

## FULL CHANNEL DIGITAL PHONE CUSTOMER SERVICE AGREEMENT

**In addition to the Terms applicable to all services, the following additional terms are applicable to You if You subscribe to Full Channel's Digital Phone Service.**

**Digital Phone Service** is phone service that travels on Full Channel's private data network, utilizing an EMTA (Embedded Multimedia Telephone Adapter) that activates Your phone or phones and will act as the Cable Modem for Your Internet Access.

- 1. Incorporation of Other Terms and Conditions.** This Agreement, in addition to the Full Channel Customer Service Agreement and the High Speed Internet Access Terms and Conditions, which are incorporated into this Agreement by reference, provide the terms and conditions governing Full Channel's provision of its Digital Phone to You. We are not bound by any other representation, warranty, term or condition, or statements or agreements made by any employee or agent of Full Channel, other than as specifically described in this Agreement.
- 2. Residential Service.** Digital Phone as offered and provided under this Agreement is available only to residential customers of Full Channel.
- 3. Limitation on Local and Long Distance Provider PIC.** You expressly agree that You will not have the option of subscribing to a "local only" or "long-distance only" service, nor will You be able to subscribe to a separate local, toll or long distance provider for use in conjunction with Full Channel's Digital Phone.
- 4. Incompatible Equipment.** All non-voice communications equipment, including, but not limited to, home security systems that are not set up to make automatic phone calls, fax machines, and medical monitoring devices may not be compatible with Full Channel's Digital Phone. In order to maintain these functions, you may be required to maintain a separate telephone wire connection. Full Channel provides local telephone service. It is Your responsibility to request local telephone service in addition to Digital Phone service if You have equipment that requires a separate telephone wire connection.
- 5. Changes to Service or Terms.** Full Channel has the right at any time to add to, modify, or delete any aspect, feature or requirement of Digital Phone. This includes (but is not limited to) equipment and system requirements. We also have the right to add to, modify, or delete any provision of this Agreement, any Terms of Use established by us. An online version of this Agreement and the Subscriber Privacy Notice are accessible at [www.fullchannel.com](http://www.fullchannel.com). We may revise the Agreement and/or the Subscriber Privacy Notice from time to time, and we may change the online location of these documents periodically. In accordance with any applicable law, Full Channel will notify You of any significant change in these documents. If You continue to use the Service after we change any of these documents and provide You notice of the changes, You will be deemed to have consented to the changes. If You do not agree to any changes, You should stop using the Service and notify Full Channel that You are terminating the subscription to Digital Phone.

## **6. Customer Responsibility.**

(a) You are responsible in all respects (including payment obligations) for all use of the Service under Your account, whether or not You actually authorized the use. Your responsibility includes all calls to pay-per-call services, whether or not You actually authorized the call. You will be responsible for ensuring that all use of the Service under Your account fully complies with this Agreement.

(b) Digital Phone is a residential service offered for your personal, non-commercial use. The Service may only be used by you and members of your immediate household. You will not resell or redistribute (whether for a fee or otherwise) Digital Phone, or any portion the Service. You will not otherwise charge others to use Digital Phone, or any portion of the Service. You agree not to use Digital Phone for any enterprise purpose whether or not it is a for-profit enterprise. You may not transfer all or any portion of Your account, Digital Phone or the Full Channel Equipment to any other person or entity, or to a new residence or other location. In order to ensure residential service is not being used for commercial purposes, Full Channel reserves the right to review customer accounts which regularly exceed 2500 long distance minutes. Customers with monthly long distance usage in excess of 2500 long distance minutes per line occurring more than once per year may be required to purchase a business calling plan.

(c) You will not use Digital Phone for any unlawful purpose, or for any use which You have not obtained all required governmental approvals, authorizations, licenses, consents and permits. Full Channel may shut down Your Digital Phone, without prior notice, if we find, in our sole judgment, that Your use is unauthorized or fraudulent.

(d) Full Channel may shut down Your Digital Phone, without prior notice, if we find, our sole judgment, that Your use of the service is causing interference to others or You have tampered or allowed others to tamper with Full Channel Equipment. We may also shut down Your Digital Phone, without prior notice, if there exist hazardous conditions that would make Your continued use of the service unsafe.

(e) You may not assign, or transfer in any manner, the Service or any rights associated with the Service without the prior written consent of Full Channel. Full Channel will permit You to transfer Your Service to another person or entity if You have paid all charges owed to Full Channel. Such a transfer will be treated as a disconnection of existing Service and installation of new Service, and the non-recurring installation charges will apply.

## **7. LIMITATIONS OF 911 / E911 CAPABILITY**

(a) The Service includes Enhanced 911 dialing ("E911"). CAREFULLY READ THE INFORMATION BELOW. YOU ACKNOWLEDGE AND ACCEPT ANY LIMITATIONS OF E911. YOU AGREE TO ADVISE ALL PERSONS WHO MAY HAVE OCCASION TO PLACE CALLS OVER THE SERVICES OF THESE LIMITATIONS.

(b) Correct Address: For E911 to work in accordance with our specifications, Full Channel must have a correct service address for the location of your EMTA. If You do

not provide the correct address when You register for the Service or if You relocate Your EMTA to a new address and do not register the new address with Full Channel, E911 may fail in two ways: (i) E911 calls may be misdirected to the wrong emergency authorities, and (ii) emergency authorities will be given the wrong address for the origin of Your E911 calls. If you wish to relocate the EMTA and continue to use the Services including E911, You must seek authorization for the Service at Your new service address (if available), and update Your service address with us. Relocating the EMTA to a different address without first notifying Full Channel may be grounds for termination of this Agreement and Your Digital Phone Service

(c) Service Interruptions: E911 may not function if the Services are interrupted for any reason, including but not limited to failure of Your EMTA, incorrect configuration of Your EMTA, an extended power outage, failure of our network or facilities, or suspension or disconnection of your Services because of nonpayment.

(d) LIABILITY: YOU ACKNOWLEDGE AND UNDERSTAND THAT FULL CHANNEL WILL NOT BE LIABLE FOR ANY SERVICE OUTAGE, INABILITY TO DIAL 911 USING THE SERVICES, AND/OR INABILITY TO ACCESS EMERGENCY SERVICE PERSONNEL DUE TO THE E911 FEATURE OR LIMITATIONS SET FORTH IN THIS AGREEMENT. YOU AGREE TO DEFEND, INDEMNIFY, AND HOLD HARMLESS FULL CHANNEL, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, AND AGENTS, AND ANY OTHER PROVIDER WHO FURNISHES SERVICES TO YOU IN CONNECTION WITH THE SERVICES, FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, FINES, PENALTIES, COSTS, AND EXPENSES (INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEY FEES) BY, OR ON BEHALF OF, YOU OR ANY THIRD PARTY OR USER OF THE SERVICES RELATING TO THE FAILURE OR OUTAGE OF THE SERVICES, INCLUDING THOSE RELATED TO E911.

(e) SERVICE INTERRUPTIONS CAUSED BY POWER FAILURE

Digital Phone Service utilizes a cable modem which requires electrical power and, in the event of a power outage or cable network failure, Emergency 911 services will not be available. You expressly acknowledge that You may lose access to and use of the Services, including E911, under certain circumstances, including but not limited to the following: (i) if our network or facilities are not operating, (ii) if electrical power to the cable modem interrupted and does not have a battery backup, and (iii) if the electrical power is interrupted and its battery backup fails. You also understand and acknowledge that battery backup may provide power for only a limited time, that the performance of the battery backup is not guaranteed, and that if the battery is exhausted, the Service will not function until normal power is restored. You acknowledge that the Digital Phone modem should always be positioned within four (4) feet of an electrical outlet and that extension cords should never be used.

## **8. LIMITATION OF LIABILITY**

**In addition to the Limitation of Liability Provisions applicable to all services, the following additional Limitations of Liability apply to Digital Phone Service**

YOU AGREE THAT DIGITAL PHONE IS PROVIDED BY FULL CHANNEL ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED,

INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE OR NON-INFRINGEMENT OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OTHER THAN THOSE WARRANTIES THAT ARE IMPLIED BY, AND INCAPABLE OF EXCLUSION, RESTRICTION, OR MODIFICATION UNDER, THE LAWS APPLICABLE TO THIS AGREEMENT. FULL CHANNEL MAKES NO WARRANTY THAT DIGITAL PHONE WILL BE UNINTERRUPTED OR ERROR FREE. YOU FURTHER AGREE THAT ALL USE OF DIGITAL PHONE IS AT YOUR SOLE RISK.

WITHOUT LIMITING THE FOREGOING: NONE OF THE FULL CHANNEL PARTIES MAKES ANY WARRANTIES AS TO THE SECURITY OF YOUR COMMUNICATIONS VIA FULL CHANNEL FACILITIES OR DIGITAL PHONE, OR OUTSIDE THE SERVICE TO THE INTERNET, OR THAT THIRD PARTIES WILL NOT GAIN UNAUTHORIZED ACCESS TO OR MONITOR YOUR COMPUTER(S) OR PHONE COMMUNICATIONS. YOU AGREE THAT NONE OF THE FULL CHANNEL PARTIES WILL BE LIABLE FOR ANY SUCH UNAUTHORIZED ACCESS. YOU HAVE THE SOLE RESPONSIBILITY TO SECURE YOUR COMPUTER AND PHONE COMMUNICATIONS.

YOU UNDERSTAND THAT THE INSTALLATION, USE, INSPECTION, MAINTENANCE, REPAIR, REPLACEMENT OR REMOVAL OF DIGITAL PHONE, EQUIPMENT AND SOFTWARE MAY RESULT IN DAMAGE TO YOUR COMPUTER(S) OR OTHER HARDWARE, INCLUDING SOFTWARE AND DATA FILES STORED THEREON. YOU WILL BE SOLELY RESPONSIBLE FOR BACKING UP ALL EXISTING COMPUTER FILES PRIOR TO THE PERFORMANCE OF ANY OF THE FOREGOING ACTIVITIES. NONE OF THE FULL CHANNEL PARTIES WILL HAVE ANY LIABILITY, AND EACH EXPRESSLY DISCLAIMS ANY RESPONSIBILITY WHATSOEVER, FOR ANY DAMAGE TO OR LOSS OR DESTRUCTION OF ANY SOFTWARE, HARDWARE, DATA OR FILES.

IN NO EVENT (INCLUDING NEGLIGENCE) WILL ANY FULL CHANNEL PARTY OR ANY PERSON OR ENTITY INVOLVED IN PROVIDING DIGITAL PHONE OR EQUIPMENT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OF OR INABILITY TO USE DIGITAL PHONE, INCLUDING THE USE OR INABILITY TO ACCESS EMERGENCY 911 SERVICES, ANY ACTION TAKEN TO PROTECT DIGITAL PHONE, OR THE BREACH OF ANY WARRANTY.