

## TERMS AND CONDITIONS

### Definitions

“You” and “Your” mean the person or entity that newly subscribes or makes changes to Communication Services or purchases or leases Equipment, including any on-line transactions, subject to this Agreement. “Agreement” includes these Terms and Conditions and your Service Order. “We”, “our”, and “Windstream” refer to Windstream Communications, Inc., its subsidiaries and affiliates, as well as any other person or entity doing business as Windstream and providing Communication Services or Equipment to you. “Communication Service(s)” or Service(s)” refer to any services you have asked us to provide to you through this Agreement, including any request for new services or changes to existing services made on-line. “Equipment” means any communications equipment or accessories you purchase or lease from us or use in any manner in connection with your Services. “Service Order” means the form (whether paper or electronic, including on-line order forms) on which you apply for or make changes to Services and includes certain additional Terms and Conditions for your Services. “Terms and Conditions” include the following provisions as maintained at [www.Windstream.com](http://www.Windstream.com) and any provisions in your Service Order that set forth the manner in which we provide Equipment and Service to you that may supplement these Terms and Conditions, such as the length of time you will subscribe to a Service, rate plans, access charges, fees, taxes and surcharges, choice of long distance carrier, and the Equipment you have selected.

### Acceptance

You accept this Agreement when you do any of the following: (a) give us your written or electronic signature, (b) tell us orally or electronically that you accept (i.e., by clicking the “I Accept” button for on-line purchases or account changes), or (c) use or attempt to use any of the Equipment or Services. If you have never used the Services before and do not wish to be bound by these Terms and Conditions, do not begin using the Services or Equipment and notify us immediately. By accepting this Agreement, you acknowledge that you are eighteen (18) years of age or older, are competent to enter into a contract with us, and are authorized to purchase new services or make changes to an existing account.

### Term

- a. Fixed Term. You agree to subscribe to the Services for the length of time identified on the Service Order. The Services you receive after the end of the term will be provided on a month-to-month basis and remain at all times subject to the Terms and Conditions.
- b. Month-to-Month Term. If no length of time is identified on the Service Order, then the term is month-to-month.

### Termination by You

Fixed Term. If you subscribe to a Service for a fixed term and you terminate that Service before the expiration of the fixed term then you will be required to pay us an early cancellation fee as specified on your Service Order. If there is no early cancellation fee specified on your Service Order, then you will be required to pay \$200 per line for any early cancellation. In addition, you remain liable for payment of all outstanding charges for all Services you used and Equipment you purchased from us prior to termination, and you will be charged for the last month of Service with no proration or credit for any used period if you terminate Service prior to the last day of your billing cycle.

- b. **Month-to-Month Term.** You may terminate a Service to which you subscribe on a month-to-month basis at any time by notifying us. You remain liable for payment of all outstanding charges for all Services you used and Equipment you purchased from us prior to termination, and you will be charged for the last month of Service with no proration or credit for any used period if you terminate Service prior to the last day of your billing cycle.
- c. **Bundled Services.** If you receive special rates in return for subscribing to multiple Services and you subsequently unbundle, terminate, or disconnect any of these Services at any time, then we may adjust the rates for the remaining Service(s).
- d. **Change in Location.** A change in your service address or the location to which any Service is provided to you may constitute, at our sole discretion, termination of the Services or result in an increase in the prices you must pay for the Services.
- e. **Number Portability.** A request by you to port your number will be deemed a request by you to terminate your Agreement.

### **Termination by Us**

We may limit, interrupt, terminate or refuse to provide a Service for the following reasons, for any other good cause: (a) if you do not honor any provision of these Terms and Conditions (including payment obligations), (b) if you use a Service in a manner that adversely affects Service to other customers or harasses our customers, our employees, or others, (c) if you or others use a Service to engage in fraud or unlawful conduct or are suspected of doing so, (d) if you modify your phone or any software residing thereon from the original manufacturer specifications, including for the purpose of accessing non-Windstream services, (e) if your Service is used in a manner that is excessive or unreasonable with respect to volume or length of calls when compared to the predominant volume or length of call of other customers on a similar rate plan or in your geographic area. You may not resell any Service. We may restore such interrupted or terminated Service, in our sole discretion, following your correction of the violation and payment of any amounts due, including any restoration charge we assess for restoring your Service.

### **Charges for Services and Equipment**

You are responsible for paying all charges applicable to your Equipment and Service provided to you, including: access charges, features, toll, long distance, and directory assistance. In addition, you are responsible for paying any taxes, surcharges, fees and assessments imposed by us or a governmental authority from time to time in connection with the Services or Equipment.

### **Billing Information Provided by You**

To determine whether certain taxes, fees and surcharges are applicable to Service provided to you, we are required by federal law to obtain your street address, which must be within our service area. You represent and warrant that the address you provide us to obtain Service is correct, and you acknowledge that we are relying on this information to determine which taxes, fees or surcharges are applicable to you Service. You agree to notify us if your address changes. In the event you do not provide us with a valid address or address change, you understand and agree that you may be responsible for additional taxes, fees or surcharges for your Service, and we may terminate your Service. For on-line orders, all applicable taxes, fees and surcharges may not be reflected in the Service Order, but will appear on your Windstream bill.

### **Billing and Payments**

All Service and other recurring charges are billed one month in advance and we will not prorate charges or provide you a credit for any partial periods if you terminate your service on a date prior to the last day of your billing cycle. We will bill you monthly for all charges associated with the Services, and we will invoice you for all charges associated with Equipment. Payment in full is due no later than the due date indicated on your bill. If you have authorized payment for Services or Equipment by credit card or by debiting a bank account, no additional notice or consent is required before we invoice the credit card or debit the bank account for all amounts due to us for any reason. We may accept late payments, partial payments or any payments marked as being "payment in full" or as being settlement of any dispute without losing any of our rights under this Agreement. You agree to pay costs and fees we incur to collect an unpaid balance from you.

### **Disputed Bills**

You agree that you have a responsibility to review bills in a timely manner and that you may dispute any portion of a bill in good faith. To dispute a bill, you must deliver to us in writing the specific basis for the dispute within thirty (30) days after the date on the bill. If you comply with the dispute process, you may withhold disputed amounts from us until the dispute is resolved, but you are responsible for paying us for all other undisputed charges. You agree that we deny and you waive automatically any dispute that is not filed until one year or later after the date of issuance of the applicable bill or invoice.

### **Credits and Deposits**

You authorize us to ask credit-reporting agencies for credit information about you. We may, in our discretion, require you to submit a deposit as security for payment of charges. An additional deposit may be required if either the amount or number of Services is increased or your credit rating changes. Simple interest will be paid on the cash deposit for the period it is held by us and will be refunded if satisfactory credit has been established or upon termination of service. We reserve the right to apply the deposit to any amount due and unpaid. We may require a guarantee of payment by an individual or entity approved by us.

### **Internet**

If you use any of the Services to access the Internet, you agree to abide by our Acceptable Use Policy, available via a link on [www.Windstream.net](http://www.Windstream.net), and by any other policies posted there. The Acceptable Use Policy generally provides that you may not use our Internet access Service to (1) engage in illegal activity, (2) violate the network policies of any network accessed through our Service or (3) engage in any activity that interferes with other Internet users' use and enjoyment of the Internet or our Service. The Acceptable Use Policy may change periodically, and it is your responsibility to review it from time to time and comply with any changes.

### **Personal Identifiers**

We assign telephone numbers, e-mail addresses and other personal identifiers in connection with the Services. Unless we provide you advance notice, you have no proprietary right to any such identifiers, and we reserve the right to change them upon notice to you. In the event that you become entitled to transfer a personal identifier to another party to obtain any Services we provide you, we reserve the right, prior to honoring the request for transfer, to charge a fee for the transfer and to collect any money owed by you for Services or Equipment.

### **Services Provided by Third Parties**

The Services will be provided either by us or by our third party vendors or contractors. We reserve the right to change or modify the source of any Services provided to you without notice.

### **Unauthorized Use by Third Parties**

You agree that the phone on which your Windstream Service is activated may not be used to access any third-party services equivalent to Services provided, or Services made available, by Windstream even if you declined to purchase such Services from Windstream. Your phone contains programming designed to enable access to Windstream Services only. Using any manual or electronic means to circumvent any restrictions placed on your phone or to modify without authorization any programming supplied on your phone is a violation of your Agreement.

### **Privacy and Customer Proprietary Network Information**

You authorize us to monitor and record communications to us regarding your account or the Services for purposes of quality assurance. For on-line orders, we may implement reasonable procedures, including but not limited to, validating information provided by you or restricting the amount of equipment and services purchases on-line by a single customer. Windstream reserves the right to cancel or reject on-line orders at any time for security reasons or privacy concerns.

We will not give you notice of any subpoenas or court orders related to your account or use of Services unless required by law. Information in our billing and customer care systems concerning your account and your use of Services belongs to us, and you have no expectation of privacy with respect to such information. You agree that we may release information we have about you when required to do so by law, to provide to third parties solely for the purpose of assisting us in providing any Service to you, or if we reasonably believe that any emergency involving immediate harm to a person or property requires disclosure.

We may analyze your account and usage information and share this information with other Windstream entities to communicate with you regarding Equipment or Services that may become available to you. If you do not want us to provide your information to other Windstream entities for this purpose, please notify us.

To provide Services to you, we maintain certain customer proprietary network information, or CPNI, that includes the types of services that you currently have or have purchased, how you use the services, and billing information for the services. When you view your account information or shop for products/services on-line, you agree that we may display your CPNI on-line to fill orders or allow you to make account changes. For additional information about CPNI, please refer to our Privacy Policy at [www.wWindstream.com](http://www.wWindstream.com) or [www.Windstream.net](http://www.Windstream.net).

### **Theft and Fraud**

If your Service or Equipment is lost or stolen or fraudulently used, then you are responsible for all usage incurred before we receive notice from you of such loss or theft. You agree to cooperate in the investigation of fraud or theft and to provide us with such information and documentation as we may request (including affidavits and police reports).

### **LIMITATION OF LIABILITY**

IN THE EVENT WE ARE FOUND TO BE RESPONSIBLE TO YOU FOR DAMAGES IN ANY WAY RELATING TO THE SERVICES OR EQUIPMENT, YOU AGREE THAT OUR LIABILITY TO YOU WILL NOT EXCEED YOUR PRO-RATED MONTHLY RECURRING CHARGE FOR SERVICES DURING THE PERIOD IN WHICH YOU INCUR SUCH DAMAGES. WE ARE NOT LIABLE FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES (SUCH AS LOT PROFITS OR LOST BUSINESS OPPORTUNITIES), PUNITIVE OR EXEMPLARY DAMAGES, THE COST OF ALTERNATIVE SERVICES, OR ATTORNEY'S FEES.

#### **DISCLAIMER OF WARRANTIES**

**WE MAKE NO REPRESENTATIONS OR WARRANTIES REGARDING THE SERVICES OR EQUIPMENT YOU RECEIVE FROM US, AND DISCLAIM ANY WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.** WE ARE NOT RESPONSIBLE FOR CIRCUMSTANCES BEYOND OUR CONTROL, INCLUDING WITHOUT LIMITATION, ACTS OR OMISSIONS OF OTHERS, ATMOSPHERIC CONDITIONS, OR ACTS OF GOD. WE DO NOT PROMISE UNINTERRUPTED OR ERROR-FREE SERVICE. WE MAY NOT MANUFACTURE ANY EQUIPMENT OR SOFTWARE THAT YOU MAY USE IN CONNECTION WITH YOUR SERVICE, AND YOUR ONLY WARRANTIES AND REPRESENTATIONS WITH RESPECT TO EQUIPMENT OR SOFTWARE ARE THOSE PROVIDED BY THE MANUFACTURER (WITH RESPECT TO WHICH WE HAVE NO LIABILITY WHATSOEVER).

#### **About These Terms and Conditions**

- a. Record Retention. You acknowledge and agree that (i) Windstream will not maintain a paper copy of your Agreement, (ii) Windstream will maintain your rate plan and feature information electronically, and (iii) Windstream will maintain its copy of the Terms and Conditions at [www.windstream.com](http://www.windstream.com). If you lose your copy of the Terms and Conditions, you may retrieve the ten-current electronic copy from [www.windstream.com](http://www.windstream.com) at any time.
- b. Changes. We may change these Terms and Conditions, including any change in any charge or fee, or the imposition of a new charge or fee, at any time if we give you notice in advance of the change. If we make a change to these Terms and Conditions that is material and you do not wish to accept such material change, you may terminate your Agreement for the affected Service by giving us notice within thirty (30) days, in which case you will not be subject to an early cancellation fee. You will, however, still be responsible for all charges for Services and Equipment made before you terminated your Agreement for that Service. A material change is ONLY a change that (a) terminates or substantially reduces the availability of a Service for you or (b) results in the increase of any charge by more than ten percent (10%) of the monthly access charge for that Service. Material changes in your Service NO NOT include the increase in, or imposition of: (1) any charge required to be collected by any governmental authority, or (2) an charge permitted to be collected by any governmental authority to recoup our expense for the provision of a service required by that governmental authority.
- c. Additional Terms and Conditions. You may be subject to Terms and Conditions in addition to those included in this Agreement or in your Service Order, depending on the particular Service or Equipment that we provide to you. Any additional Terms and Conditions will be maintained at [www.windstream.com](http://www.windstream.com) or can be obtained by calling a service representative at 877-807-9463. The Terms and Conditions specific

to your Service or Equipment will prevail over any Terms and Conditions contained in this Agreement.

**Applicable Law**

Your Agreement and our provision of Services to you are subject to (a) the laws of the state identified in the billing address that you have provided us and (b) any applicable federal or state laws. In the event of an inconsistency between any governmental requirement and this Agreement regarding the provision of a Service that is subject to the governmental requirement, the provisions of the governmental requirement will apply to the extent necessary to avoid the inconsistency.

**Assignment**

We may assign this Agreement to another entity without any advance consent from or notice to you. You may not assign this Agreement without our consent.

**No Waiver, Severability**

If we do not enforce any right or remedy available under this Agreement, that failure is not a waiver. If any part of this Agreement is held invalid or unenforceable, the remainder of this Agreement will remain in force.

**Third Parties**

This Agreement is for the benefit of you and us only, and not any third party.

**Entire Agreement**

In the absence of a governing tariff or signed written contract, this Agreement, including its Terms and Conditions and your Service Order, is the entire Agreement between you and us, which may only be amended as described above. This Agreement supersedes any and all statements or promises made to you by any of our employees or agents.