



## SERVICE ACTIVATION FORM

### EXHIBIT A: PRINCIPAL TERMS

THESE PRINCIPAL TERMS ("Principal Terms") are attached to and incorporated into the **Service Activation Form ("SAF")** and shall govern the agreement by **FONELOGIX, LLC ("Company")** to provide certain cloud-based business phone and Voice Over IP (VoIP) solutions and related equipment identified in the SAF (collectively, the "**Services**") to the customer identified in the SAF ("**Customer**"). Company and Customer agrees that the Company's general Terms and Conditions maintained at [www.fonelogix.com](http://www.fonelogix.com) (the "**GT&C**") are incorporated herein by this reference, may be amended from time to time, in Company's sole discretion, with written notice to the Customer, and contain, without limitation, Company's Privacy Policy, Fair Use Policy and other important information, as well as additional terms that may expand or limit Customer's legal rights. These Principal Terms are intended to supplement the GT&C; provided, however, that the Principal Terms shall govern in the event of any conflict with the GT&C. Customer's execution of the SAF is an express representation that Customer has read and agreed to be bound by the SAF, Principal Terms, and GT&C (collectively, the "**Agreement**"). Additional Services (e.g. additional endpoints or equipment) requested by Customer and provided by Company during the Term shall be set forth in a supplemental SAF which shall be subject to this Agreement and shall amend the Agreement ONLY to the extent that it describes additional Services or expressly modifies stated terms and shall not otherwise limit this Agreement.

1. **TERM.** This Agreement becomes a binding contract when executed by Company and Customer (the "**Effective Date**") and shall continue in effect until the end of the term of commitment identified on the SAF, stated as a period of months immediately following service activation, unless earlier terminated as provided herein (the "**Term**"). At the initial expiration of the Term, if Customer has not entered into a new agreement with Company for the Services, the Term shall be extended automatically on a month-to-month basis (the "**Extended Term**"), unless terminated as provided herein. During the Extended Term, Company may invoice Customer at, and Customer agrees to pay, Company's then current month-to-month rates for the Services unless a new SAF is executed.

#### 2. TERMINATION.

a. **By Customer.** Customer may terminate this Agreement for convenience (i) at the end of the Term or (ii) during the Extended Term, by delivering written notice of non-renewal to Company at least ten (10) days prior to the end of the Term or Extended Term as applicable. Notice delivered less than ten (10) days prior to the end of the Term or Extended Term shall not be effective to terminate the Agreement until the end of the subsequent monthly billing period. Notwithstanding the foregoing, Customer shall have a single opportunity prior to the expiration of the Term (not including any Extended Term) to terminate (i.e., drop) up to fifty percent (50%) of the maximum number of endpoints supplied to Customer by Company during the Term upon written notice to Company at least ten (10) days prior to the end of the then current monthly billing cycle and payment of Company's then current cancellation fee (available upon request and subject to change from time to time) for each dropped endpoint ("**Endpoint Cancellation Fee**" or "**ECF**"). No refunds are offered on equipment.

b. **By Company.** Company may terminate this Agreement for convenience by providing written notice to Customer at least ten (10) days prior to the end of the Term or Extended Term. Company may immediately, in its sole discretion, suspend the Services or terminate this Agreement for cause in the event that Customer is in Default under this Agreement. For the foregoing purposes, Customer shall be in "**Default**" if Customer breaches this Agreement in any manner, including if Customer: (i) fails to pay when due any amount required by this Agreement or any other agreement between Customer and Company; (ii) seeks to terminate this Agreement or acts in such a manner, in Company's sole discretion, that is reasonably consistent with such apparent intent; (iii) ports or seeks to port (i.e., transfer to another service provider) any number serviced by Company without Company's prior written consent; (iv) misrepresents any fact to Company; (v) becomes subject to any proceeding under the Bankruptcy Act or similar laws or makes an assignment for the benefit of creditors, or a receiver or special master is appointed for the benefit of Customer's creditors; (vi) uses the Services for any illegal or unauthorized purpose or in furtherance of any illegal act or conspiracy to commit an illegal act; (vii) uses the Services or equipment in such a manner as to interfere with or adversely affect Company's services to any other customers, (viii) permits excessive use of the Services, including any use that causes an endpoint or line to remain open beyond the person-to-person communication or fax transmission for which each use is initiated; (ix) uses the Services through automated or non-human means, whether through a bot, script, auto-dialer, or otherwise; or (x) dies (if a natural person) or dissolves or terminates (if an entity).

c. **911 Service Activation and Suspension.** E911 service will be activated as soon as reasonably possible following commencement of service. The E911 location of each phone number will be registered as Customer's primary billing address unless Customer notifies Company

otherwise. Customer acknowledges and understands that suspension or termination of Services will prevent Customer from using the Services in their entirety, including, without limitation, E911 service. Customer agrees that Customer and not Company is solely responsible for any claims or damages whatsoever, whether by or through Customer or any third party, in connection with E911 non-accessibility.

#### 3. BILLING AND PAYMENT.

a. **Notices.** Notices to either party shall be effective three (3) days following the date deposited in the US Mail, postage prepaid, return receipt requested, or one (1) day following deposit with a statutory overnight carrier, addressed to Company or Customer, as applicable, at its address on the SAF, or as subsequently amended by like notice. Notices and invoices delivered to Customer shall further be effective immediately when sent by email to the Customer email address identified on the SAF or to Customer's most recent address provided to Company. Written notice to Company shall be effective when sent via email to Company at [support@fonelogix.com](mailto:support@fonelogix.com) and receipt is confirmed by Company. To be effective, any notice by Customer must specify Customer's name, phone number, and Customer account number and, if emailed, must be sent from the email address furnished by Customer for receipt of Company's invoices. Customer is responsible for notifying Company of any changes in Customer's address and email address.

b. **Invoices and Statements.** Payment for nonrecurring charges, the initial month of recurring charges, and any tax due thereon, is due and payable upon Customer's execution of this Agreement. Services are subject to, and Company may collect from Customer, any governmental or regulatory charges, taxes (other than a tax imposed upon Company's net income), assessments, fees, and surcharges imposed on the Services now or in the future. Recurring charges will be invoiced by the Company and are due, prospectively, in monthly intervals following the service activation date. Usage charges, if any, will be billed in increments that are rounded up to the nearest minute. Customer shall not offset any payment or credit against invoiced charges without Company's prior written approval. Customer agrees to notify Company of any billing errors or disputed charges within thirty (30) days following the invoice or statement date on which such charges appear, and failure to comply with such notice requirement is deemed a waiver of Customer's right to dispute said charges. There shall be no reductions, set offs, or credits against the charges for service for downtime or interruption of service.

c. **Payment Methods.** Company accepts payment only by credit card (Visa, MasterCard, Discover, and American Express); provided that other payment methods may be authorized by Company's written consent. Company reserves the right to add additional payment methods or to discontinue its acceptance of particular payment methods or credit cards upon written notice to Customer. Customer agrees to provide company with prompt written notice of any billing changes, including, without limitation, changes to billing address, billing email address, credit card expiration date, account closures or card cancellations. Customer agrees to pay Company, in addition to any amount due, an administrative fee of \$35 for each time any credit card or other draft or payment is returned or charged back to Company for insufficient credit or funds, stopped payment, account closure or suspension, or for any other reason.

d. **Consent to Recurring Debit.** Customer hereby consents to a pre-authorized, automatic, monthly credit card payment, drawn upon each invoice date, unless otherwise agreed, without further notice ("**Automatic Payment Plan**"). In the event that Company allows Customer to opt out of

the Automatic Payment Plan and Customer delivery two (2) successive invoice payments after their respective due dates, Company may require Customer's Automatic Payment Plan participation thereafter, and Customer's failure to comply shall be a Default hereunder.

e. **Partial Payments.** Company may accept any payment without prejudice to its right to recover any remaining balance or to pursue any other remedy provided in this Agreement or under applicable law. No partial payment shall be deemed to be other than a payment on account, and no endorsement or statement on any check or in any letter accompanying any check or other payment shall be deemed an accord, satisfaction or payment-in-full of amounts due, whether or not such amount due is disputed.

f. **Late Payments.** All invoices are due and payable on receipt ("**Due Date**"). No interest shall accrue on charges paid within fifteen (15) days following the date first invoiced. Company may charge interest, from the Due Date, at the lesser of 1.5% per month or the greatest amount permitted under applicable law, on any sum invoiced and not received by Company within fifteen (15) days after the Due Date ("**Late Payments**"). Customer agrees to pay all costs incurred by Company in connection with actual or attempted collection of Late Payments, including, Company's actual attorney's fees and court costs, whether prior to, at, or after trial, appeal, or any bankruptcy filing or collection attempt. Exclusive jurisdiction for any claim or dispute hereunder that is not subject to arbitration by the terms of this Agreement resides in the state and federal courts of Georgia, and venue for any such claim or dispute shall be proper only in Fulton County, Georgia. Each party waives any defense that Fulton County, Georgia is an inconvenient forum and expressly and irrevocably consents to personal jurisdiction in such courts for all such claims or disputes.

g. **Payment on Termination.** Upon termination of this Agreement for any reason, all unpaid sums then due, as well as those not yet due but that would become due hereunder prior to the expiration of the Term or Extended Term, if any, without discount for any endpoints that Customer may later have elected to discontinue, shall be due and payable immediately, including: (i) any sum due or that will become due to Company for Services for the remainder of the Term; (ii) any unpaid charges for phones, equipment, hardware or products purchased by Customer from Company, financed by Company, or leased by Company to Customer; or (iii) any amounts paid or owed to third-party providers by Company in connection with the Services and which Company has not yet and would otherwise have recovered from Customer during the Term (collectively the "**Outstanding Contract Balance**"). At any time, Customer may request that Company disclose any third-party charges or fees for which Customer may be responsible in the event of termination of this Agreement, which charges may vary from time to time pursuant to Company's agreements with third-party service providers. No suspension of Services or termination of this Agreement shall abridge Company's right to collect the Outstanding Contract Balance, and Customer agrees Company is authorized to charge Customer's credit card on file for the Outstanding Contract Balance without further authorization.

4. **GOVERNING LAW; ATTORNEYS' FEES.** This Agreement is governed by the laws of the United States and the State of Georgia, excluding its conflicts-of-law rules. Company reserves the right to make changes to this Agreement and to the provision of Services under this Agreement that are necessary to comply with statutes, rules or regulations governing the provision of the Service. In the event that any action is filed in connection with this Agreement or the Services, whether to interpret or enforce its terms, or for any other reason, the prevailing party shall be entitled to recover its costs, including reasonable attorneys' fees, at trial and through appeal or bankruptcy.

5. **INDEMNITY.** Customer agrees to defend, indemnify, and hold harmless Company and its parents, subsidiaries, affiliates, officers, agents, employees, attorneys, representatives, and any underlying carrier, vendor, or service provider, harmless from and against any and all claims, expenses or damages (including attorneys' fees), whether known or unknown, arising from (a) Customer's use of the Services, (b) any other person's use of any account or pin assigned to Customer, regardless of whether such use is authorized by Customer, or (c) Customer's promises or statements made in this agreement. Customer hereby agrees to waive all laws that may limit the effectiveness of the foregoing releases. Notwithstanding the foregoing, Customer shall not be liable for claims, expenses, or damages arising from Company's intentional or grossly negligent acts or those of its employees, agents, contractors, or representatives. This limitation of liability shall apply to the fullest extent permitted by law and shall survive termination of this

agreement. Customer agrees to reimburse Company for any and all costs and reasonable attorneys' fees incurred by Company in defending any claims relating to customer's misuse of Services or equipment. Customer also agrees to indemnify, hold harmless, and defend Company against any claims relating to the service brought by Customer's callers arising from interruption of service, loss of data, interception of any Customer telephone call or fax, omission or errors of third parties, equipment failures, natural disasters, strikes, government actions, or other causes beyond Customer's reasonable control.

6. **NO WARRANTY.** The services are provided "as is" with no warranty by company regarding the services. Company expressly disclaims any and all implied warranties, including any warranties of merchantability or fitness for a particular purpose; provided, however, that individual pieces of equipment may carry separate manufacturer warranties.

7. **LIMITATION OF LIABILITY.** Company shall not be liable to Customer (i) for interruptions of service, loss of data, interception of any Customer telephone call, data transmission, including fax, omissions or errors of third parties, equipment failures, natural disasters, strikes, government actions, or other causes; (ii) if changes in operations, procedures, or services require modification or alteration of Customer's equipment or render Customer's equipment obsolete; (iii) for incidental, consequential, or punitive damages, including but not limited to lost profits, loss of use, or loss of business opportunity even if Company has been advised of the possibility of such damages; (iv) for injury to Customer, other persons, or property damage through the use of any equipment or service provided under this agreement; (v) for losses, damages, or claims arising out of customer's use or attempted use of 911 service, nor for Customer's inability to access 911 service. This limitation of liability applies to all causes of action. NOTWITHSTANDING ANY OTHER PROVISION HEREIN, THE ENTIRE LIABILITY OF COMPANY, ITS LICENSORS AND SERVICE PROVIDERS, AND CUSTOMERS EXCLUSIVE REMEDY IN CONNECTION WITH THE SERVICES OR THIS AGREEMENT, SHALL BE LIMITED TO THE LESSER OF: (I) THE AMOUNT ACTUALLY PAID BY CUSTOMER FOR ACCESS TO AND USE OF THE SERVICES IN THE THREE (3) MONTHS PRECEDING THE DATE OF ANY CLAIM OR (II) \$500.00. CUSTOMER HEREBY RELEASES COMPANY AND EACH OF ITS LICENSORS AND SERVICE PROVIDERS FROM ANY AND ALL OBLIGATIONS, LIABILITIES AND CLAIMS IN EXCESS OF THIS LIMITATION (EXCEPT WHERE SUCH LIMITATION IS VOID OR PROHIBITED BY LAW).

8. **MISCELLANEOUS TERMS.** This Agreement (including the SAF, Principal Terms, and GT&C) (i) is the entire agreement between the parties with respect to the Services and replaces all prior verbal or written agreements on the subject matter thereof; (ii) is personal to Customer and may not be assigned by Customer without Company's written consent; and (iii) may not be amended except by the written consent of Customer and Company, provided that if any part of this Agreement is held invalid or unenforceable, that portion shall be construed to reflect the parties' original intent, and the remaining portions shall remain in full force and effect. The failure of Company to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision. All electronic signatures furnished in connection with this Agreement pursuant to Georgia Law (O.C.G.A. § 10-12-7) shall have the force and effect of original signatures.

9. **CONSENT TO ARBITRATION.** BY SIGNING SERVICE ACTIVATION FORM (SAF), I ACKNOWLEDGE, UNDERSTAND, AND AGREE THAT ANY CONTROVERSY, CLAIM, OR DISPUTE ARISING OUT OF OR RELATING TO THE SERVICES WILL BE SETTLED BY BINDING ARBITRATION IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES AND MEDIATION PROCEDURES OF THE AMERICAN ARBITRATION ASSOCIATION ("AAA") IN FULTON COUNTY, GEORGIA, AND NOT BY A JUDGE OR A JURY IN COURT. I UNDERSTAND IT IS MY OBLIGATION TO ARBITRATE COVERED DISPUTES, AND THAT AAA'S APPLICABLE RULES ARE AVAILABLE ONLINE AT WWW.ADR.ORG. JUDGMENT ON THE AWARD RENDERED BY THE ARBITRATOR MAY BE ENTERED IN ANY COURT HAVING JURISDICTION OVER THE AWARD OR EITHER PARTY. NOTWITHSTANDING THE FOREGOING, THIS AGREEMENT TO ARBITRATE DISPUTES HEREUNDER SHALL NOT APPLY TO CLAIMS BY COMPANY FOR SUMS INVOICED AND REMAINING UNPAID WITHOUT CUSTOMER DISPUTE MORE THAN THIRTY (30) DAYS PAST THEIR ORIGINAL DUE DATE.