

**Mashell, Inc, Mashell Telecom, Inc. DBA RAINIER Connect  
(and all acquired companies including ReachOne)**

**Terms and Conditions of Service**

1. **AGREEMENT AND SERVICES:** By using Services provided by Mashell, Inc, Mashell Telecom, Inc, dba Rainier Connect ("Rainier Connect") and all firms acquired by this business, you agree to comply with these Terms and Conditions ("Terms").

In these Terms, "Service(s)" refers to, but is not limited to, any dial-up Internet access, Digital Subscriber Line Internet access ("DSL"), web hosting, co-location, satellite Internet access, wireless Internet access, leased line Internet access, such as frame relay, T-1, Fiber (Ethernet) technical support received, or similar services that you may have purchased from Rainier Connect and all firms acquired by this business. Your use of these Services is subject to the guidelines set forth in the Acceptable Use Policy ("AUP") you accepted in conjunction with the Services you purchased from Rainier Connect.

2. **PROVISION OF SERVICE:** The Services shall be provided in accordance with this Agreement, applicable state and federal laws and regulations, and Rainier Connect's tariffs or price lists (the Tariffs), as amended from time to time, which are incorporated in the original executed contract. Where the Tariffs do not include some or all of the Services, those Services shall be governed by the terms and conditions of this terms and conditions of service unless otherwise expressly agreed in writing. Customer agrees additionally to comply with any Acceptable Use Policies and other Rules promulgated by Rainier Connect any time for any of the services.

3. **TERM AND COMMENCEMENT OF SERVICE:** The Initial Term of this Agreement for each Service is set forth in the executed contract. A Service shall commence on the date on which Rainier Connect's network and associated facilities are ready to provide the Service, including all facilities, elements and services necessary to provide the Service, which Rainier Connect obtains from third parties ("Service Date"). Provision of all Services is subject to the availability of facilities, elements and underlying services. Upon expiration of the Initial Term of each Service, or any extension thereof, the Service shall continue in effect on a month-to-month basis unless terminated by either party upon 30 days prior written notice. This Agreement shall terminate on the expiration or termination of all of the Services.

4. **PAYMENT:** For each Service, Customer shall pay the monthly service charge, and other applicable charges and surcharges, upon receipt of an invoice by Rainier Connect. On the Service Date for each Service, Customer will incur a prorated monthly service charge for the portion of the first month of the Service during which the Service is provided to Customer, plus applicable installation charges. If Rainier Connect does not receive any payment from Customer within thirty days of the invoice date, Rainier Connect may charge Customer a late charge of the maximum amount allowed by applicable law. Customer will be responsible for payment of any federal, state, or local use, excise, sales or gross receipts tax, or franchise fees, or similar charges, or any regulatory surcharge applicable to the Services provided to Customer.

5. **CANCELLATION OF SERVICE:** (A) Customer may cancel a Service, without liability except for payment of charges incurred prior to the cancellation date, by written notice, if a Service is not available on the ninetieth day following the requested Service Date for that Service, or at any time up to 72 hours in advance of the cutover date/time for a Service (however, receipt of such notice within such period does not guarantee effective cancellation and Customer may be charged for late cancellation). (B) If Customer cancels a Service for reasons other than those permitted by Section 5(A) hereof, or if Rainier Connect terminates the Service or the Agreement for any reason, including non-payment of charges by Customer, then Customer shall immediately pay to Rainier Connect all charges for Services provided up to the date of termination plus an amount equal to 100 percent (100%) of the remaining monthly charges for the Term of the cancelled or terminated Service. (C) Rainier Connect has the right to cancel this Agreement for any Service at any time if Rainier Connect is prohibited from providing a Service by a government agency or

court, or is prevented from providing the Service due to the unavailability of facilities or equipment necessary to provide the Service. (D) if Customer terminates inbound/outbound long distance Service prior to completion of its term commitment, Customer shall pay an early termination penalty calculated by multiplying the number of months remaining on the contract by 100% of the Customer's average monthly long distance usage during the term of the Agreement.

6. FORCE MAJEURE: Rainier Connect shall not be responsible for providing any Service or portion thereof, arising in whole or in part from any cause which is beyond Rainier Connect's sole and reasonable control including, without limitation, acts of God, earthquakes, labor disputes, shortages of supplies or facilities, equipment failure, cable cuts, rioting, war, fires, explosions, epidemics, delays of common and private carriers, computer failures and partial or total loss of electrical power or heating or cooling. Rainier Connect will recommence performance as soon as reasonably possible after the causes are removed or cease. If the period of non-performance continues for less than sixty days, then the Services affected will be continued, with credit allowances as provided in this Agreement. If the period of non-performance continues for more than sixty days, Customer may terminate the affected Services without further liability.

7. LIMITATION OF ASSIGNMENT, SERVICE, and REPRESENTATIONS: (A) This Agreement may not be assigned without the express consent of Rainier Connect in its sole discretion. Customer shall be responsible for any costs or expenses incurred if Rainier Connect agrees to such assignment. (B) Whenever transmission capacity provided by Rainier Connect under this Agreement is connected to facilities provided by another entity, the regulations, terms and charges of such other entity shall apply to the services or facilities between those locations. (C) This Agreement and the Services provided hereunder by Rainier Connect do not constitute a partnership or joint venture of any kind and Customer shall not represent that a partnership or joint venture of any kind exists between Customer and Rainier Connect. (D) Customer is not authorized to sell or re-sell or broker any of Rainier Connect's Services to other parties. (E) Customer is not Rainier Connect's agent and has no authority to bind Rainier Connect to any obligation or undertaking, nor to make any representations on Rainier Connect's behalf. (F) Customer shall indemnify and hold Rainier Connect harmless for any injury or loss to Rainier Connect arising, in whole or in part, from Customer's breach of this Paragraph.

8. CREDIT ALLOWANCES: Credit allowances for interruption of service will be made as provided and subject to the limitations of the Tariffs, which are incorporated in this Agreement by reference. Copies of those provisions are available on request from Rainier Connect's Tariff Administrator. For services for which no Tariff exists, a prorated credit of monthly service charges will apply.

9. ADDITIONAL PROVISIONS: (A) The representative executing this Agreement on behalf of Customer has the full power and authority to enter into this Agreement and to bind Customer to all of the terms and conditions of this Agreement. (B) To the extent permitted by law, Customer authorizes Rainier Connect to obtain credit reports regarding Customer at any time to assure Rainier Connect of Customer's ability to pay for the Services. Rainier Connect may refuse to provide service if Customer's credit report is unacceptable. (C) If Rainier Connect provides Customer with equipment at Customer's premises in order to provide Service under this Agreement, such equipment shall remain the property of Rainier Connect and shall be returned to Rainier Connect immediately upon the termination of the Service for which the equipment was provided. Customer shall be liable for all loss, theft or damage of such equipment, except for normal wear and tear. (D) This Agreement sets forth the entire understanding of the parties with respect to the subject matter hereof, and supersedes all prior agreements, promises, covenants, representations or warranties, whether oral or written, by either party to this Agreement. No modification, amendment, supplement to or waiver of this Agreement shall be binding upon the parties unless made in writing and signed by both parties. (E) Any dispute arising out of or relating to this Agreement, or the breach thereof, with the exception of any dispute relating to Customer's failure to pay all amounts invoiced by Rainier Connect, shall be settled through binding and final arbitration by a single arbitrator under the Commercial Arbitration Rules of the

American Arbitration Association. The arbitration hearing shall be held in the city or town where Rainier Connect's business office nearest to Customer's principal place of business is located. In any dispute or action to enforce this Agreement between the parties, the substantially prevailing party shall be entitled to an award of its costs and attorney's fees. (F) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. (G) Notices under this Agreement shall be in writing and delivered by personal delivery or registered or certified mail with return receipt requested, postage prepaid, to the persons whose names and business addresses appear herein. The effective date of any notice under this Agreement shall be the date of delivery or refusal of such delivery, and not the date of mailing. (H) The Services provided by Rainier Connect under this Agreement are severable, and upon expiration or termination of any Service, the remaining Services shall continue under the terms of this Agreement. (I) No delay or omission by either party to exercise any right hereunder shall impair such right or power or be considered a waiver thereof. A waiver by either party of any performance in the other party or breach of this Agreement shall not be construed as the waiver of a subsequent breach or of any other provision of this Agreement. (J) If any part or provision of this Agreement is found by a court, arbitrator, or governmental agency of competent jurisdiction to be invalid or unenforceable, the parties shall amend the Agreement to replace the provision with a valid provision. All other provisions of this Agreement are severable and shall remain in effect. (K) This Agreement is made under and shall be construed and enforced in accordance with the laws of the State of Washington, except for: those matters within the exclusive jurisdiction of the Federal Communications Commission or matters subject to applicable state regulatory requirements; and arbitration, which shall be governed by the Federal Arbitration Act. (L) Except for disputes between the parties and required regulatory reporting by Rainier Connect, the terms and conditions of this Agreement are confidential and shall not be disclosed to any person who is not a party to this Agreement. If a court or other government agency of competent jurisdiction orders the public disclosure of confidential information (the "Order"), the party subject to the Order shall notify the other party of the Order in such time and manner as to permit the other party a reasonable opportunity to challenge the Order or obtain other relief.

10. NO WARRANTIES, LIMITED LIABILITY: RAINIER CONNECT MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY KIND IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PROVIDED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. RAINIER CONNECT'S LIABILITY FOR DAMAGES OF ANY KIND OR CHARACTER WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL IN NO EVENT EXCEED THE TOTAL AMOUNT OF CHARGES ACTUALLY PAID BY CUSTOMER DURING THE PRECEDING SIX (6) MONTHS. IN NO EVENT SHALL RAINIER CONNECT HAVE ANY LIABILITY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL AND PUNITIVE DAMAGES OF ANY KIND, WHETHER OR NOT FORSEEABLE, INCLUDING, WITHOUT LIMITATION, LOSS OF PRESENT OR PROSPECTIVE REVENUES OR PROFITS. CUSTOMER SPECIFICALLY AUTHORIZES RAINIER CONNECT TO RELEASE CUSTOMER RECORDS OR INFORMATION IN SUBSTANTIAL COMPLIANCE WITH ANY COURT ORDER, SUBPOENA, OR LAW AUTHORIZING SUCH DISCLOSURE AND RELEASES RAINIER CONNECT FROM ANY LIABILITY ARISING THERE FROM. THE PRICES FOR THE SERVICES ARE SET IN EXPRESS RELIANCE ON THE ENFORCEABILITY OF THE PARAGRAPH, WHICH CONSTITUTES A SIGNIFICANT PORTION OF THE BENEFIT OF THE BARGAIN.

11. REVISIONS TO TERMS AND CONDITIONS OF SERVICE: Rainier Connect reserves the right to revise these terms, the AUP, or any other policies and agreements at any time. Revisions, amendment, or modification will be posted on our website at [www.rainierconnect.com/policies](http://www.rainierconnect.com/policies).