



# KVH Airtime Services End User Agreement

## INTRODUCTION

- Introduction.

The terms and conditions of this KVH Airtime Services End User Agreement (“**Agreement**”) apply to any and all Airtime Services made available by KVH Industries, Inc., including any of its wholly owned subsidiaries (“**KVH**”). This is a contract between KVH and you as a subscriber (“**Subscriber**”) of a KVH Airtime Service.
- Agreement Content.

By purchasing an Airtime Service, Subscriber agrees to abide by the terms and conditions of this Agreement and the terms of the applicable pricing plan and/or rate sheets associated with the particular Airtime Service(s) selected by Subscriber on the Activation Form. KVH shall not be bound by Subscriber’s terms and conditions in Subscriber’s purchase order with Service Providers or elsewhere.
- Service Description.

An “**Airtime Service**” may consist of any form of mobile communications service, such as Internet access, voice, data, facsimile and video supplied by KVH. The Airtime Service may also consist of a Voice over Internet Protocol (“**VoIP**”) service supplied by KVH, but excludes VoIP services provided by third parties, which are prohibited by the terms of this Agreement. KVH also provides a cellular roaming service, which is made available through a third party Service Provider under a separate contract and is not a part of the Airtime Service. KVH may supply the Airtime Service to Subscribers using networks of various Service Provider(s).
- Definitions.

In this Agreement, capitalized terms have the meanings given to them when they are first used or the meanings given to them in this [Section 4](#). “**Activation Form**” means the form Subscriber completes, signs and submits to order Airtime Services from KVH. “**Services**” means the Airtime Service described in [Section 3](#) above and includes the use of space segment capacity via Service Providers’ gateway services and related terrestrial carriers. “**Service Provider**” means any third party provider of communications services used by KVH to provide the Service.

## SUBSCRIBER’S ACCOUNT

- Subscriber Representations.

Subscriber represents to KVH that: (a) Subscriber or the person executing this Agreement on behalf of Subscriber is over the age of eighteen (18) years and has the power and authority to enter into and perform Subscriber’s obligations under this Agreement; (b) Subscriber will comply with all terms and conditions of this Agreement and the terms of the applicable pricing plan and rate sheets associated with the particular Service(s) selected by Subscriber; (c) all information provided by Subscriber to KVH on the Activation Form or elsewhere is truthful, accurate and complete; and (d) Subscriber will notify KVH promptly of any changes in such information.
- Security Deposit.

In addition to information supplied by Subscriber, KVH may obtain Subscriber credit information from trade references and credit reporting agencies, and such other sources as KVH deems necessary or appropriate. Based on this information and other factors KVH deems relevant to Subscriber’s creditworthiness, including without limitation Subscriber’s payment history and/or usage patterns, KVH may require Subscriber to make a security deposit as a payment guarantee. Such deposit shall be subject to increase or decrease as KVH deems necessary (including based upon unusual or excessive usage) and shall not accrue interest unless required by law. Such deposit is not a credit against any payment obligations. KVH will refund Subscriber’s deposit upon termination of service. At KVH’s sole discretion, Subscriber may receive Service prior to a credit review without waiving KVH’s right to demand a security deposit from Subscriber, and Service may be discontinued by KVH should Subscriber not satisfy KVH’s security deposit demand.
- Operation of Subscriber Account.

Subscriber shall promptly notify KVH of any changes in Subscriber’s account information. All invoices and important notices are sent to Subscriber via electronic mail at the address indicated on the Activation Form and not receiving these documents will neither release Subscriber of its obligations under this Agreement, nor be deemed a valid excuse for non-payment. Failure by Subscriber to provide KVH with accurate, complete, or updated account information in writing shall constitute a material breach of this Agreement, and may result in immediate termination of this Agreement or suspension of Subscriber’s account by KVH.

Subscriber may notify KVH in writing at any time of Subscriber’s designation of another person as an authorized user(s) of Subscriber’s account. If Subscriber makes such designation, Subscriber gives KVH permission to (a) provide account information and services directly to such user(s) to the extent such information and services would otherwise be available to Subscriber, and (b) make changes to Subscriber’s account as may be requested by such user from time to time in writing. Subscriber agrees to accept financial responsibility for all decisions and changes made by such user(s) relating to Subscriber’s account. Subscriber may remove an authorized user(s) from the account at any time by notifying KVH in writing. Subscriber requests to start, change, or discontinue Service will be accepted by KVH only from Subscriber or its authorized user.

## RESALE

- Resale.

Subscriber shall not re-sell the Service or provide the Service to any third party for consideration without KVH’s prior written consent. KVH reserves the right to terminate this Agreement in the event of unauthorized resale by Subscriber.

In the event that KVH provides its written consent for the resale of the Service by Subscriber, Subscriber shall be fully responsible for the compliance of its Subscribers (the “**Resold Subscribers**”) with all of the relevant terms and conditions of this Agreement, including but not limited to the first paragraph of this [Section 8](#) (Resale), [Sections 9 and 10](#) (Equipment), [Sections 11 through 18](#) (Use of Service), [Sections 19 through 21](#) (Customer Information and Privacy), [Section 22](#) (Proprietary Rights), [Sections 28 through 34](#) (Warranties and Liabilities) and [Sections 44 through 57](#) (Service Specific Requirements); and Subscriber shall require its Resold Subscribers to enter into a binding agreement with Subscriber requiring them to comply with the above listed terms as a condition of their use of the Service. Subscriber acknowledges that, if a Resold Subscriber fails to comply with the above listed terms of this Agreement, KVH shall have the right to limit, modify, suspend or terminate the Service just as it would for non-compliance by Subscriber.

## EQUIPMENT

- Terminal Equipment.

In order to access the Service, Subscriber will require a two-way satellite antenna and other associated terminal equipment that is certified and type-approved by KVH for use with the Service (“**Terminal Equipment**”). Subscriber, at Subscriber’s expense, shall be solely responsible for purchasing or leasing the Terminal Equipment from KVH or an authorized provider, and maintaining and operating the Terminal Equipment. Subscriber shall use only the Terminal Equipment with the Service. This Agreement governs the Service only, and does not govern or apply to any sale of the Terminal Equipment.
- Subscriber Equipment.

Subscriber, at Subscriber’s expense, shall be solely responsible for providing, maintaining and operating the Terminal Equipment and all other software, hardware and communications equipment used to access the Service (“**Subscriber Equipment**”), and for ensuring compatibility of Subscriber Equipment with the Service.

## USE OF SERVICE

- Subscribers’ Liability for Use, Misuse, Unauthorized Use or Theft of Service.

Subscriber shall be solely responsible and liable for unauthorized use of Subscriber’s account whether fraudulent or otherwise. Subscriber acknowledges that the prices for the Service include both monthly fixed rates for data transmissions up to a maximum ceiling and additional overage charges for data transmissions in excess of the monthly maximum limit and Subscriber shall be solely responsible for payment of all such monthly fixed and overage charges.

Subscriber is solely responsible to supervise and control the consumption and use of the Service. It is Subscriber’s sole responsibility to ensure that all Terminal Equipment and Subscriber Equipment is properly configured for the particular Service that Subscriber has selected. It is Subscriber’s sole responsibility to gain an understanding of the technical aspects, use, and operation of the Terminal Equipment, and Subscriber Equipment as well as the details and terms of the Services and the associated rates.

KVH and its Service Providers are not to be held liable and are not responsible for any misuse of the Service or any non-compliant configuration of the Terminal Equipment and Subscriber Equipment used to provide the Service

and Subscriber is solely responsible for any excess consumption or overage of the Service that results from such misuse or non-compliant configuration.

KVH shall not under any circumstances abate or refund charges to Subscriber's account arising from the fact that, or on the basis of Subscriber claims that, Terminal Equipment or Subscriber Equipment was not properly configured at the time charges were accrued.

Subscriber shall notify KVH immediately in writing if Subscriber sells, gives away or otherwise transfers the Terminal Equipment to another party, or if the Terminal Equipment is stolen or otherwise removed from Subscriber's vessel or other such vehicle or platform approved by the appropriate Service Provider. Subscriber is considered the registered recipient of the Service until KVH receives such notice in writing and terminates service, and Subscriber will be liable for any charges or fees incurred by any use of the Service up to the time that KVH receives such notice in writing and terminates service, unless otherwise provided by law. Subscriber shall provide a police report of any theft upon KVH's request. Subscriber will not be liable for charges and fees incurred by unauthorized use after KVH has received Subscriber notification and terminated service.

12. Unacceptable Use of Service.

Subscriber agrees not to engage in unlawful or unacceptable use of the Service, which shall be determined in KVH's sole discretion, including without limitation: (a) posting, disseminating, storing or transmitting duplicative or unsolicited messages, chain letters, pyramid schemes, or unsolicited e-mail (commercial or otherwise); (b) posting, uploading, disseminating, storing or transmitting material of any kind or nature that, to a reasonable person, may be abusive, obscene, harmful, hateful, pornographic, defamatory, harassing, libelous, deceptive, fraudulent, invasive of another's privacy, grossly offensive, vulgar, threatening, malicious or racially, ethnically or otherwise objectionable; (c) obtaining unauthorized access to data, systems or networks, including any attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures; (d) unauthorized monitoring of data or traffic on any network system; (e) interfering or disrupting service to any other user, host or networking, including mail bombing, flooding, attempts to overload a system, and broadcast attacks; (f) forging of any TCP-IP packet header or any part of the header information in an e-mail or newsgroup posting; (g) relaying mail via another site's mail server without express permission of that site; (h) canceling any postings or messages other than Subscriber's own, except for postings in Subscriber's name that have been forged; (i) impersonating any person or entity, including any KVH employee or representative; (j) disclosing Subscriber's password or other means for accessing the Service to any third party, or otherwise facilitating unauthorized access thereto; (k) using the Service where it is not authorized; (l) furthering criminal activity; or (m) connecting and using a non-KVH marketed and approved VoIP service. Subscriber's unacceptable use of the Service shall be a breach of this Agreement.

13. Service Limitations.

Subscriber is responsible for abiding by all international and jurisdictional rules and regulations regarding the transport and use of the Terminal Equipment and of the Service.

The Service may be used in international waters and to the extent permitted, within the territorial waters of various countries. Subscriber is responsible for ensuring that the Service is used only within the territorial waters of countries that permit such use. Subscriber acknowledges that the definition and geographic size of territorial waters for purposes of these limitations varies from country to country. Subscriber also acknowledges that some countries such as the United States permit the unlimited use of the Service in their territorial waters, while others may allow use of the Service only on a temporary basis while transiting their waters and others may not allow use of the Service in their territorial waters at all at this time.

The current status of the authority to operate the Services in individual countries is listed at [www.kvh.com/licenses](http://www.kvh.com/licenses), which status is subject to change from time to time. This list is provided for convenience only and is non-binding on KVH, and KVH has no obligation to update the same.

14. KVH Status.

Subscriber acknowledges that KVH makes the Service available using satellite and telecommunications networks and other services provided to KVH by third party Service Providers. The networks vary with regard to technology, configuration, Terminal Equipment, and/or Subscriber Equipment to be used and with regard to application possibilities. A Service can only be used in relation to the network of the applicable Service Provider. KVH's ability to make the Services available is therefore derived from and limited by the terms of the agreements between KVH and the Service Providers. KVH also has no control and no responsibility or liability over the manner in which Services are delivered and provided. The Services will automatically terminate if KVH's agreements with applicable Service Providers terminate.

15. Service Availability.

Given ongoing changes to satellite and terrestrial technologies and fluctuations in usage, accurately predicting daily download and upload data transfer rates is not currently feasible. Subscriber acknowledges that, from time to time, the Service may intermittently encounter variations in data transfer rates because of factors which may include but are not limited to the time of day and congestion on the Internet and/or network as a whole, Subscriber's own network configuration and usage patterns, and maintenance and upgrade procedures or repairs which KVH and/or its Service Providers, including its satellite operators, may undertake from time to time.

Subscriber further acknowledges that the operation of the Service may not be continuous, uninterrupted or error-free. Without limiting the foregoing, the Service may become unavailable or limited because of network equipment failures, capacity limitations of a Service Provider, emergency pre-emption as required by governmental authorities who have jurisdiction over Service Provider's systems, or periodic or emergency maintenance conducted by KVH or a Service Provider for modifications, upgrades, repairs, and similar purposes.

The Service is also subject to transmission and reception limitations caused by: (a) service area limitations, including without limitation, changes to the satellites used to provide the Service, or the coverage patterns of the satellites or topographical conditions, whether man-made or natural that obstruct the line of transmission between the Terminal Equipment and the Service; (b) the condition of Terminal Equipment or Subscriber Equipment; (c) Acts of God and other causes beyond the control of KVH which are not reasonably foreseeable by KVH; (d) weather conditions; (e) atmospheric conditions (i.e., space debris, solar flares, and other atmospheric anomalies or disturbances); (f) magnetic interference; (g) environmental conditions; and (h) other like conditions.

16. Security.

The Internet is an inherently insecure medium and KVH does not represent, warrant or guarantee the security or integrity of any communications made or received using the Service. Subscriber shall be solely responsible and liable for the security, confidentiality and integrity of all messages and the content that Subscriber receives, transmits through or stores on the Service. Subscriber shall be solely responsible and liable for any authorized or unauthorized access to Subscriber's account by any person. Subscriber agrees to bear all responsibility and liability for the confidentiality of Subscriber's password and all use of the Service with Subscriber's password.

17. Internet Risks.

Subscriber acknowledges that Internet sites not created or maintained by KVH, and use of the Internet, might consist of, include and/or provide access to images, sounds, messages, text, service or other content and material that may be unsuitable for minors and that may be objectionable to many adults. Subscriber acknowledges that use of the Internet through the Service is at Subscriber's sole risk. The reliability, availability, legality, performance and other aspects of resources accessed through the Internet are beyond KVH's reasonable control and are not in any way warranted or supported by KVH or its Service Providers. KVH does not endorse and is not responsible or liable for any content, advertising, products, or other materials on or available from sites or resources available through the Service. Subscriber acknowledges that safeguards relative to copyright, ownership, appropriateness, reliability, legality and integrity of content may be entirely lacking with respect to the Internet and content accessible through it. Subscriber assumes all risk and liability of any use of the Internet through Subscriber's account.

18. Remedial Obligations.

If Subscriber believes that there has been any violation of any of the restrictions on use of Service, Subscriber shall contact KVH immediately and provide: (a) the nature of the alleged violation, along with any supporting evidence; (b) the date and time of the alleged violation, including the time zone; and (c) the telephone number or IP address used to commit the alleged violation. Where a violation of the use of Service restrictions is found to have occurred, KVH shall have full discretion to determine the response that is appropriate in the circumstances, including any one or more of the following actions: (a) issue a warning to the user; (b) remove any postings that violate the terms of this Agreement; (c) suspend newsgroup posting privileges; (d) suspend the Subscriber's Services; (e) terminate the Subscriber's Services following Subscriber's failure to cure the violation within 30 days following the dispatch to Subscriber by KVH of written notice of the violation; and (f) bill Subscriber for administrative costs and/or reactivation charges. KVH is not responsible for any failure or delay in removing such content. Subscriber agrees to fully cooperate, as may be necessary or requested by KVH to investigate alleged violations of law, regulation, the terms of this Agreement or otherwise to protect KVH's rights or property, and may include disclosure to or cooperation with authorized governmental authorities.

## CUSTOMER INFORMATION AND PRIVACY

### 19. Use and Control of Information.

KVH or its Service Providers may, without obligation, liability or notice, except to the extent prohibited by applicable law, distribute, load, sell or otherwise share with other persons or entities Subscriber account information as well as aggregated information. Aggregated information includes information constituting or descriptive of demographic information, habits, usage patterns, preferences, survey data or other descriptive or related data which do not rely on providing to recipients the identity of any particular user of the Service. This shall not be construed to limit KVH use of other information not addressed in this Section 19. KVH and its Service Providers will be free, in their reasonable good faith discretion and without notice, to provide Subscriber and user information and records to the courts, law enforcement agencies, or others involved in prosecuting claims or investigations for conduct or conditions alleged or believed to be illegal or to violate or threaten policy or the rights of any person or entity, and to maintain and use internally such information and records. Information generated by or in connection with KVH administration of the Service shall be and remain the exclusive property of KVH.

### 20. Communications with Subscriber.

KVH may from time to time provide online, facsimile, telephone, e-mail, mail and other communications to Subscriber on matters pertaining to the Service, its features, its sponsors or its use. Subscriber acknowledges that communications with KVH, its representatives and its contractors may be monitored or reviewed, without notice, for quality control and other reasonable business purposes.

### 21. Privacy Limitations.

Subscriber understands that data communications transmitted over wireless systems and the Internet may not be completely private or secure and KVH makes no warranties regarding the privacy of communications. Subscriber consents to KVH or its Service Providers monitoring Subscriber's account activity in order to resolve billing queries, prevent and minimize fraud or misuse and ensure the quality of the Service.

## PROPRIETARY RIGHTS

### 22. Proprietary Rights.

Except to the extent the same is determined to be part of the public domain, all content available through or distributed over the Service is subject to copyright, database protection, and other rights under applicable laws. Unauthorized use of such content may violate copyright, trademark and other laws. Subscriber may not copy, distribute, transmit or publish such content in any form, including printed, electronic, digitized, audio or otherwise, or modify all or any portion of such content without the prior written consent of the copyright owner. Subscriber's infringement of any third party intellectual property rights shall be a breach of this Agreement.

## TAXES, FEES, BILLING AND PAYMENT

### 23. Taxes, Fees, and Billing.

Subscriber shall be solely liable for the payment of all fees relating to Services and applicable taxes and regulatory fees (including but not limited to fees associated with universal service or other governmental programs or assessments), without setoff, deduction for payment processing or counterclaims. Any banking fees must be settled by Subscriber.

Subscriber is responsible for the payment of charges for all Services furnished to Subscriber under this Agreement, including but not limited to all data call attempts, regardless of ultimate successful transmission and termination, and all connections completed by the Terminal Equipment, and for the payment of all charges billed to Subscriber's account, including toll, land, long distance and roaming charges, if applicable.

All data usage measurements displayed in the Terminal Equipment's graphical user interface are intended solely for guidance purposes and shall in no circumstance be either construed as legally binding or used for actual billing purposes.

### 24. Payment.

Subscriber remains responsible for charges even if the Subscriber Equipment or Terminal Equipment is inoperative, or if the Service is temporarily unavailable, except that if there is a continuous Service outage in excess of twenty four (24) hours, then Subscriber will receive a credit equal to one day for each day of an outage (rounded down to the nearest day). Subscriber authorizes KVH to automatically charge Subscriber's selected primary credit card within five (5) days of the due date on Subscriber's invoice. If a charge is rejected by the primary credit card for any reason, then Subscriber's secondary card will be charged. There will be an additional late payment charge of 1.5% per month (or the maximum rate allowed by law) on the past

due amount if credit card payments on both cards are rejected. There will be an additional charge of US dollars (\$) 25.00 for any rejection of any charge to a credit card.

Even if an invoice is disputed, Subscriber must pay the invoice within the due date and must notify KVH in writing of the dispute, together with the legal basis for such dispute, within thirty (30) calendar days after the invoice due date. Any claims received by KVH later than thirty (30) calendar days after the invoice due date may be rejected by KVH. KVH will respond to Subscriber within thirty (30) calendar days after receipt of the written notice of dispute, advising on the action being taken to resolve the dispute. Failure by KVH to respond within thirty (30) calendar days from receipt shall not be a breach of KVH's responsibilities under the Agreement. If KVH accepts the claim from Subscriber, KVH shall issue a credit note to Subscriber within sixty (60) calendar days from acceptance of the claim.

Subscriber is responsible for notifying KVH of any changes to credit card information. Subscriber authorizes KVH to refer its account, if past due, to attorneys and/or collection agencies for further action and to notify credit reporting agencies of any defaults in accordance with law. Subscriber shall also pay any and all costs, expenses, fees and commissions incurred by KVH in collecting unpaid amounts, as allowed by law.

## TERM AND TERMINATION

### 25. Term.

This Agreement shall begin on the date Subscriber's account is first activated and continue thereafter for the subscription period initially committed to by Subscriber when signing the Activation Form ("**Initial Term**"), but in no case will the Initial Term be less than six (6) months for Subscribers of Inmarsat FleetBroadband Airtime by KVH Service and one (1) year for all other Subscribers. Unless sooner terminated pursuant hereto, or unless extended by Subscriber to obtain new, additional or different benefits, the Agreement automatically extends thereafter on a month-to-month basis for Subscribers of Inmarsat FleetBroadband Airtime by KVH Service and on an annual basis for all other Subscribers (as renewed, the "**Term**") unless: (a) Subscriber gives KVH written notice of termination at least thirty (30) days' prior to the end of the then current term; or (2) KVH in its discretion elects to terminate provision of the Service to all subscribers. Unless required by law, Subscriber will not be entitled to refunds of prepaid amounts if Subscriber terminates its Service.

### 26. Termination For Cause.

Upon non-payment of any sum due to KVH, the return or rejection of a payment, the failure to provide a security deposit or an increase in a security deposit as directed by KVH, KVH may, by a notice in writing (which notice shall be deemed received five (5) days after it is sent to Subscriber's latest e-mail address on record with KVH and deposited with the national postal service addressed to Subscriber's last known address, or earlier if Subscriber files for, or is compelled to seek, bankruptcy protection) and without incurring any liability, refuse, reduce or temporarily or permanently terminate service (including associated roaming connections). If Service is suspended or terminated for non-payment KVH may, at its sole option, reactivate the Service upon payment by Subscriber in full of the past due amount, any penalties associated with the late payment and a service restoration charge.

In addition, the Service may be refused, reduced or temporarily or permanently terminated by KVH immediately without notice and without incurring any liability if: (a) KVH is informed that the Service is being used by Subscriber in a manner which might adversely affect KVH's service to others; (b) KVH receives from a law enforcement agency a written finding, signed by a magistrate, that probable cause exists to believe (i) that Subscriber has used or will use the Service in violation of or to violate the law, or (ii) that the character of Subscriber's use of the Service is such that immediate action is required to protect the public's health, safety or welfare; (c) the number(s) or IP addresses utilized by Subscriber for connections is determined by KVH to have been duplicated or otherwise to be associated or potentially associated with the fraudulent use of Service; (d) KVH is requested by a Subscriber or by another Service Provider to deny Service to which the Terminal Equipment was reported to be stolen, or KVH is requested by another Service Provider to deny service to the Terminal Equipment that has been determined to be associated or potentially associated with the fraudulent use of the Service or otherwise disconnected from Service for non-payment of, or owing unpaid, service charges; (e) KVH determines that Subscriber's application for Service included information that was fraudulent, false or incomplete; (f) Subscriber uses equipment either not authorized by or on record with KVH; (g) there is unusual account activity or KVH's reasonably suspects the occurrence of any other event of default or breach pursuant to this Agreement; or (h) there is a violation of the terms, conditions, laws, rules, or regulations governing the use of Service.

In addition to the rights contained herein, KVH reserves the right to pursue any other remedy at law or in equity. All rights and remedies granted to KVH are cumulative and not alternate, and KVH's failure to exercise any right or remedy shall not constitute a waiver of such right or remedy of any future default by Subscriber.

27. Early Termination Fee.

If this Agreement or a Service is terminated during the Initial Term or the Term (a) by Subscriber for any reason, or (b) by KVH for cause, Subscriber will be required to pay KVH an early termination fee equal to the greater of either the balance of all payments remaining on the Service or this Agreement and US dollars (\$) 1,000.00.

**WARRANTIES AND LIABILITY**

28. Exclusion of Warranties.

KVH warrants that it will use reasonable commercial efforts to provide the Service to Subscriber. KVH disclaims all other express, implied or statutory warranties from this Agreement, including without limitation any warranties of non-infringement, satisfactory quality merchantability or fitness for purpose.

29. Licenses.

Subscriber agrees to abide by all of the current regulations in effect in countries where the Terminal Equipment, Subscriber Equipment or Service may be used, including licensing requirements. KVH will not be responsible or liable for any operational restrictions, customs, license or permit fees required for operation of the Services in the destination country. In addition, KVH shall have no responsibility or liability for fines associated with the Terminal Equipment, or Subscriber Equipment seizure or for legal ramifications of using the Terminal Equipment, Subscriber Equipment or Service in countries where it is prohibited.

30. Limitations of Liability.

Neither KVH, nor its Service Providers, employees, shareholders, directors, officers or agents shall be liable for any act or omission to the extent not directly attributable to KVH's personnel or equipment. To the maximum extent permitted by applicable law, the aggregate liability of KVH and its Service Providers, employees, shareholders, directors, officers or agents for any losses or damages suffered or incurred in connection with the Service or this agreement, whether such losses or damages are incurred through breach of this agreement, negligent or grossly negligent act or omission resulting in any interruption, delay, defect or error in Service, or on any other basis, shall in no event exceed the amount paid to KVH by Subscriber for the Service during the three (3) month period immediately before the event resulting in such liability.

31. Exclusions.

In any event, neither KVH nor its Service Providers, employees, shareholders, directors, officers or agents shall have any liability whatsoever for (a) interruptions or defects in service which affect subscribers for less than twenty-four (24) continuous hours; (b) any of the limitations of service provided in this Agreement; or (c) any indirect, punitive, special, incidental or consequential damages or losses, including but not limited to lost revenue, lost profits, loss of business or goodwill, loss of use, replacement goods, cost of replacement goods, loss of technology, rights or services, loss, corruption or alteration of information, software, hardware, files or data, or interruption or loss of use of service or equipment, whether or not KVH has been apprised thereof.

32. Emergency Service.

Subscriber acknowledges that the Service may not support emergency distress or communications and KVH is under no obligation to provide any emergency referral service under this Agreement.

In the event that KVH does provide a form of emergency referral service, then in addition to the other limitations provided herein, neither KVH nor its Service Providers, employees, directors, officers or agents, including any third-party provider of such referral service, shall be liable for any damages in a civil action or subject to criminal prosecution resulting from death, injury, or loss to persons or property incurred by any person in connection with establishing, developing, implementing, maintaining, operating, and otherwise providing wireless emergency referral services, unless such damage or injury was caused by the intentional or willful or wanton misconduct of the above described entities/individuals. Further, in the event that KVH provides an emergency referral service at any time in any location, there can be no assurance that such service may be available at other times or in the same or other locations.

Subscriber acknowledges that when calling any such emergency service, Subscriber's location may not be known automatically by the operator answering the emergency referral call and the effectiveness of the service will depend largely on the accuracy of the information provided by Subscriber, including without limitation information concerning Subscriber's location. Subscriber

must provide the operator specific information identifying Subscriber's location.

33. Subscriber Indemnity.

Subscriber agrees to indemnify, hold harmless, and defend KVH, its Subsidiaries, affiliates, licensors, Service Providers, shareholders, directors, officers, employees and agents from and against any claims relating to or arising out of Subscriber's breach of this Agreement or Subscriber's installation, use or misuse of the Service, the Terminal Equipment, or the Subscriber Equipment used in connection with the Service. Subscriber agrees to reimburse, indemnify and hold harmless KVH for any and all Costs, expenses and reasonable attorney's fees incurred by KVH in defending any claims relating to Subscriber's misuse of the Service, the Terminal Equipment, or the Subscriber Equipment used in connection with the Service.

34. Force Majeure.

KVH shall not be liable for and will not be responsible to Subscriber for any delay or failure to perform under this Agreement if such delay or failure results from fire, explosion, labor dispute, earthquake, hurricane, casualty or accident, lack or failure of transportation facilities and/or services, lack of failure or telecommunications facilities and/or services including Internet services and satellite services, vandalism, epidemic, flood, drought, or by reason of national emergency, war, terrorism, revolution, civil commotion, blockade, or embargo, delay from suppliers, Act of God, any inability to obtain any requisite license, permit or authorization, or by reason of any law, proclamation, regulation, ordinance, demand or requirement of any government or by reason of any other cause whatsoever, whether similar or dissimilar to those enumerated, beyond the reasonable control of KVH.

**OTHER TERMS AND CONDITIONS**

35. Assignment.

Subscriber may not assign this Agreement, or any of its rights and obligations hereunder, to any other person, firm, agency, corporation or other legal entity without the prior written consent of KVH. KVH reserves the right to terminate this Agreement in the event of unauthorized assignment by Subscriber. KVH may assign this Agreement or any of its rights and obligations hereunder at any time.

36. Amendment.

This Agreement and any pricing plan may be amended by KVH from time to time by five (5) days written notice to Subscriber; provided that during the Initial Term, KVH will not increase the price for the specific plan initially chosen on the Activation Form by Subscriber without the prior written consent of Subscriber. Such notification may occur by e-mail and shall include reference to the amended Agreement and plans to be found at KVH's website (www.kvh.com). Subscriber's use of the Service more than thirty (30) days after notification of amended terms or plans shall constitute acceptance of such amendments. If Subscriber objects in writing to an amendment within ten (10) days after notification of such an amendment, KVH will then have fifteen (15) days to either withdraw the amendment or terminate this Agreement and the Service.

37. Successors.

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their permitted assigns. This Agreement is entered into solely for the benefit of such parties.

38. Third Party Beneficiaries.

Nothing contained herein will be deemed to create any third party beneficiaries or confer any benefit or rights on or to any person not a party hereto, and no person not a party hereto shall be entitled to enforce any provisions hereof or exercise any rights hereunder, except that any Service Provider shall be a third party beneficiary and may enforce the provisions of this Agreement.

39. Governing Law.

This Agreement is interpreted and construed pursuant to and governed by the laws of the State of Rhode Island, United States of America, without regard to its conflict of laws principles.

40. Waiver and Severability.

Neither the waiver by either of the parties hereto of a breach of or a default under any of the terms and conditions of this Agreement nor the failure of either of the parties, on one or more occasion, to enforce any of the provisions of this Agreement shall be construed as a waiver of any subsequent breach or default of a similar nature, or as a waiver of any provisions, rights or privileges hereunder. The provisions of this Agreement are severable and any determination of invalidity or unenforceability of any one provision hereof shall have no bearing on the continuing force and effect of the remaining valid provisions hereof.

41. Notice.

In the event Subscriber desires to provide notice to KVH, as required by any of the terms and conditions herein or for any other reason, including any communication from Subscriber regarding termination, disputed debts and any instrument tendered as full satisfaction of an outstanding debt, such notice shall only be deemed given when made in writing and sent certified mail to the following addressees: KVH Industries, Inc., 50 Enterprise Center, Middletown, Rhode Island 02842-5279, U.S.A., Attention: KVH Airtime Services Dept. with a copy to the Legal Department.

42. Third Party Complaints.

Any complaints or objections in relation to material posted by any Subscriber, or hosted in connection with the Service, should be directed to the following addressees: KVH Industries, Inc., 50 Enterprise Center, Middletown, Rhode Island 02842-5279, U.S.A., Attention: KVH Airtime Services Dept. OR via e-mail to satelliteservices@kvh.com OR by telephone: +401-847-3327.

43. Complete Agreement.

These terms and conditions contain the entire Agreement between KVH and Subscriber and supersede all prior statements, representations and agreements whether oral or written. Subscriber acknowledges that (s)he has relied on no oral or written representations made by or on behalf of KVH or any employee, director, officer.

**ADDITIONAL TERMS FOR KVH MINI-VSAT BROADBAND SERVICE**

The following terms and conditions apply solely to Subscribers that subscribe to KVH's mini-VSAT Broadband Service.

44. Prohibited Use.

The reception and transmission of certain types of traffic that causes the Subscriber to exceed reasonable amounts of network utilization, as solely determined by KVH or Service Providers, is expressly prohibited unless otherwise authorized in writing by KVH. This includes but is not limited to the use of web cameras, voice or VoIP services (not marketed by and approved as part of the Service), peer to peer file sharing or gaming software applications, streaming media, and excessively large file downloads or uploads. KVH and/or Service Providers may limit or degrade Subscriber's service accordingly to optimize network performance without liability.

45. Fair Access Policy.

To ensure that all subscribers have equitable access to the mini-VSAT Broadband Service, KVH has implemented a Fair Access Policy ("FAP"). Subscriber agrees that KVH has the right to monitor the satellite network for upload and download activity that causes disruption of data transfer rates and poor performance of the Service. If Subscriber performs upload and download data activity that is excessive and contributes to the disruption of the Service, KVH is authorized to temporarily limit the transfer rate at which Subscriber can send and receive data over the Service without liability or to charge for use beyond the limit. Excessive use shall be determined by KVH in its sole discretion, based on the FAP limits associated with a Subscriber's pricing plan and pro-ratio of network capacity of all subscribers simultaneously using the network at any point in time. Subscriber will still be able to use the Service but Subscriber's transfer rate will be slower. In cases of extreme and continued violation of the FAP, as determined by KVH in its sole discretion, Subscriber's use of the Service may be suspended by KVH and terminated by KVH if Subscriber fails to cure the violating conditions within thirty (30) days following the dispatch to Subscriber by KVH of written notice of the violation. Subscriber agrees that KVH may use other traffic management and prioritization tools to help ensure equitable access to the Service for all subscribers.

46. Remote Diagnostic Fee.

In addition to all fees associated with the Service and selected rate plan, Subscriber of the KVH mini-VSAT Broadband Service agrees to pay an applicable Remote Diagnostic monthly service fee. The monthly fee for the Remote Diagnostic service will be fixed for the Initial Term and then is subject to change without prior notice.

**ADDITIONAL TERMS FOR KVH MINI-VSAT BROADBAND VOIP SERVICE**

The following terms and conditions apply solely to Subscribers that subscribe to KVH mini-VSAT Broadband VoIP Service.

47. VoIP Subscriber Premises Equipment.

In order to access the VoIP Service, Subscriber will require VoIP Subscriber Premises Equipment ("VoIP Equipment") that is supplied, certified and type-approved by KVH and its third party Service Provider for use with the VoIP Service. Subscriber shall use only the VoIP Equipment with the VoIP Service. For Subscribers that receive the VoIP Service, the VoIP Equipment shall qualify as Terminal Equipment for purposes of this Agreement.

48. Use of VoIP Service and VoIP Equipment.

Subscriber agrees that the VoIP Service and VoIP Equipment are to be used for Subscriber's personal use and solely aboard Subscriber's maritime vessel. Subscriber may not resell or transfer the VoIP Service or the VoIP Equipment to any other person for any purpose, or make any charge for the use of the VoIP Service. KVH reserves the right to immediately terminate or modify the VoIP Service if KVH determines, in its sole discretion, that the VoIP Service is being used contrary to the provisions of this Agreement.

49. No Emergency (E911) Service.

Subscriber acknowledges that the VoIP Service and the VoIP Equipment do not support emergency (911) services and Subscriber agrees to refrain from using the VoIP Service or the VoIP Equipment for emergency communications.

50. VoIP Service Billing and Billing Increments.

Call times for each call are rounded up to the next whole minute and billed in full minute increments. Per call charges are rounded up to the next whole cent. All calls for which KVH receives answer supervision may incur a minimum one-minute charge. KVH relies on answer supervision to determine whether and when a call has been answered. Answer supervision is a signal sent by the carrier connecting the call to indicate the start of call. Answer supervision is generally received when a call is answered; however, answer supervision may also be generated by voicemail systems, private branch exchanges, and interexchange switching equipment. Where no answer supervision is received, KVH may commence billing forty (40) seconds following dial time unless the caller has terminated the call. The rates for VoIP Service are subject to change and become effective upon KVH posting them on its website.

51. Account Information Website.

KVH will make available to Subscriber through its third party Service Provider a web portal ("My Account Center") for access to account management, feature control, and call detail records. Subscriber agrees to review and abide by the Terms of Service for this web portal. Subscriber acknowledges that KVH and its third party Service Provider reserve the right to limit or withdraw access to this web portal.

52. Reassignment of Number upon VoIP Service Termination.

Upon termination of the VoIP Service, KVH may, at its sole discretion, reassign a telephone number, access number, or Direct Inward Dialing (collectively "Number") provided to Subscriber by KVH. Subscriber shall not obtain any rights, title or interest in the Number and the Number is not portable to other Service Providers. The Number is not to be used with any other device other than the VoIP Equipment provided by KVH and KVH reserves the right to change, cancel or reassign the Number at its discretion.

53. VoIP Service Distinctions.

Subscriber acknowledges and understands that the VoIP Service is not a telecommunications service. Important distinctions exist between a telecommunications service and the enhanced VoIP Service offering provided by KVH. The VoIP Service provides different functionality and is subject to different regulatory treatment than traditional telephone service. This treatment may limit or otherwise affect Subscriber's rights of redress before any governmental telecommunications regulatory agencies.

54. Tampering with the VoIP Equipment or VoIP Service.

Subscriber agrees not to modify or otherwise tamper with the VoIP Service or the VoIP Equipment in any way, including, but not limited to, changing the electronic serial number or equipment identifier of the VoIP Equipment, or to perform a factory reset of the VoIP Equipment. KVH reserves the right to terminate Subscriber's Service if Subscriber tampers with the VoIP Service or the VoIP Equipment.

**ADDITIONAL TERMS FOR INMARSAT AIRTIME BY KVH SERVICE**

The following terms and conditions apply solely to Subscribers that subscribe to the Inmarsat Airtime by KVH Service.

55. Equipment.

In order to receive the Inmarsat Airtime by KVH Service, Subscriber must purchase from KVH an Inmarsat Terminal that has been type-approved and initialized by KVH. For Subscribers that receive the Inmarsat Airtime by KVH Service, the Inmarsat Terminal shall qualify as Terminal Equipment for purposes of this Agreement.

56. Usage Limitation.

When a subscription through Inmarsat Airtime by KVH is activated, KVH imposes on each Subscriber of the Inmarsat Airtime by KVH Service an initial limit on the aggregate voice, data and facsimile consumption for each vessel. This one-time usage limit is sufficient to permit a dealer to install and test the Inmarsat Airtime by KVH Service and is set forth on the pricing plan or rate sheet in effect at the time of your activation. Subscribers that wish to exceed the limit must execute a FleetBroadband Airtime Usage Authorization

Form acknowledging that they understand and fully assume the risks and liabilities of such an election. KVH will accept a FleetBroadband Airtime Usage Authorization Form only if it has been executed by the Subscriber or its authorized representative and returned to KVH.

57. SIM and Access Numbers.

Except where law provides otherwise, either KVH or the Service Provider owns the SIM and access number assigned to the Inmarsat Terminal. To the extent permitted by law, KVH and/or the Service Provider reserve the right to change the access number without liability. Subscriber's privileges to use the access number may be withdrawn upon the termination of Service.