

# PODIUM PHONES SERVICE TERMS

By using or accessing Podium's Phones Service ("**Phones**") (formerly, Voice), or by signing or clicking to accept to any Subscription Documentation that includes Phones or references these terms, you ("**you**" or "**Client**") agree to be bound by the following terms and conditions (the "**Phones Service Terms**").

These Phones Service Terms incorporate by this reference the Podium Terms of Service (currently available at: <https://legal.podium.com/#termsofservice-us>) (the "**Podium Terms of Service**") as may be updated from time to time, which, among other terms, contain provisions governing the resolution of claims (see Section 13 (Disclaimers), Section 14 (Limitations of Liability), Section 15 (Dispute Resolution), and Section 16 (General) of the Podium Terms of Service). In the event of any conflict or inconsistency between these Phones Service Terms and the [Podium Terms of Service](#), these Phones Service Terms will govern.

Capitalized terms used herein without a definition have the same meaning as the defined term in the Podium Terms of Service. All documents linked in these Phones Service Terms are deemed to those documents as updated from time to time. For the avoidance of doubt, all references to the "**Agreement**" will include these Phones Service Terms.

## 1. **DEFINITIONS**

- 1.1. "**Phones Service Provider(s)**" means the third-party service provider(s) used by Podium to facilitate certain features of Phones. Podium may add or remove Phones Service Providers from time to time.
- 1.2. "**Desk Phone Products**" or "**Desk Phones**" means the physical device and any hardware and accessories provided or made available by Podium as part of Phones. Any software and/or firmware preinstalled on, or distributed with, the Desk Phone Products forms part of the Desk Phone Products.
- 1.3. "**Web Phone**" means the software-based phone available within the Phones desktop application ("Desktop Web Phone") or the Phones mobile application ("Mobile Web Phone") that allows Podium clients to make phone calls through a properly equipped and configured computer or mobile device, without the need for Desk Phone Products.

## 2. **SERVICES.**

2.1. Podium Phones. Podium Phones is a voice over internet protocol ("VoIP") phone system integrated with Podium software to support communication with Client's Customers. Subject to the performance of Client's duties and obligations under the Agreement (including any additional terms set forth in the applicable Subscription Documentation), Podium will provide Client with access to Phones. Podium Phones includes software, hardware, and other related elements. In order to access and fully use Phones, Client must register for and maintain an active account and Subscription with Podium. Client understands and agrees that Phones may be used in the United States only. Podium Phones is powered by Podium Voice, LLC, which is a regulated affiliate of Podium. Podium Voice, LLC is a third-party beneficiary of this Agreement and will be entitled to enforce the terms and conditions as if it were a party to the Agreement

2.2. Phones Professional Installation. Phones Professional Installation ("Phones Professional Installation") is a program Podium makes available whereby we connect you with certain Third-Party Providers to perform installation services that may include: (a) assessment of your network to support VoIP compatibility and sufficient speed; (b) updating your network settings and configuration to improve performance (includes running up to 1 ethernet line (<50 feet)); (c) recommendations for network and hardware updates; (d) a physical desk phone installation session; (e) 30-day (from the date of installation), limited warranty services provided.

- 2.2.1. Podium does not perform your Phones Professional Installation and has no responsibility or liability for the installation. Podium partners with certain Third-Party Providers, who are independent of Podium, who will provide the Phones Professional

Installation services you purchase. These providers are not employees, subcontractors, or agents of Podium. For your convenience, you will pay for the Phones Professional Installation services as defined above through Podium, who will accept payment on behalf of the Third-Party Provider that completes your Phones Professional Installation. The Third-Party Provider may have additional terms and conditions, which Client may be required to accept prior to receiving the Phones Professional Installation. Additionally, if you purchase or wish to purchase any additional services from the Third-Party Provider, beyond those expressly described herein or on your applicable Subscription Documentation, you must contract with and pay any applicable fees to the Third-Party Provider directly.

2.2.2. By purchasing Phones Professional Installation, Client authorizes Podium to share Client's contact information with a Third-Party Provider and, as necessary, to allow the Third-Party Provider to access Client's Podium Platform account for the purposes of providing Phones Professional Installation services. Podium will not be responsible or liable in any manner for any negligent or intentional acts of the Third-Party Provider relating to the Phones Professional Installation services or Client's Podium account.

### **3. CLIENT OBLIGATIONS.**

3.1. Client Data. In addition to Client's obligations under the Podium Terms of Service, Client agrees that where Client provides or makes available to Podium (or a Phones Service Provider, as applicable) any Client Data (including without limitation, Personal Data about Customers) in connection with Client's use of Phones, Client grants Podium, and its respective affiliates, a worldwide, non-exclusive, royalty-free, perpetual, fully-paid-up, and irrevocable, right to (i) to collect, use, retain, transfer, and disclose Client Data (including to Podium's and Phones Service Provider's third-party service providers) in order to provide the Phones Services to Client and (ii) to enable Phones Service Provider(s) to use Client Data to: (a) provide the Phones Service Provider's services to its (and its affiliates) other clients, as necessary; and (b) analyze and improve, and incorporate Client Data into, the Phones Service Provider's products, systems, and tools. Podium may disclose Client Data pursuant to a data subject access request or consumer data request as required by applicable Law, provided that to the extent permitted under applicable Law, Podium notify Client of any such disclosure. Notwithstanding anything herein to the contrary, Podium will be permitted to retain and use Client Data (to the extent such use is permitted under these Phones Service Terms) after the expiration or termination of your applicable Subscription Documentation.

3.2. Compliance with Laws and Terms. Client understands and agrees that Client will, for the duration of the Subscription Term: (a) provide all required disclosures to Customers and obtain all required consents and/or authorizations from Customers, based on applicable Laws, prior to utilizing Phones; (b) obtain all necessary rights, releases, and consents to allow Client Data to be collected, used, and disclosed in the manner contemplated by this Agreement and to grant Podium the rights herein; and (c) use Phones only in compliance with all Laws, the terms of this Agreement, including Podium's Acceptable Use Policy ("**Acceptable Use Policy**") (currently available at <https://legal.podium.com/#aup-us>), and industry-specific best practices, including but not limited to Do Not Call rules and prohibitions. Client agrees and acknowledges that Client is solely responsible for its (and its Authorized Users') compliance with applicable Laws, these Phones Service Terms, and the [Acceptable Use Policy](#) and must not rely on the Services for any such compliance. Use of the Services does not guarantee compliance with applicable Laws or the [Acceptable Use Policy](#), and Podium expressly disclaims any liability for Client's non-compliance. Client also understands and agrees that it must not make any attempts to break or circumvent any security measures or rate limits of the Services, or to evade detection of a violation of these Phones Service Terms or the Law when using the Services. Podium reserves the right to suspend or terminate Client's access to the Services or specific feature(s) of the Services if Podium believes, in its sole discretion, that Client has violated these Phones Service Terms.

3.3. Recording. Client understands and agrees that the Services may include certain features or functionality that allow Client to record or transcribe certain audio and other data related to communications made using the Services. If Client uses this functionality, Client is solely responsible for complying (and ensuring all its Authorized Users comply) with applicable Laws in the jurisdictions in which it uses this functionality. Podium disclaims all liability for your use of these recording and transcribing features, and you agree to hold Podium harmless for all liabilities related to your use of these features.

3.4. Account Use and Security. Client is solely responsible and accepts full liability for all use of its Phones Service, with or without Client's permission. Client is solely responsible for any and all actions taken using its and its Authorized Users' accounts,

passwords, or access credentials. Client acknowledges that placing telephones on a publicly accessible internet protocol address or a publicly accessible network will subject it to a higher level of risk for fraudulent activity. Client must notify Podium within twenty-four (24) hours of any breach of security or unauthorized use of its account. Use by all Authorized Users in aggregate will count towards any applicable Scope of Use restrictions. In the event that Podium discovers or has reason to believe the occurrence of unauthorized or prohibited usage of Phones, Podium reserves the right to take actions it deems reasonably necessary to prevent or stop, without prior notice.

3.5. Responsibility for System and Technical Requirements. Client understands and agrees that Phones is a VoIP phone service and there are many factors that may impact Client's ability to use Phones, including but not limited to network speeds and bandwidth, network connectivity, hardware, and other factors outside Podium's control. Except for the limited scope of services and warranty available to Client upon the purchase of Phones Professional Installation, Client remains solely responsible for maintaining sufficient internet access, network connectivity, power, and other technical requirements necessary to enable its use of Phones.

3.5.1. Where possible, Podium will perform a network quality test prior to your purchase of Phones. This test will assess download and upload speeds, download and upload packet loss, as well as the number of devices on your network at the time of the test. If, following this initial test, your network quality does not meet the minimum requirements to support Phones, before you may purchase a Phones Subscription, you will be required to: (1) purchase Phones Professional Installation; or (2) sign a waiver and work with your own IT provider to bring your network up to the minimum requirements. You will also be required to: 1) purchase Phones Professional Installation; or (2) sign a waiver and work with your own IT provider to bring your network up to the minimum requirements, if Podium is unable to perform a pre-purchase network test, or your network passes the initial, pre-purchase test, but fails a second network quality test, performed by Podium during the post-purchase onboarding process.

3.5.2. Client understands and agrees that it is fully responsible for maintaining sufficient internet access, network connectivity, power, and other system and technical requirements necessary to enable the use of Phones, including following the completion of any purchased Phones Professional Installation and any applicable Phones Professional Installation warranty period.

3.5.3. Additionally, Client understands and agrees that, whether or not it purchases Phones Professional Installation, Client may not cancel or otherwise terminate its Phones Subscription, nor will Podium provide any refunds or service credits, due to network, hardware, or other issues caused by factors outside Podium's direct control.

#### **4. TERM AND TERMINATION**

4.1. This Agreement will begin on the start date of the applicable Subscription Documentation for Phones and will remain in effect until the applicable Subscription Term has expired or the Subscription is terminated as expressly permitted by your Subscription Documentation.

#### **5. OWNERSHIP AND RIGHTS.**

5.1. These Phones Service Terms do not grant any rights or licenses in Phones, Desk Phone Products, Podium Technology, or related software other than as expressly stated in these Phones Service Terms. As between the parties, Podium owns all rights, title, and interest, including all intellectual property rights, in and to Phones, Desk Phone Products, and software. All rights not expressly granted are reserved.

#### **6. FEES AND PAYMENT.**

6.1. Unless otherwise specified in the applicable Subscription Documentation, Phones is provided on an ongoing, per-license subscription basis, including automatically recurring payments for periodic charges, according to the terms and conditions referenced in the applicable Subscription Documentation or Agreement, as applicable. Client agrees to pay to Podium the fees for the Subscription to the Services or any Bundle, including Phones ("Subscription Fees") and any additional fees (if applicable), all as set forth in the applicable Subscription Documentation or Agreement (collectively, the "Fees"). Unless otherwise specified in the applicable Subscription Documentation, payment for all Fees is due within thirty (30) days of the invoice date.

6.2. Client will be responsible for all applicable taxes and fees accrued through Client's use of Phones. These charges may change from time to time and vary depending on federal, state, and local rules. Podium may charge Client for applicable taxes and fees

through Client's invoice.

## **7. DESK PHONE PRODUCTS.**

7.1. Desk Phone Products are manufactured by third parties and are resold by Podium. All Desk Phone Products features, specifications, and prices are subject to change at any time. Podium does not warrant that product descriptions are accurate, complete, reliable, current, or error-free, or that the Desk Phone Products are available for lease or purchase. Podium is not obligated to accept any Subscription Documentation for the purchase of Desk Phone Products, and Podium may cancel accepted Subscription Documentation at any time if Podium is unable to fulfill the purchase request for any reason. If Podium cancels your Subscription Documentation for the purchase of Desk Phone Products because it is unable to fulfill the purchase request for any reason, Podium will fully refund the purchase fees prepaid by you for such Desk Phone Products.

7.2. The following terms apply to Desk Phone Products purchased by Client (as specified in Client's Subscription Documentation):

7.2.1. Podium will deliver the Desk Phone Products to the delivery address specified in your Subscription Documentation, at which time risk of loss will pass to you. Podium will use commercially reasonable efforts to provide you with an estimated delivery date for each Desk Phone Product; however, such delivery date is a good-faith estimate only and is not binding on Podium.

7.2.2. Title to each Desk Phone Product will transfer to you upon: (a) your payment of all applicable purchase fees in respect of such Desk Phone Product and (b) delivery of the Desk Phone Product in accordance with this Section 7, whichever is later.

7.3. Your use of the Desk Phone Products is: (a) subject to the terms of the [Podium Terms of Service](#), [Acceptable Use Policy](#), these Phones Service Terms, and any additional terms set forth in the applicable Subscription Documentation; (b) limited to use in conjunction with the Phones and Desk Phone Services and other Podium Services; and (c) limited to use by competent trained employees, authorized by Client to operate or use Desk Phone Products, and with adequate security measures in place to safeguard Desk Phone Products and data collected by, and held on, Desk Phone Products.

7.4. You will not, and neither will you permit any third party to: (a) copy, reproduce, republish, upload, post, transmit, resell, or distribute in any way, any data, content, or any part of a Desk Phone Product; (b) work around any of the technical limitations implemented in a Desk Phone Product or enable functionality that is disabled or prohibited; (c) reverse engineer or attempt to reverse engineer a Desk Phone Products except as expressly permitted by applicable Law; (d) perform or attempt to perform any actions that would interfere with the normal operation of a Desk Phone Product or impact the use of the Desk Phone Products by other users; (e) use the Desk Phone Products in any manner not permitted hereunder or for any purpose other than commercial purposes; (f) use the Desk Phone Product in any location other than the registered location or move the Desk Phone Products to a new location without registering the device to its new location; (g) remove, modify, deface, or replace any of Podium's or any Phones Service Provider's proprietary notices or marks which appear on or are affixed to a Desk Phone Product; or (h) use the Desk Phone Products to violate any applicable Laws, including any laws and regulations related to notification and consumer protection, unfair competition, privacy, and false advertising, and any other laws relevant to the Desk Phone Products.

7.5. Except as otherwise expressly stated herein, you are responsible for installing, integrating, and maintaining the Desk Phone Products, which includes updating the software as may be required by Podium or its Phones Service Provider(s) from time to time. Podium may make updates to the Desk Phone Products available to you. You must install these updates to continue using the Desk Phone Products. Podium will not be obligated to provide services or support for any outdated versions. Any updates are subject to these Phones Service Terms unless other terms are provided with the updates.

7.6. Unless otherwise expressly provided in an applicable Subscription Documentation, Client will pay the purchase fee in full upon placing the order for purchase of the Desk Phone Product.

## **8. LIMITED DESK PHONE WARRANTY AND SUPPORT.**

8.1. Podium provides a one-year limited warranty against defective materials and faulty workmanship in a Desk Phone Product. The warranty period starts on the date of your original purchase of the Desk Phone Products from Podium and ends one year after that date. If you submit a claim during this warranty period that is within the scope of the limited warranty, follow Podium's instructions for returning the Desk Phone Product, and it appears that any product or part thereof contains a defect in materials or

workmanship, Podium will at its option, to the extent permitted by applicable Law, either repair the Desk Phone Product, replace the Desk Phone Product, or refund to you all or part of the purchase price of the Desk Phone Product. This limited warranty applies only to unaltered hardware components of the Desk Phone Products that are used in accordance with these Phones Service Terms and not subject to accident, misuse, or neglect. Desk Phone Products with the original factory serial number removed, defaced, or altered will not receive the original manufacturer's warranty coverage.

8.2. This limited warranty is provided by Podium and not the Phones Service Provider. This limited warranty gives you specific rights and is personal to you. You may not transfer this warranty to any other person. You may have additional rights under applicable Law, and this limited warranty does not affect such rights. To make a warranty claim, please contact Podium. Podium will provide you with information about how to return your Desk Phone Products.

**8.3. THE PHONES SERVICES AND DESK PHONE PRODUCTS ARE PROVIDED "AS IS," "AS AVAILABLE," AND WITH ALL FAULTS. EXCEPT AS EXPRESSLY STATED IN THESE PHONES TERMS, PODIUM PROVIDES NO EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS, AND PODIUM DISCLAIMS ANY IMPLIED REPRESENTATIONS, WARRANTIES, AND CONDITIONS WITH RESPECT TO THE DESK PHONE PRODUCTS, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, SATISFACTORY QUALITY AND NON-INFRINGEMENT, AS WELL AS ANY OTHER IMPLIED WARRANTIES, SUCH AS WARRANTIES REGARDING DATA LOSS, AVAILABILITY, ACCURACY, FUNCTIONALITY, AND LACK OF VIRUSES. THIS SECTION 8.3 APPLIES TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AND IN ADDITION TO ANY LIMITATIONS AND DISCLAIMERS THAT MAY BE CONTAINED IN THE PODIUM [TERMS OF SERVICE](#). ANY WARRANTIES, GUARANTEES, OR CONDITIONS THAT CANNOT BE DISCLAIMED AS A MATTER OF LAW, BUT WHICH MAY BE LIMITED IN DURATION, LAST FOR ONE YEAR FROM THE DATE ON WHICH YOU RECEIVE A DESK PHONE PRODUCT.** Use of the Desk Phone Products in conjunction with any other products, such as hardware accessories, may lead to incompatibilities which cause the Hardware Products to not function correctly. As a consequence, all such use is at your own risk.

## **9. PHONE NUMBER PORTING.**

9.1. Port-In Requests. If you request Podium to port your phone number to Phones, you must execute a letter of authorization ("LOA") provided to you by Podium, including all required information, and authorizing Podium and its Phones Service Provider to initiate the porting process. Podium assumes no responsibility for any lost communication that may occur during the porting process or for any delays or failures in the porting process that are caused by factors outside Podium's control.

9.2. Port-Out Requests. As required by Law, Podium will comply with a valid request to port the number associated with your Phones account to another service provider. You understand and agree, however, that any such port-out request does not relieve you of any payment or other contractual obligations remaining under your existing agreement with Podium at the time of the request, and that you will be responsible to pay any remaining balance owed to Podium even after the port-out has been completed. You may also be subject to fees or charges applicable to the port-out request, which Podium may communicate to you in writing prior to or at the time of your port-out request. Additionally, you understand and agree that you must provide to Podium all documentation and information necessary to complete the port-out request, follow all processes required by Podium and the service provider to which you are porting your number in order to facilitate the request, and comply with all Laws and any third-party terms applicable to your port-out request. Podium will not be responsible for any delays or failures in the porting process, if such delays or failures are caused by factors outside Podium's control, or for any service interruptions or downtime that occurs during the porting.

9.3. Number Releases. Upon termination of your Podium account, including your Phones services, any phone numbers associated with your account which have not been previously ported to another service provider may be released. You must, therefore, ensure that you coordinate the porting of your number before your Podium Subscription ends or is otherwise terminated.

## **10. EMERGENCY SERVICES**

10.1. Overview of Emergency Services. Because Phones is a VoIP service the emergency calling services available through Phones operate differently from traditional emergency calling services and have certain limitations. If you are not comfortable with these limitations, you must utilize alternate means of accessing emergency services. By using Phones, you represent and warrant that you understand the limitations of emergency services available through Phones, and you agree to comply with your obligations as

set forth in these Phones Service Terms.

10.2. Emergency Calls using Desk Phone(s) & Desktop Web Phone(s). When you use a Desk Phone or the Desktop Web Phone (see Section 10.3 for information on Mobile Web Phones) to make an emergency call, Phones relies on the information, including physical address, associated with your Phones account to route emergency calls to the nearest emergency responder(s). Accordingly, you are required to register a physical location address (“Registered Location”) when you activate your Phones account. If you change your location, you must immediately update your Registered Location, according to the process set forth below. If you have not updated your address to ensure its accuracy or if you are calling from an address other than your Registered Location, emergency services may be delayed. If no address is available, Phones will route the emergency call to a national emergency response center. When making an emergency call, it is also possible that, due to certain technical limitations, the dispatcher may not receive your contact information. You should, therefore, immediately inform the dispatcher of your location (or the location of the emergency) and other contact information. Do not disconnect the emergency call until told to do so by the dispatcher.

10.2.1. Confirming and Updating your Registered Location. USE OF PHONES FROM A LOCATION OTHER THAN YOUR REGISTERED LOCATION MAY CAUSE YOUR EMERGENCY CALL TO BE ROUTED TO THE WRONG PUBLIC SAFETY ANSWERING POINT (PSAP) OR CAUSE EMERGENCY RESPONDERS TO BE DISPATCHED TO THE WRONG ADDRESS. YOU ARE SOLELY RESPONSIBLE FOR ENSURING THE ACCURACY OF YOUR REGISTERED LOCATION AND CONTACT INFORMATION BY PROVIDING, MAINTAINING, AND UPDATING SUCH INFORMATION FOR YOUR ACCOUNT. YOU ARE ALSO RESPONSIBLE FOR PERIODICALLY CHECKING THAT YOUR COMMUNICATIONS INFRASTRUCTURE IS PROPERLY CONFIGURED FOR EMERGENCY CALLING. You can verify that your Registered Location is correct via the following methods:

(a) By dialing 933 to be connected to an automated system that will read back the Podium Phones phone number you are calling from, along with the address associated with that number; or

(b) By visiting the “Phones Settings” page of the Podium portal and viewing your contact information on record.

Necessary updates to your information can be made in “Phones Settings.” Any changes you make to your Registered Location will take effect once you have saved them in “Phones Settings.”

10.3. Emergency Calling via Mobile Web Phone. If you attempt to make an emergency call using the Mobile Web Phone on your own device, the Phones application will close and will route that call to your device’s native dialer. If the device you are using does not have a native dialer (or the device does not have an active wireless cellular service), you will not be able to make the emergency call. Where possible you should make any emergency call directly using the native dialer on your device.

#### 10.4. Additional Phones Limitations.

10.4.1. Emergency calling through Phones will not function if: (a) you experience an internet failure or power outage; (b) your broadband, ISP, or Phones services are terminated or suspended; or (c) your system access equipment fails or is not configured correctly. Network congestion may also delay or prevent completion of any emergency call. You will not be able to complete an emergency call if you move to a physical location outside the country in which Phones services are provided.

10.4.2. The availability of certain features, such as transmission of a Registered Location, depends on whether local emergency response centers support those features, and other factors outside of Podium’s control. Podium relies on qualified third parties to assist us in routing emergency calls and text messages to emergency response centers. Podium does not have control over emergency response centers, emergency responders, or other third parties.

10.5. Client Notice Obligations. YOUR USE, AND USE BY YOUR EMPLOYEES, AUTHORIZED USERS, GUESTS, AND OTHER THIRD PARTIES, OF PODIUM PHONES IS SUBJECT TO THE LIMITATIONS DESCRIBED HEREIN. You are responsible for notifying any user or potential user(s) of Phones, including but not limited to your Authorized Users, of the limitations of Phones emergency calls. If you receive any label or sticker from Podium relating to emergency services, you must attach that label or sticker where it is visible on any Desk Phone you or your End Users may use in connection with Phones services.

10.6. Client Indemnity. Client will indemnify and hold harmless Podium Entities from and against any and all third-party claims and related costs, damages, liabilities, and expenses (including reasonable attorney’s fees) arising from or pertaining to: (i) Client’s

incorrect information; (ii) Client's failure to properly notify any person who may place calls using Phones of the emergency calling limitations; or (iii) the absence, failure, or outage of emergency calling using Phones for any reason; and (iv) the inability of any user of Phones to be able to access emergency service personnel for any reason.

10.7. Disclaimer. Neither Podium nor its representatives will be liable under any legal or equitable theory for any claim, damage, or loss (and Client will hold Podium harmless against any and all such claims) arising from or relating to the inability to use the Services to contact emergency services. Podium disclaims all responsibility for the conduct of emergency response centers, third parties engaged by Client to facilitate address updates, and all other third parties involved in the provision of emergency response services. To the extent permitted by applicable Law, you hereby release, discharge, and hold harmless Podium from and against any and all liability relating to or arising from any acts or omissions of such third parties or other third parties involved in the handling of or response to any emergency or emergency call.