



TERMS & CONDITIONS

The following Terms and Conditions (these "Terms") must be read in conjunction with the WTI Communications, Inc. ("WTI") Service Agreement. These Terms are an integral part of the Service Agreement, and together with applicable provisions of any WTI tariffs filed with state or federal regulatory agencies and applicable rules of such agencies, constitute the complete agreement between Customer and WTI. The term "Service" shall refer to any and all Services or products provided or to be provided by WTI.

ARTICLE 1. ORDERS AND OPERATION

1.1 Customer Order(s). To order any Service, Customer must submit to WTI a signed Service Agreement specifying the ordered Service. WTI will be obligated to provide the Service only upon WTI's written acceptance of the Service Agreement and Customer's submission and WTI's acceptance of any necessary letters of authorization ("LOA") required by WTI in order to enable it to act on Customer's behalf in connection with establishing Service that will replace any services furnished by existing providers. If Customer is requesting credit approval, then Customer must also complete and submit WTI's Credit Application. WTI will notify Customer of any additional terms or conditions relating to WTI's acceptance of Customer's credit. WTI shall not be obligated to provide Service until Customer has acknowledged its acceptance of such additional terms and conditions.

1.2 Customer Premises. Customer shall allow WTI access to the Customer's premises to the extent reasonably determined necessary by WTI for the installation, inspection, and scheduled or emergency maintenance of equipment and facilities ("Facilities") relating to the Service. Customer will be responsible for providing and maintaining, at its own expense, the level of power and environmental conditions that are required for proper operation of the Facilities and the provision of Service.

1.3 Installation, Operation and Maintenance. Following acceptance of the Service Agreement, WTI shall use commercially reasonable efforts to complete installation of Facilities and commence the provision of Service within WTI's normal timeframe for installing such Facilities and Service. WTI shall not be responsible for the operation or maintenance of any Customer-provided communications equipment. WTI shall use commercially-reasonable efforts to minimize any disruption of Customer's business during any installation or maintenance by WTI of Facilities at the Customer Premises.

1.4 Customer Disconnection of Existing Services: Customer is responsible for the disconnection of any services and facilities provided by other carriers that will be replaced by WTI Services, and any charges imposed by such carrier in connection with said disconnection. Customer is responsible for paying all charges assessed by such carriers and any other third party providers of services or facilities.

ARTICLE 2. BILLING AND PAYMENT

2.1 Commencement of Billing. Upon installation of the Service, WTI will deliver to Customer a Connection Notice. Upon receipt of the Connection Notice, Customer shall have seventy-two hours to notify WTI if the Service does not conform to the Service Agreement or is not functioning properly; otherwise billing for the Service shall commence as of the date of the Connection Notice. In the event that Customer notifies WTI within the time period stated above that the Service does not conform to the Service Agreement or is not functioning properly, then WTI shall correct any deficiencies in the Service and deliver a new Connection Notice to Customer, after which the process stated herein shall be repeated.

2.2 Charges. The Service Agreement will identify the applicable non-recurring charges and recurring charges for the Service by specifying such charges or by reference to the applicable tariff. Except for rates established by WTI's tariff, these charges shall not be subject to revision during the initial service term applicable to a Service, unless Customer requests a change in the Service to which the charges apply or except to reflect increases to the rates charged to WTI by underlying carriers whose services or facilities are used by WTI to provide the Service. Upon renewal of the service term for a particular Service pursuant to section 4.1, WTI's then-current, generally-applicable rates shall apply to the

Service for the renewal term. In the event that WTI intends to increase any rate applicable to a regulated intrastate California Service, such increase shall become effective only upon thirty (30) days' written notice to Customer and the Customer may, prior to the effective date of the increase, cancel the affected Service without liability for any otherwise-applicable early termination fees. If the Customer does not cancel the affected Service before such date, the increase shall go into effect and the Customer shall no longer have the right to cancel such Service due to the increase without incurring early termination liability, if applicable. Switched rates identified in the Service Agreement or applicable tariff apply to in-bound toll-free (e.g. 800) and outbound long distance calls that originate or terminate over switched local exchange access facilities serving the Customer Premises. Dedicated rates identified in the Service agreement or the applicable tariff apply to outbound long distance calls that originate over dedicated DS-1 or DS-3 facilities between the Customer Premises and the WTI interexchange carrier point of presence (POP).

2.3 Non-Premier LATA Termination/Origination surcharge (80/20 rule). The rates for in-bound toll-free and outbound long distance calls are subject to satisfaction of the following condition: No more than twenty percent (20%) of the total, combined in-bound and outbound minutes of use during the applicable billing period is from or to a line served by a local exchange carrier other than AT&T, Verizon, or a local exchange carrier whose rates for exchange access are no higher than those of AT&T or Verizon. Customer will be billed a five cent (\$0.05) surcharge for each minute of interstate and intrastate usage during the billing period that exceeds such twenty percent (20%) limit.

2.4 Early Termination Charges. In the event that Customer cancels any Service or accepted Service Agreement prior to the end of the minimum service term (also referred to as "Account Term") set forth in the Service Agreement, or WTI terminates this Agreement based on Customer's breach of any provision hereof, Customer shall immediately be liable to WTI for Early Termination Charges equal to: (a) either: (i) 75% of the last six months' average billing for such Service, multiplied by the number of months remaining in the applicable service term; or (ii) if such Service has been in place less than 6 months or has not yet been installed, 75% of the minimum usage and monthly recurring service charges for the Service multiplied by the number of months remaining in the applicable service term; plus (b) all out-of-pocket costs incurred by WTI that WTI would not have incurred, but for the early termination of the Service or Service Agreement.

2.5 Payment of Invoices. WTI bills in advance for Service to be provided during the upcoming month, except for charges that are dependent upon usage of Service, which are billed in arrears. All payments of invoiced amounts are due thirty (30) days after the date of invoice. If Customer disputes any invoice, Customer must provide written notice of the basis for its dispute within such 30 day period and must also remit full payment of all amounts billed, including both disputed and undisputed amounts, within such 30 day period. In the event that Customer fails to provide such notice and pay the full amount billed by WTI within such 30 day period, the amounts billed by WTI shall conclusively be deemed correct and Customer shall conclusively be deemed to have waived any right to dispute such charges. Customer shall be responsible for all applicable taxes, fees, and surcharges that WTI is required by any government agency to assess in connection with WTI's provision of Services and shall also be responsible for amounts that WTI is permitted to bill Customer as compensation for contributions to the federal Universal Service Fund or other government-mandated programs.

2.6 Late Payment Charges. In the event Customer fails to timely remit payment of any amount by the date it is due, Customer shall be liable for a late payment fee on such unpaid amount accrued daily at the rate of 18% per annum from the due date until the date it is paid.

ARTICLE 3. LIABILITIES AND INDEMNIFICATION

3.1 No Special Damages. Except as provided in section 2.4 with respect to "Early Termination Charges," notwithstanding any other provision hereof, neither party shall be liable to the other for any indirect,

incidental, special, consequential, exemplary or punitive damages, including, without limitation, loss of profits, loss of revenues, loss of goodwill, loss of anticipated savings, loss of data or cost of purchasing replacement services, arising out of the performance or failure to perform under this Agreement.

3.2 Disclaimer of Warranties. WTI MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH IN THE SERVICE AGREEMENT.

3.3 Liability for Service Interruptions and Defects. To report issues related to Service performance, Customers may contact *WTI Customer Service* by calling, toll free in the U.S. (888)425-8880 or such other number(s) for *WTI Customer Service* in other countries as published on the website www.WTICommunications.com. In the event any delay, interruption, outage, or other defect in the establishment or provision of any Service, WTI, upon request and WTI's reasonable verification of such defect, will issue a credit to Customer based on the amount of the usage charge or, in the case of a defect lasting for more than 24 hours, based on the proportionate amount of the recurring charge applicable to the Service for the portion of time such service was affected by the defect. The issuance of such credit shall be Customer's sole remedy for any claim arising out of such defect, whether based on breach of contract or warranty, negligence, or any other act or failure to act on the part of WTI.

3.4 Contents of Communications. WTI shall have no liability or responsibility for the content of any communications transmitted via the Service (except for content solely created by WTI), and Customer shall defend, indemnify and hold WTI harmless from any and all claims (including claims by governmental entities seeking to impose penal sanctions) related to such content or for claims by third parties relating to Customer's use of Service.

ARTICLE 4. GENERAL TERMS

4.1 Term of Agreement. The Service Agreement shall become effective on the date it is accepted by WTI and shall remain in effect throughout the entire service term applicable to each Service ordered hereunder. Unless otherwise specified in the Service Agreement, the applicable service term for each Service shall automatically be renewed at the end of the initial service term for a successive service term that is equal in length to the original term, and shall thereafter continue to be renewed for additional successive terms of equal length unless terminated in writing by either party at least 60 days prior to the end of the then current service term.

4.2 Force Majeure. Neither party shall be liable, nor shall any credit allowance or other remedy be extended, for any failure of performance or equipment due to causes beyond such party's reasonable control ("*Force Majeure* Event"), except for obligations to make payments required hereunder, which shall not be excused.

4.3 Notices. Notices hereunder shall be in writing and shall be deemed effective when actually received if delivered in person, facsimile, overnight mail or email, or when sent by First Class U.S. Mail or First Class International Post (as applicable) to WTI's principal place of business at 200 E. Sandpointe Ave. 580 Santa Ana, California 92707; facsimile (888)888-0579; email billing@WTICommunications.com, or, if to Customer, to the address provided on the Service Agreement.

4.4 Tariffs. In the event that the rates, terms, or conditions set forth in this Service Agreement, as amended by new orders and change orders authorized by the Customer and accepted by WTI, conflict at any time with rates, terms, or conditions set forth in applicable WTI federal or state tariffs or applicable rules imposed by federal or state regulatory agencies, the rates, terms, and conditions of the tariffs and the applicable rules shall control. The rates, terms, and conditions of tariffed Services may change in accordance with applicable requirements of the regulatory agency having jurisdiction over the Services. If the tariffs for any Services are cancelled as a result of regulatory action during the term of this Agreement, the rates, terms, and conditions as set forth in the cancelled tariff shall nevertheless continue to apply during the remainder of the applicable, then-current service terms for the subject Services,

except to reflect increases in the rates charged by underlying carriers as provided in section 2.2 of this Agreement.

4.5 Non-Disclosure. No information or documentation disclosed between the parties during the performance of this Agreement shall be disclosed to any third party.

4.6 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of California, U.S.A., without regard to its choice of law rules. In the event of a dispute arising herefrom, such dispute shall be resolved in binding arbitration, before the American Arbitration Association in Orange County, California.

4.7 Entire Agreement. This Agreement, including any documentation executed or incorporated herein, constitutes the entire and final agreement and understanding between the parties with respect to the Service and supersedes all prior agreements relating to the Service, which are of no further force or effect. This Agreement or any of the documentation associated herewith may not be amended without the express written consent of both parties.

4.8 Severability. If any provision of this Agreement is declared upon arbitration, or by a court or regulatory agency of competent jurisdiction, to be invalid or unenforceable under applicable law, said provision shall be ineffective only to the extent of such invalidity and shall not affect the remaining provisions of this Agreement.

4.9 Third Party Beneficiaries. This Agreement shall only be binding upon, inure to the benefit of, and be enforceable by each party hereto and their respective successors and assigns hereto, and nothing in this Agreement, express or implied, is intended to or shall confer upon any third party any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

4.10 Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument. Facsimile signatures shall be sufficient to bind the parties to this Agreement.

4.11 Service Guarantee. Notwithstanding anything to the contrary contained in this agreement, Customer may terminate any Service subject to this agreement without any further obligation if the Service is not substantially performing up to industry standards during the first 90 days the Service is available for Customer's use. If Customer elects to terminate a Service pursuant to this guarantee, WTI will reimburse Customer for reasonable costs incurred by Customer to reestablish Service with its previous service provider; provided that, the amount of reimbursement payable by WTI shall not exceed the amount paid to WTI for installation of the Service. This service guarantee only applies if (a) the cause of the service deficiency is within WTI's reasonable control (b) Customer ordered at least the amount of services recommended by WTI to meet Customer's traffic volumes and (c) WTI fails to correct its service deficiency within 15 days after receiving written notice from Customer of the deficiency given during the 90 day period