

Alaska Communications
Terms and Conditions for Small Business Services



General.

The customer appearing on a service order/request for Small Business Services, as defined below (the “Customer” or “you”), shall be deemed to accept these Terms and Conditions by doing any of the following:

- (a) signing them on paper or electronically;
- (b) accepting them through an oral or electronic statement; or
- (c) using or paying for Alaska Communications Small Business Services.

In these Terms and Conditions, “Small Business Services” include Alaska Communications Business Internet, and Business Voice services. Small Business Services are referred to in these Terms and Conditions as the “Services.” References to “Alaska Communications” include, as applicable: Alaska Communications Internet, LLC; ACS Long Distance, LLC; TekMate, LLC; and Alaska Communications’ local exchange Companies. Your contract (the “Agreement”) includes these Terms and Conditions, your service order(s)/request(s) that have been accepted by Alaska Communications, the Acceptable Use Policy referenced below that is available on our website at www.alaskacommunications.com/Acceptable-Use-Policy and other applicable regulatory policies that are available at <https://www.alaskacommunications.com/Regulatory>. You and/or Alaska Communications may be referred to as a “Party” or together as the “Parties.”

Revisions.

Alaska Communications may revise these Terms and Conditions as well as other regulatory policies applicable to the Services by posting updated versions on its website at <https://www.alaskacommunications.com/Regulatory>. Updates will be effective on posting, except for material changes which will be effective for your next billing period after posting. You will be deemed to have accepted the revision if you do not stop using the affected Service(s) within 30 days of its effectiveness.

1. Responsibilities of the Customer

You are responsible for all use of the Services and your Alaska Communications account, including by those who access or use the Services purchased by you (your “Users”). You agree that Alaska Communications may perform a credit check on you and your controlling shareholders, principals, or owners prior to service delivery.

You warrant that use of the Services and the content of all communications by you and your Users will at all times comply with the Alaska Communications Acceptable Use Policy and all other applicable regulatory policies, which are available at <https://www.alaskacommunications.com/Regulatory>. Violation of the Acceptable Use Policy by you or your Users may result in suspension and/or termination of the applicable Services.

You warrant that use of the Services and the content of all communications by you and your Users will comply with all applicable federal and state laws and regulations, including those relating to your or your Users’ use of Content. “Content” for this purpose includes information

made available, displayed, or transmitted in connection with Services. No actions or inaction by Alaska Communications shall constitute review or approval of your or Users' use of Content.

You are responsible for ensuring that all of the equipment that you and your Users use with the Service(s) is compatible with the Services.

If you suspect that the Services provided to you have been fraudulently used, you must immediately notify Alaska Communications at our toll-free number at 1-800-808-8083.

You grant Alaska Communications access rights to the property and premises that you control for purposes of providing the Service, including the installation of any necessary equipment in connection therewith. You shall cooperate with Alaska Communications' efforts to procure any necessary access rights for any portions of the property not under your control. Access rights include (i) the right to construct, install, inspect, repair, maintain, replace, and remove access lines and network facilities, as well as the use of ancillary equipment space within the building, for the connection of customer to Alaska Communications' network using Alaska Communications-owned or Alaska Communications-leased facilities; and (ii) 24 hours a day, 7 days a week access to the access lines and network facilities on the property.

2. **Responsibilities of Alaska Communications**

Alaska Communications agrees to provide Services to you subject to the availability of the required facilities and service components to your location and in accordance with these Terms and Conditions.

Alaska Communications grants to you the right to permit Users to access and use the Services, provided that you shall remain solely responsible for the access and usage by any User of the Services.

3. **Ownership Rights.**

Subject to FCC number portability requirements, all IP addresses, Alaska Communications-based domain names and the related email addresses, and telephone numbers shall remain, at all times, property of Alaska Communications and shall be nontransferable. You shall have no right to use such IP addresses, Alaska Communications-based domain names and related email addresses, or telephone numbers upon termination or expiration of the applicable Service.

4. **Billing/Charges/Payments.**

a. Alaska Communications will bill you for the Services you purchase monthly. Alaska Communications provides electronic bills for the Services. You will receive an email alert to your email address of record notifying you that your bill is available for review. You will be able to view your monthly bill online. If you need to receive your bill in a different, accessible format as a result of a disability, please contact Alaska Communications at 1-800-808-8083. If requested, Alaska Communications will provide paper bills at an additional cost of \$3/month.

You agree to pay Alaska Communications, without deduction or set-off, for the Services, including all applicable monthly recurring charges, non-recurring charges, usage by all Users,

and all applicable taxes, including value added tax, sales and use taxes, excise taxes, duties, fees, levies or surcharges, or other similar taxes or license fees imposed by, or pursuant to the laws, statutes or regulations of any governmental agency or authority. Your Services may be subject to a term commitment (the "Term") set forth in your service order/request or elsewhere in this Agreement. If provided during the Term, and periodically thereafter, the monthly rate for your Services is subject to adjustment by Alaska Communications, which will take effect on the earlier of 30 days after written notice or the first billing that contains the increased charge.

b. NSF fees will be charged for each attempted payment returned to Alaska Communications unpaid for any reason, whether or not the payment was returned for insufficient funds. A finance charge of .875% per month, or such lesser amount permitted by law, will be added to past due accounts. A \$25 Late Fee will be assessed on current charges that are not paid when due. Payments mailed to Alaska Communications will be deemed paid only when received and credited to your account. Alaska Communications may require you to make a deposit to be held by Alaska Communications. Payment of a deposit does not relieve you from complying with the provisions of this paragraph regarding the prompt payment of bills, and does not affect Alaska Communications' right to discontinue Service for nonpayment. The deposit may be used by Alaska Communications for bill payment in the event of non-payment. At the termination of your Service, Alaska Communications will refund any deposit balance remaining without interest.

c. Customer must provide written notice to Alaska Communications specifically identifying all disputed charges and the reason for nonpayment within 60 days after the date of the affected invoice or else Customer waives the dispute. Notice of a payment dispute may be addressed to the ACS Service Delivery team at acssalesteamtg@acsalaska.com. Payment of reasonably disputed charges will not be considered overdue pending investigation by Alaska Communications, provided that nothing contained in this Agreement shall relieve Customer from promptly paying all undisputed charges and providing reasonable security for payment of any withheld amounts upon demand by Alaska Communications. Payment of any disputed charges that are determined by Alaska Communications to be correct as a result of its investigation must be paid within 14 days of Alaska Communications' notice to the Customer, and the amounts due will be assessed finance and late fee charges, calculated from the date that payment was originally due. If legal action is brought for the recovery of any amounts due from the Customer under this Agreement, the non-prevailing Party shall pay the prevailing Party's reasonable attorneys' fees, collection fees and costs actually incurred by the prevailing Party.

If you do not pay your bill by the due date, Alaska Communications may, in its sole discretion, suspend your Services. If Services are suspended for this reason, an additional non-pay/suspend fee of \$50 will be charged to your account. This fee and any balance due must be paid to have the Services restored. Service restoration may take 48-72 hours from date payment is received.

5. Termination / Disconnection of Service.

If either Party fails to perform or observe any material term of the Agreement and the breaching party does not cure the failure within 30 days after receiving written notice of the breach, the other party may terminate the Agreement for cause. You may terminate Service at any time, but if you terminate before the end of the Term, if applicable, you will be subject to Early

Termination Charges as described below. Following any termination, you will be responsible for payment of all amounts due as of the last day of the service period in which such termination is exercised and such payment will be made within 30 days after that date. If upon termination of Service, the account has either a nominal credit or amount due that is less than \$2.00, you will not receive a refund of the credit or be billed for the amount due.

If you fail to pay any charge when due and such failure continues without cure for 10 days after written notice from Alaska Communications, Alaska Communications may terminate the Agreement. If Alaska Communications terminates your Services before the end of the Term, the early termination fee will be added to the balance due on your account.

6. **Cancellation and Early Termination.**

You may cancel a Service at any time, and you will continue to have access to the Service through the end of your monthly billing period. Alaska Communications does not provide refunds or credits for any partial-month service periods or unused service. To cancel, please visit <https://www.alaskacomcommunications.com/Account-Login> and select "Manage Account" to access your account portal and follow the instructions for cancellation. If you cancel all Services, your account will automatically close at the end of your current billing period.

If you cancel a Service before the end of the applicable Term, an Early Termination Charge will apply. Early Termination Charges shall include: a) all accrued but unpaid charges (including both recurring and non-recurring charges) accrued but unpaid through the last day of the service period in which the termination is exercised, b) charges required by tariff, c) repayment of all discounts and installation fees, d) payment of an early cancellation fee equal to the monthly recurring charge for the Service being canceled multiplied by the number of months remaining in the Term, and e) applicable charges for unreturned equipment. Upon expiration of the Term, the Services will automatically become month-to-month services. The Parties acknowledge and agree that in the event of early termination of any Service by the Customer, (i) it will be impractical or extremely difficult to determine damages suffered by Alaska Communications, (ii) Customer wishes to have a limitation placed upon its potential liability to Alaska Communications for such early termination, and (iii) the Early Termination Charge represents a reasonable estimate of the damages which Alaska Communications will sustain in such event. Notwithstanding the foregoing, Customer will have no liability for Early Termination Charges in the event of termination resulting from a breach by Alaska Communications or a Force Majeure event that has not been cured within 90 days of its commencement.

7. **Privacy.**

a. Customer Proprietary Network Information. Under federal law, you have the right and we have a duty, to protect the confidentiality of certain personal information that we obtain solely by virtue of providing your telecommunications services. This Customer Proprietary Network Information (CPNI), includes information that relates to the quantity, technical configuration, type, destination, location, and amount of your use of our service and related information in your bills. It does not include your name, address, or telephone number. We may use your CPNI to provide information to emergency personnel, protect you or others from fraudulent, abusive or unlawful use of our services, to protect Alaska Communications' rights or property, or to

comply with any law or legal process. Your approval for us to use your CPNI may enhance our ability to offer products and services tailored to your needs.

To the extent the Services are classified as telecommunications services, and in order for Alaska Communications to serve Customer better and offer new services that meet Customer's needs, Customer grants Alaska Communications permission to share Customer CPNI among its affiliates, agents and contractors, which shall remain valid unless and until Customer notifies Alaska Communications of its withdrawal of such consent using the customer account portal. Grant or withdrawal of such consent shall have no effect on any Services covered by this Agreement. In order to authenticate Customer for purposes of responding to Customer's requests for CPNI without requiring a password, Customer authorizes Alaska Communications to provide CPNI detail to Customer in response to Customer's requests made using the following methods: (i) using the assigned dedicated Alaska Communications Account Representative in person or by telephone or email; or (ii) in response to a request by email on Customer's letterhead signed by Customer's authorized representative. Alaska Communications may also disclose CPNI to the extent necessary to comply with any laws, court orders or subpoenas, or as necessary to provide the Services.

b. Text and SMS. You agree that Alaska Communications may place voice calls or send text messages, including using an automatic telephone dialing system ("autodialer") or an artificial or prerecorded voice, (including SMS and MMS messages), to you at the telephone number associated with your account and any other telephone number you provide for that purpose, including without limitation messages concerning outage notifications, payment reminders, appointment reminders, or other information regarding the Services. You represent that any such number you provide is not for a residential telephone line. Message and data rates may apply. By providing Alaska Communications with a mobile phone number associated with this account, you represent that you are the subscriber for or authorized user of such mobile telephone number or are otherwise authorized to consent to the receipt of calls and text messages at that number, and that you are authorized to approve any related charges for calls, messaging, and data levied by the associated wireless carrier. While you consent to receive such messages, the foregoing shall not be interpreted to suggest or imply that any or all Alaska Communication calls or mobile messages are sent using an autodialer.

If you wish to withdraw consent to receive such messages from Alaska Communications, you may reply "STOP," "QUIT," "END," "UNSUBSCRIBE," "REVOKE," "OPT OUT," or "CANCEL" in order to opt out. While using the text commands set forth above is the preferred method to revoke consent and opt-out, you may alternatively contact Alaska Communications customer service to change your preferences for receiving marketing communications or service notifications by calling 907-563-8000 or 1-800-808-8083 or sending an e-mail to customercare@acsalaska.com. Alaska Communications will process your opt-out request within 10 business days, and you agree that revocation of its consent is not effective until the request has been processed.

If at any time you intend to stop using your previously designated mobile telephone number to receive such messages, including by canceling the associated mobile service plan or selling or transferring the phone number to another party, you agree that you will complete the opt-out process set forth above prior to ending your use of the mobile telephone number. You understand and agree that your agreement to do so is a material part of this Agreement.

Please also see our Text and SMS Terms and Conditions, available at <https://www.alaskacommunications.com/Text-and-SMS-Terms-and-Conditions>, which are incorporated herein as additional terms of this Agreement.

Your choice to grant or withdraw your consent will not affect the status of any services you currently have with Alaska Communications.

8. **Warranties / Limitation of Liability / Indemnification.**

a. The Services provided hereunder are provided "AS IS" and "AS AVAILABLE." Alaska Communications disclaims all representations and warranties, direct or indirect, express or implied, written or oral, including but not limited to, implied or express warranties of suitability, durability, merchantability and/or fitness for a particular purpose with respect to the (1) Services offered, (2) equipment used to provide Services, (3) software used to access internet resources, including software made available by Alaska Communications, if any, and (4) any and all content which might be encountered on the internet from time to time. The entire risk associated with the use of the Services shall be borne solely by you. Alaska Communications makes no warranty on up-time, mean-time between failures, quality of service, or the quality of voice or fax communications. Alaska Communications makes no warranty that the Services will meet your requirements, or that the Services will be uninterrupted, timely, secure, or error free. Alaska Communications is not responsible for messages or information lost or misdirected due to interruptions or fluctuations in the Services or the internet in general. Alaska Communications does not warrant the accuracy or reliability of the results obtained through use of the Services or any data or information downloaded or otherwise obtained or acquired through the use of the Services. Alaska Communications makes no warranty that telephone calls or other transmissions will be correctly routed or completed without error or interruption (including calls to 911). You acknowledge that any data or information downloaded or otherwise obtained or acquired through the use of the Services are at your sole risk and discretion and Alaska Communications will not be liable or responsible for any damage to you or your property. Alaska Communications makes no representations or warranties that the services are free of rightful claims of any third party for infringement of proprietary rights. No advice or information, whether oral or written, obtained by you from Alaska Communications, its employees, or through or from the Services shall create any warranty not expressly stated in these terms and conditions. No warranty is made as to the coverage, availability, or grade of service provided by Alaska Communications.

b. Alaska Communications' total liability for any and all damages, regardless of the form of the action, shall be limited and capped in their entirety to the greater of two dollars (U.S. \$2.00) or the monthly fees Alaska Communications charged you during the one month immediately prior to the date that the events giving rise to the action or claim first occurred. The limitation of liability reflects the allocation of risk between the parties. The limitations specified in this section will survive and apply in any and all circumstances. The limitation of liability shall apply regardless of the form of the action, whether for breach of contract, warranty, negligence, strict liability in tort, or otherwise. In no event shall Alaska Communications, its officers, employees, agents, partners and licensors be liable for any direct, indirect, incidental, special, consequential, or punitive damages, including but not limited to, damages for loss of profits, goodwill, use, data or other intangible losses (even if Alaska Communications has been advised of the possibility of such damages), resulting from: (i) the use or inability to use the Services; (ii) the cost of procurement of substitute goods and services resulting from any goods, data, information or services

purchased or obtained or messages received or transactions entered into through or from the Alaska Communications Services; (iii) unauthorized access to or alteration of your transmissions or data; (iv) statements or conduct of any third party using Alaska Communications Services; or (v) any other matter relating to the Alaska Communications Services.

c. Any and all damages which might arise from your use of the Services, equipment supplied, software, and internet content, shall be your responsibility and shall not be the responsibility of Alaska Communications. You shall defend, indemnify and hold harmless Alaska Communications, its officers, directors, employees, affiliates and agents, from and against any and all claims, demands, suits, liabilities, judgments, costs, causes of action, losses, expenses (including reasonable attorney's fees), and damages resulting from you or Users': (1) negligent acts, omissions or willful misconduct, (2) use of the Services or Content, (3) breach of this Agreement, (4) violation of any law or of any rights of any third party, (5) libel, slander or infringement of copyright from the material transmitted via the telephone access number, and (6) or third parties' claims arising in any way, directly or indirectly, in connection with the Agreement. The provisions of this section are for the benefit of Alaska Communications and its officers, directors, employees, agents, licensors, suppliers, and any third-party information or service providers. Each of these individuals or entities shall have the right to assert and enforce those provisions directly against you on its own behalf. This indemnification obligation shall survive the termination of the Agreement. Alaska Communications will be held harmless for improper installation of any equipment. Alaska Communications shall not be liable for any delay or failure to perform due to any cause beyond its control. Alaska Communications takes no responsibility for any on-line distribution or publication by you or Users. Alaska Communications does not review messages or content you or Users may generate or post, and Alaska Communications is not responsible for what is contained in those messages or content. As a condition of your use of an Alaska Communications account, you agree to indemnify and hold harmless Alaska Communications for any and all claims made by any third party arising from your use or Users use of your Alaska Communications account, including claims against anyone utilizing your Alaska Communications account, whether or not known or allowed by you.

9. **Excusable Delay and Failure to Perform.**

Neither Party shall be held liable for any delay, failure in performance, loss or damages due to a force majeure event including but not limited to fire, theft, embargo, explosion, power problem, earthquake, avalanche, volcanic action, flood, war, water, the elements, labor disputes or unrest, including strikes, slowdowns, picketing, or boycotting, civil disturbances, any law, order, regulation, ordinance, or requirement of any government or legal body, or any representative of any such government or legal body, or military authority, acts of God or public enemies, inability to secure raw materials, inability to secure equipment or transportation facilities, acts or omissions of carriers, or other causes beyond the reasonable control of the affected Party.

10. **Equipment, Installation, Moving, Servicing, and Removal.**

a. You authorize Alaska Communications or its authorized agents to enter your premises to install, maintain, inspect, repair, and remove Alaska Communications equipment. You or an authorized party on the account must be on-site during installation. You agree to provide all necessary space and power for such Alaska Communications equipment. If you are not the owner of the premises where the Alaska Communications equipment is to be installed, you represent and warrant that you have obtained the consent of the owner of the premises for

Alaska Communications' personnel and/or its agents to enter the premises to install and set up the Alaska Communications equipment. You acknowledge that in the case of a roof-mounted installation, an antenna bracket may penetrate the roof and that wiring will be brought through the wall by drilling a hole in the wall. You are responsible for any claims of the owner of the premises arising out of the performance of this Agreement. You agree to indemnify and hold Alaska Communications harmless from and against any claims of damage related to the installation, maintenance, inspection, repair, removal, or use of the Alaska Communications equipment.

b. Unless specified in a service order/request, the Alaska Communications equipment is and will remain the sole property of Alaska Communications, and you will not acquire any interest in it by making the payments called for under this Agreement or because any portion of the equipment is attached to the residence, business location or otherwise.

c. You may not open, alter, misuse, tamper with, or remove the Alaska Communications equipment as and where installed by Alaska Communications. You shall safeguard the Alaska Communications equipment from loss or damage of any kind, and (except for any self-installation procedures approved by Alaska Communications) will not permit anyone other than an authorized representative of Alaska Communications to perform any work on the Alaska Communications equipment.

d. If you move, or otherwise terminate your service for any reason, you agree to notify Alaska Communications in a timely fashion to disconnect service. Upon disconnecting you will be charged an equipment replacement fee of up to \$320 per unit unless you return the wireless gateway hardware to Alaska Communications within 30 days. The wireless gateway must be returned in substantially the same condition as of the date of your installation, notwithstanding typical wear and tear. The equipment replacement fee will be credited or refunded back to you once ACS receives the returned unit. Please see our equipment return FAQ for more details at <https://www.alaskacommunications.com/Support/equipment-return>.

11. **VoIP Services.**

If you subscribe to Alaska Communications' VoIP service, such as AKVoice or another nomadic Voice over Internet Protocol product, you must register the physical location ("Registered Location") where the VoIP Service for each Alaska Communications telephone number will be used. You are solely responsible for providing the Registered Location for you and each of your Users when the Service is initiated, and updating it immediately if and when your location or that of your User changes. Customer may only register one 911 Registered Location at a time for each Alaska Communications telephone number. You must provide initial and updated Registered Location information by logging onto your online account and updating the location information through the customer portal on the Alaska Communications website at <https://accountview.AlaskaCommunications.com>.

IMPORTANT: If you fail to provide and update the Registered Location in accordance with the above, 911 calls will be routed based on any previously provided Registered Location and therefore the call may not be routed to the appropriate dispatcher for your or your User's current location. In addition, you must update the Registered Location to ensure that, if you or your User dials 911, the 911 provider transmits accurate Registered Location information for the

caller to the dispatcher. You are solely responsible for ensuring and maintaining the accuracy of Registered Location information for you and your Users in the customer portal. If Customer provides Registered Location information that is, or that Alaska Communications suspects to be, false, inaccurate, not current, or incomplete, Alaska Communications has the right to suspend or terminate the Services and refuse any and all current or future use of all Services, or any portion thereof.

12. **[RESERVED]**

13. **Service Characteristics.**

Due to the nature of the Service technology, Alaska Communications reserves the right to deem the Service unavailable to your location up to, including, and after installation. Alaska Communications assumes no liability whatsoever for any claims, damages, losses, or expenses arising out of or otherwise relating to the unavailability of Service in your geographical area, for any reason, even where such unavailability occurs after installation of the Service.

14. **Disputes.**

The Parties hereby adopt the following procedures as the exclusive means for resolution of disputes arising under this Agreement (“Disputes”) between them. To be considered, Customer must provide written notice to Alaska Communications of any Dispute concerning charges for the Services within 60 days after receiving the associated bill showing the subject charge. Disputes should be provided in writing to the Alaska Communications Service Delivery Team at acssalesteamtg@acsalaska.com. Any billing or payment Dispute not submitted to Alaska Communications within such time will be deemed irrevocably waived and released by Customer. The Parties will make commercially reasonable efforts to resolve informally any Disputes between them related to this Agreement within 30 days of written notification of the Dispute being provided by one Party to the other. In the event a Dispute is unresolved after 30 days, either Party may initiate legal action in the courts of Alaska subject to the limitations provided in this Agreement. You shall pay to Alaska Communications all costs and expenses, including without limitation, reasonable attorneys’ fees, and the fees of any collection agencies and court costs, incurred by Alaska Communications in enforcing or exercising any of its rights or remedies under this Agreement.

15. **Assignment.**

You may not assign or transfer this Agreement to any third party without the prior written consent of Alaska Communications, including to (i) any affiliated entity; (ii) a successor in interest whether by merger, reorganization or otherwise; or (iii) a purchaser of substantially all of your assets. Any attempt to assign this Agreement in contravention of this section is void. This Agreement shall in any case be binding upon and shall inure to the benefit of the Parties hereto and their respective successors, administrators, legal representatives, heirs, and assigns.

16. **Universal Service.**

The Services offered under this Agreement generally are not intended for use by schools, libraries, or health care providers and may not be eligible for support under the Schools and

Libraries (“E-Rate”) or Rural Health Care (“RHC”) Universal Service Support Mechanisms administered by the Universal Service Administrative Company on behalf of the Federal Communications Commission. If you intend to seek E-Rate or RHC support for the Services, you will be required to agree to additional terms and conditions included in an Addendum to this Agreement. To minimize the risk of delays, E-Rate applicants are recommended to elect Billed Entity Applicant Reimbursement (“BEAR”) invoicing for any eligible Services.

17. HIPAA.

Under federal law, customers who are covered entities under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended, and individuals or entities that create, receive, maintain, use or disclose individually identifiable health information for or on behalf of a covered entity must protect Individually Identifiable Health Information (“IIHI”) against reasonably anticipated threats and hazards to its confidentiality, integrity and availability. Federal law exempts those vendors whose personnel do not routinely have access to or control over IIHI from meeting these requirements. Alaska Communications does not intend to access IIHI on a routine basis in the course of delivery of its Services and, except as otherwise expressly stated in an applicable Service Description Attachment, Exhibit or Service Level Agreement, Alaska Communications has no responsibility to comply with data privacy and security requirements applicable to Customer or Customer’s use of the Services under HIPAA.

18. Monitoring.

To the extent of Alaska Communications’ capability, Customer authorizes Alaska Communications to: (i) monitor Customer’s use of the Alaska Communications network for service management purposes and to ensure compliance with this Agreement and (ii) monitor and record customer service calls as necessary to check quality and as otherwise required to operate, maintain and repair the Services in accordance with this Agreement. Alaska Communications may disclose information obtained pursuant to this Section only if required by applicable law.

19. Severability and Waiver.

If any provision of this Agreement is or becomes illegal, invalid or unenforceable, that provision shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the validity or enforceability of the remaining provisions of this Agreement. No failure or delay on the part of either Party in exercising any right hereunder and no course of dealings between the Parties will operate as a waiver of any provision hereof. No waiver by either Party to any provisions of this Agreement shall be binding unless made in writing.

20. Relationship of the Parties.

The relationship between the Parties is that of independent contractors and not of partners, affiliates, or the like. Nothing contained in this Agreement shall be deemed to constitute a partnership between them, a joint venture, or a merger of their assets or their fiscal or other liabilities or undertakings. Neither Party shall have the right to bind the other Party, except as expressly provided for herein.

21. Governing Law.

This Agreement shall be governed by the laws of the state of Alaska, without reference to its conflict of laws principles, with venue located in Anchorage, Alaska. Each Party hereby irrevocably consents to personal jurisdiction and venue in the state and federal courts located in Anchorage, Alaska.

22. Entire Agreement.

This Agreement, including any exhibits and Addendums, represent the entire agreement between the Parties and supersedes and cancels all previous negotiations, agreements or commitments (whether written or oral) with respect to the subject matter hereof. This Agreement may only be modified or amended by a writing signed by authorized representatives of both Parties. The headings in this Agreement are for convenience of reference and shall not affect its construction or interpretation.