and fastest method of reaching emergency response personnel. Customer agree to make all users aware that use of Sorenson VRS to place a 911 call is subject to important limitations and risks.
- D. Limited to the United States: 911/E911 is available only for calls placed from a location within the United States or one of its territories or possessions.
- E. Technical Trouble or Errors: It is possible that, as a result of technical errors or human errors, a user's location and any telephone number associated with Sorenson VRS may not be automatically passed to the emergency service center or personnel when Sorenson VRS is used to place a 911 emergency call, or the call may not be completed. Technical errors may include (i) a Hardware or Software malfunction; (ii) a broadband network outage or power outage, or degradation of Internet service as a result of congestion, interruptions, or technical problems that may affect the videophone's ability to access the Internet; (iii) cancellation, suspension, or termination of your broadband or Internet service for any reason (including for failure to pay); or (iv) termination, suspension, restriction, or cancellation of the use of the service, Hardware or Software under this Agreement. Human errors may include misinterpretation, mistakes, or a user's inability to provide the interpreter with the appropriate address. In each case, Sorenson may not be able to obtain the



user's location or other relevant information and/or provide that information to the appropriate emergency personnel.

- F. Other Providers: If the Hardware or Software is used to place a 911 call through a VRS provider other than Sorenson, Sorenson will have no control over the manner in which the other provider will handle, process, or route the call. Sorenson thus cannot ensure that the other provider will handle the call in accordance with the FCC's emergency calling rules or that the call and location will be automatically routed to the appropriate emergency personnel.
  
- G. Hearing Videophone: IF SORENSON PROVIDES CUSTOMER WITH A HEARING VIDEOPHONE AS DEFINED IN SECTION 4.C, CUSTOMER ACKNOWLEDGES THAT THE PHONE WILL NOT BE ABLE TO PLACE EMERGENCY CALLS AND AGREES TO ENSURE THAT ALL USERS ARE AWARE OF THIS RESTRICTION AND HAVE AN ALTERNATIVE MEANS TO DIAL 911 IN CASE OF AN EMERGENCY.
  
- H. LIMITATION AND WAIVER OF LIABILITY FOR 911 CALLS: IF THE SERVICE, HARDWARE, OR SOFTWARE IS USED TO MAKE A 911 CALL, WHETHER THROUGH SORENSON VRS OR THROUGH ANOTHER VRS PROVIDER, SORENSON IS NOT LIABLE FOR ANY CLAIM, DAMAGE, OR LOSS ARISING FROM THE USE OF THE HARDWARE OR SOFTWARE TO FACILITATE THAT CALL. SPECIFICALLY, SORENSON IS NOT LIABLE TO CUSTOMER, CUSTOMER'S EMPLOYEES, CONTRACTORS, OR OTHER REPRESENTATIVES, OR ANY OTHER USER IN TORT, CONTRACT, OR OTHERWISE FOR ANY DEATH, PERSONAL INJURY, PROPERTY DAMAGE, OR OTHER HARM ARISING OUT OF OR RELATED TO USE OF THE HARDWARE OR SOFTWARE TO MAKE A 911 CALL, OR THE PROVISION OF ANY VRS OR VRI INTERPRETING SERVICES INCIDENTAL TO OR IN CONNECTION WITH SUCH A CALL, INCLUDING BUT NOT LIMITED TO ANY ACT OR OMISSION INVOLVING (1) THE DEVELOPMENT, DESIGN, INSTALLATION, OPERATION, MAINTENANCE, PERFORMANCE, OR PROVISION OF THE HARDWARE OR SOFTWARE OR ANY EQUIPMENT OR FACILITY THAT PERMITS THE USE OF THE HARDWARE OR SOFTWARE, OR ANY VRS OR VRI INTERPRETING SERVICES PROVIDED IN CONNECTION WITH A 911 CALL OR THE PROVISION OF EMERGENCY SERVICES; (2) MISINTERPRETATION, MISTAKES, INTERRUPTIONS, DELAYS, TRANSMISSION ERRORS, NETWORK OUTAGES, FAILURES, DEFECTS, TECHNICAL DIFFICULTIES, ACTS OF GOD, OR OTHER OCCURRENCES, REGARDLESS OF THE SOURCE OF THE OCCURRENCE, THAT MAY ARISE IN THE COURSE OF TRANSMITTING OR HANDLING 911 CALLS OR PROVIDING EMERGENCY SERVICES; OR (3) RELEASE TO A PUBLIC SAFETY ANSWERING POINT, DESIGNATED STATEWIDE DEFAULT ANSWERING POINT, APPROPRIATE LOCAL EMERGENCY AUTHORITY, EMERGENCY MEDICAL SERVICE PROVIDER OR EMERGENCY DISPATCH PROVIDER, PUBLIC SAFETY, FIRE SERVICE OR LAW

ENFORCEMENT OFFICIAL, OR HOSPITAL EMERGENCY OR TRAUMA CARE FACILITY OF USER INFORMATION RELATED TO 911 CALLS OR THE PROVISION OF EMERGENCY SERVICES. IN ADDITION, SORENSON IS NOT LIABLE FOR ANY DAMAGES ARISING FROM YOUR FAILURE TO PROVIDE SORENSON AN ACCURATE, UP-TO-DATE REGISTERED LOCATION. THIS LIMITATION AND WAIVER OF LIABILITY IS EFFECTIVE EVEN IN THE EVENT OF SORENSON'S NEGLIGENCE. SORENSON, IN ITS ROLE AS AN EMERGENCY COMMUNICATIONS SERVICE PROVIDER, SHALL HAVE IMMUNITY OR OTHER PROTECTION FROM LIABILITY IN A STATE OF A SCOPE AND EXTENT THAT IS NOT LESS THAN THE SCOPE AND EXTENT OF IMMUNITY OR OTHER PROTECTION FROM LIABILITY ACCORDED ANY LOCAL EXCHANGE CARRIER UNDER FEDERAL AND APPLICABLE STATE LAW (WHETHER THROUGH STATUTE, JUDICIAL DECISION, TARIFFS FILED BY SUCH LOCAL EXCHANGE CARRIER, OR OTHERWISE).

## 11. myPhone Program

- A. Consent to Program: Sorenson will provide Customer with the option to link its various devices that run Sorenson Software through the myPhone program. If Customer elects to join a myPhone group, Customer consents to having all of the numbers in the group ring when any member of the group receives an incoming call and agrees to notify its employees, contractors, or other representatives who use Sorenson's Software of these terms of the myPhone Program. Customer consents to receiving all notifications of account changes at the email address, mailing address, or other contact information of the individual responsible for the videophones assigned to Customer. Customer further consents to having all the numbers in a myPhone group share information, including but not limited to CallerID, sign mail, video center, contact list, and blocked list.
- B. Access to CPNI: If Customer elects to participate in the myPhone program and a myPhone group consists of more than one person, everyone in the group will be granted access to some of the confidential proprietary network information ("CPNI") and other information of the other members of the group, including CallerID, sign mail, video center, contact list, and blocked list. By joining a myPhone group involving more than one person, Customer agrees to allow Sorenson to share the myPhone group's CPNI with all other members of the myPhone group for the purpose of providing the group with the myPhone service. Customer has the right to prevent Sorenson from allowing others to access its CPNI, and Sorenson has a duty, under federal law, to honor Customer's request and protect the confidentiality of your CPNI. **IF CUSTOMER DOES NOT WISH TO SHARE ITS CPNI WITH ANYONE ELSE, CUSTOMER SHOULD NOT JOIN A MYPHONE GROUP INVOLVING MORE THAN ONE PERSON.** Customer has the right to withdraw its consent to allow Sorenson to permit other myPhone group members to access CPNI at any time by removing itself from the myPhone group. Customer approval or denial of approval to allow Sorenson to share CPNI is valid until affirmatively permitted or revoked. Customer

may indicate its approval or denial of approval by joining or not joining a myPhone group, or by contacting a Sorenson customer information representative.

- C. Disbanding myPhone: Sorenson retains sole discretion, for any reason and at any time, to determine that a myPhone group will be disbanded or to end the myPhone program. A myPhone group may not include VRS-enabled devices and a Hearing Videophone. If Customer's myPhone group is disbanded, Sorenson will notify Customer, and Customer's videophone's telephone number will ring only the videophone to which Customer's telephone number is assigned and no other devices. If Customer ports its videophone's telephone number to another provider, Customer's videophone's telephone number will be transferred to the new provider, and the myPhone group will be disbanded.

## 12. Sorenson's Obligations

- A. Ten-Digit Numbers: The FCC requires VRS providers to offer functionally equivalent ten-digit telephone numbers. Customer must have a ten-digit number to make or receive calls using the Hardware and Software, with the exception of 911 emergency calls. If Customer becomes ineligible for VRS services for any reason, Sorenson may terminate Customer's account and reclaim Customer's ten-digit number.
- B. Default Provider: When Customer obtains a Sorenson telephone number for VRS, Hardware or Software, Customer selects Sorenson as its "default" provider of VRS. This means that all VRS calls to and from the local ten-digit telephone number(s) assigned to the Hardware or Software will be routed, by default, through Sorenson VRS. FCC regulations prohibit Sorenson from completing non-emergency VRS calls if you have not registered with a default provider. As Customer's default provider, Sorenson must comply with various legal requirements. Pursuant to these requirements, Sorenson will: (i) obtain from you your Registered Location; (ii) give you an easy way to update your Registered Location information if it changes, without cost or additional equipment; and (iii) route all emergency 911 calls placed from the Hardware or Software via Sorenson VRS to the appropriate emergency personnel, and transmit the call-back number and other required information to the emergency response center. See Section 10 for more information on 911 emergency calls. **IT IS IMPORTANT THAT YOU KEEP YOUR REGISTERED LOCATION UP TO DATE BECAUSE SORENSON WILL USE THAT LOCATION TO ROUTE 911 CALLS, AND TO PROVIDE TO 911 OPERATORS. FAILURE TO UPDATE YOUR REGISTERED LOCATION COULD DELAY OR PREVENT 911 RESPONSE IN AN EMERGENCY.**

## 13. Warranty, Limitations of Liability and Indemnification

- A. No Warranty: SORENSON DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE.

Sorenson disclaims any and all warranties of quiet enjoyment, performance, and non-infringement. Sorenson also makes no warranty that the Hardware or Software will be error free or provide uninterrupted service or functionality. Sorenson does not authorize anyone, including, but not limited to, Sorenson's employees, independent contractors, agents, or representatives, to make a warranty of any kind on Sorenson's behalf and Customer should not rely on any such statement. Sorenson does not represent, warrant, or guarantee that its relay interpreters meet the various interpreting requirements mandated by the laws of any State, or that its interpreters are trained, authorized, or certified to provide VRS pertaining to any particular area of expertise, including medical, mental health, or legal.

- B. Limitations of Liability. Customer agrees that Sorenson shall not be responsible or liable for any claims or causes of action that arise from any use of the Hardware or Software or from any use of VRS, even if Sorenson has been negligent. This limitation does not apply to claims arising out of Sorenson's gross negligence or willful misconduct. Without limiting the foregoing, Sorenson will not be liable for any cost or damage arising either directly or indirectly from (i) any failure to comply with this Agreement, including the use or misuse of the Hardware or Software; (ii) the porting of the telephone number(s) assigned to the Hardware or Software to a default provider other than Sorenson; or (iii) Sorenson's termination, suspension, restriction, or cancellation of Customer's license to use the Hardware or Software and/or Sorenson's retrieval or disabling of the Hardware or Software. In no event shall Sorenson, its employees, shareholders, officers, or directors be liable for punitive, reliance, or special damages, or for indirect or consequential damages, including but not limited to lost profits or revenue or increased costs of operation. These limitations apply even if the damages are foreseeable or Sorenson is told they are possible, and these limitations apply to any claim no matter how that claim is styled or on what legal grounds (such as contract, tort, statute, misrepresentation) it is based. If Sorenson is nevertheless found liable for any damage to person or property, Sorenson will not be liable for more than the amount of actual direct damages to the person or property.
- C. Indemnification: Customer agrees to indemnify and hold Sorenson and its shareholders, officers, directors, employees, agents, independent contractors, and affiliated entities harmless for all costs, fees, expenses, and damages of any nature whatsoever related to any claims arising from or related to the use by any person of the Hardware or Software licensed to Customer, including court and arbitration costs, attorney's fees, and the costs of other professionals, unless such claims are based solely on Sorenson's gross negligence or willful misconduct.

#### 14. Dispute Resolution and Governing Law

- A. Arbitration: The Parties agree to resolve all Disputes, regardless of theory, whenever brought and whichever party brings it, and whether between the parties to this Agreement or between one of the parties to this Agreement and the employees, agents, and/or affiliated businesses of the other party, whether such claims seek legal and/or equitable relief, shall be resolved by compulsory and

binding arbitration conducted in Salt Lake City, Utah, and the parties hereby expressly waive any and all rights to a Trial By Jury, expressly submit to the personal jurisdiction of the arbitration panel (and state and federal courts where applicable) located in the State of Utah, waive any and all judicial remedies on any matter subject to this part, and agree that the following terms and conditions shall govern all such arbitrations:

- i. The arbitration process established by this Section is governed by the Federal Arbitration Act (“FAA”), 9 U.S.C. § 1-16. The Parties agree that the FAA’s provisions—and not state law—govern all questions of whether a Dispute is subject to arbitration. The Parties each agree that all issues regarding the Dispute are delegated to the arbitrator to decide, including any disagreements regarding the scope and enforceability of this Agreement to arbitrate.
  - ii. An arbitrator which is specifically engaged in the practice of law and possessing special knowledge and experience in the subject matter of the claim shall conduct all arbitrations hereunder and shall be chosen by the process currently referred to as the “Striking Method.”
  - iii. The arbitration shall be conducted in accordance with the then-current commercial rules of the American Arbitration Association (the “AAA”). There shall be no requirement that the arbitration be conducted at the offices of the AAA nor shall it be required that the arbitration be managed by the AAA.
  - iv. The arbitrator shall have the power to award legal relief, as well as temporary and permanent equitable relief without a showing of irreparable harm by the moving party except that, any provision of applicable law notwithstanding, the parties shall not request, and the arbitrators shall have no authority to award, punitive or exemplary damages against any party.
  - v. The decision of the arbitrator shall be made within thirty (30) days after the matter has been fully and finally arbitrated, and the award shall be in writing, contain the names of the parties, a description of the award issued, and be a reasoned decision.
  - vi. The decision of the arbitrator shall be held in confidence by the arbitrator and the parties and shall not be made available to the public except as required to enforce the decision. The decision shall be final and binding on the parties and the judgment shall be unappealable and may be entered in any court having jurisdiction thereof.
- B. Arbitration Filing Procedures: Any Party seeking to take a dispute to arbitration must first notify the other party in writing of the dispute. The other party shall then have sixty (60) days to resolve the dispute. If the dispute cannot be satisfactorily resolved within sixty days, then either party may commence an arbitration. Any

claim or Dispute subject to arbitration under this Agreement must be brought within two (2) years after the date the basis for the claim or dispute first arises. Unless applicable substantive law provides otherwise, each party will pay its own expenses to participate in the arbitration, including attorneys' fees, and expenses for witnesses, document production and presentation of evidence. Unless prohibited by law, the party prevailing before the arbitrator shall be entitled to recover the arbitration administrative fees and the expenses of the arbitrator from the other party.

- C. Governing Law: This Agreement will be governed by the law of the State of Utah, without regard to its choice of law rules, except that the arbitration provisions of this Agreement will be governed by the Federal Arbitration Act. This governing law provision applies no matter where Customer resides or is organized or incorporated, or where it uses the Hardware or Software.

## 15. INTELLECTUAL PROPERTY

- A. License and Limitations: Customer is granted a right and license to use Sorenson Hardware and Software subject to the terms and conditions contained in this Agreement. Customer's right to use Sorenson Hardware and Software is limited by the rights and interests retained by Sorenson and its licensors with respect to the proprietary intellectual property embedded in the Hardware and Software, such as the proprietary software and firmware, and copyrighted materials, the proprietary nature of which are protected by copyright, trademark, trade secret, and other intellectual property law. Customer's right to use Sorenson Hardware and Software is strictly subject to Customer's compliance with this Agreement.
- B. No Sublicenses: Customer agrees that the right and license to the Sorenson Hardware and Software are granted to Customer only for the uses authorized by the type of videophone specified under Section 4 of this Agreement (enterprise, public, or hearing videophone). Customer agrees not to rent, resell, sublicense, distribute, share, or assign any right to the Hardware and Software without the prior approval of Sorenson. Customer further agrees not to charge a fee for the use of the Hardware and Software and agrees that all use shall be subject to this Agreement, and that Customer is responsible for such use as if Customer had used the service itself.
- C. De-compilation or Reverse Engineering: Customer agrees not to attempt to copy, decompile, modify, extract, disassemble, take apart, or otherwise reverse-engineer or tamper with the Hardware or Software, or to permit any other person to do so. Nothing in this Agreement and/or the use of the Hardware, Software, or VRS gives Customer any right, title, or interest to the Hardware or Software, including intellectual property rights, trademarks, copyrights, or patents. Customer is expressly prohibited from asserting or filing registrations and/or applications for ownership of intellectual property rights in the Hardware or Software in any jurisdiction throughout the world.

- D. Open Source Usage: The Software and Hardware operate using software developed by the OpenSSL Project for use in the OpenSSL Toolkit (<http://www.openssl.org/source/license.html>) and libraries derived from the FFmpeg (<http://ffmpeg.org/legal.html>) that are licensed under the GNU Lesser General Public License (LGPL) version 2.1. Sorenson does not claim any ownership of the software, libraries, or code of the Open SSL Project or FFmpeg. Nothing in this Agreement shall be deemed to restrict or limit your exercise of any rights granted to you under the LGPL.
  
- E. AVC License: THIS PRODUCT IS LICENSED UNDER THE AVC PATENT PORTFOLIO LICENSE FOR THE PERSONAL AND NON-COMMERCIAL USE OF A CONSUMER TO (i) ENCODE VIDEO IN COMPLIANCE WITH THE AVC STANDARD (“AVC VIDEO”) AND/OR (ii) DECODE AVC VIDEO THAT WAS ENCODED BY A CONSUMER ENGAGED IN A PERSONAL AND NON-COMMERCIAL ACTIVITY AND/OR WAS OBTAINED FROM A VIDEO PROVIDER LICENSED TO PROVIDE AVC VIDEO. NO LICENSE IS GRANTED OR SHALL BE IMPLIED FOR ANY OTHER USE. ADDITIONAL INFORMATION MAY BE OBTAINED FROM MPEG LA, L.L.C. SEE [HTTP://WWW.MPEGLA.COM](http://www.mpegla.com).

**20. General Terms.**

- A. Acts Beyond Our Control: Sorenson will not be responsible for any delay, failure in performance, loss, or damage due to fire, explosion, power blackout, earthquake, volcanic action, flood, weather, pathogens, strike, embargo, labor disputes, civil or military authority, war, terrorism, acts of God, acts or omissions of carriers or suppliers, acts of regulatory or governmental agencies, or other causes beyond our reasonable control.
  
- B. Assignment: Sorenson can assign all or part of our rights or duties under this Agreement without notifying Customer. In the event of an assignment, Sorenson shall have no further obligations with respect to any duties that may have been assigned.
  
- C. Entire Agreement: This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, understandings, statements, and representations, whether written or oral, regarding the Hardware and Software. No written or oral statement, advertisement, or service description not expressly contained or incorporated by reference in the Agreement will be allowed to contradict, explain, or supplement it, except pursuant to the “Changes to this Agreement” paragraph below.
  
- D. Changes to this Agreement: Sorenson may change the terms or conditions of this Agreement from time to time. If Sorenson makes any changes to the terms or conditions set forth in this Agreement, Sorenson will notify Customer. If Customer does not agree to the terms of any revisions to this Agreement, Customer should cease use of the Hardware or Software and immediately contact Sorenson.

Customer's continued use of the Hardware or Software following notice of any changes to this Agreement constitutes Customer's consent to be bound by the terms of this Agreement as revised.

- E. No Third Party Rights: This Agreement does not provide any third party with a remedy, claim, or right of reimbursement.
- F. Notices: Notices from Customer to Sorenson must be addressed as follows: Legal Dept., Sorenson Communications, LLC, 4192 South Riverboat Road, Suite 100, Salt Lake City, Utah 84123, U.S.A. Sorenson's notice to Customer, to the extent applicable, may be made by postcard, letter, relay service call, email, or software Update. Customer agrees to notify Sorenson in writing promptly in the event Customer changes its address, including but not limited to its email address.
- G. Termination: This Agreement will automatically terminate if you fail to comply with any term or condition of this Agreement. Upon termination, you agree to return the Hardware and Software and to destroy any Software copy not returned (e.g. any copy stored on any Operating Device). You may relinquish your rights under this Agreement at any time by returning the Hardware and Software to Sorenson and by destroying all copies of the Software in your possession or control not so returned. See Section 4 of this Agreement for how to initiate the return of Sorenson Hardware.
- H. Severability: If any part of this Agreement is found invalid, the rest of the Agreement will remain valid and enforceable. The part that is found invalid shall be replaced with terms under valid law that most closely matches the intent of the parties as manifested by this Agreement.

**IN WITNESS THEREOF**, the Parties hereto have caused this Agreement to be executed on the dates set forth below by their duly authorized representatives.

**Sorenson Communications, LLC**

[Customer Name]

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

By: \_\_\_\_\_  
(Print Name)

By: \_\_\_\_\_  
(Print Name)

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_