

**TERMS AND CONDITIONS FOR END USER  
LONG DISTANCE AND LOCAL EXCHANGE  
TELECOMMUNICATIONS SERVICES  
IN THE STATE OF INDIANA**

**FURNISHED BY**

**Windstream NuVox Indiana, Inc.**

## SECTION 1 - DEFINITIONS

**Authorized User** - A person, firm or corporation authorized by the Customer to be an end-user of the Service.

**Company** - Whenever used in this document, "Company" refers to Windstream NuVox Indiana, Inc., unless otherwise specified or clearly indicated by the context.

**Contract** – A Customer Service Agreement (“CSA”) or other contract made by and between The Company and a customer for the provision of Services. The Company may provide any of its services on a contractual basis. The terms and conditions of each Contract offering are subject to the agreement of both the Customer and Company. The Company reserves the right to increase rates during the Contract term. Such rate increases will take effect following customer notification as required by Contract, if applicable. Services provided under Contract are not eligible for any promotional offerings, which may be offered by the Company from time to time.

**Customer or Subscriber** - The person, firm or corporation, which orders Service and is responsible for the payment of charges and compliance with the Company's regulations.

**Deposit** - Refers to a cash or equivalent of cash security held as a guarantee for payment of the charges.

**Expedite Charge** – Nonrecurring charge which applies when the Customer requests to decrease the standard due date for pending service orders pertaining to initial service installation, or moves, additions, or changes to existing service.

**Fraudulent Use** - Includes, but is not limited to: (1) using the Network to transmit a message, or otherwise give or obtain information, without payment for the Service; (2) using or attempting to use the Network with the intent to avoid payment, in whole or in part, of any of the Company's charges by rearranging, tampering with, or making connections not authorized by this document to any service components used to furnish the Company's Services; (3) toll free callers using the Network with the intent of gaining access to a Customer's outbound calling capabilities on an unauthorized basis; and/or (4) using fraudulent means or devices, tricks, schemes, false or invalid numbers, false credit devices or electronic devices to defraud or mislead.

**Installation Date** - The day on which the requested service or facility is installed by Company.

**Maintenance Visit Charges** - Apply when the Company dispatches personnel to a Customer's premises to install new service, change service, resolve troubles reported by the Customer when the trouble is found to be caused by the Customer's facilities, or to perform other optional work initiated by the Customer.

**Monthly Recurring Charges (“MRCs”)** - The monthly charges imposed by The Company on the Customer in return for Services, facilities and/or equipment, which continue for the agreed upon duration of the Service.

**Network** - Refers to the Company's facilities, equipment, and Services provided under this document.

**Nonrecurring Charge ("NRC")** - A charge assessed on a one-time or "per occasion" basis including, but not limited to, charges to process a Contract for new Service, install new Service, expedite, change or move existing Services, reconnect Service, or change Customer billing or records.

**Service(s)** - Refers to all telecommunications and other Services provided by the Company to Customers or Users.

**Service Connection Charge** - Non-recurring charge which applies to cover the Company's cost of processing Service Orders for new Services and additions/changes to existing Services.

**Telecommunications Service** - Telecommunications offered for a fee directly to the public, or to such classes of Users as to be effectively available directly to the public, regardless of the facilities used.

**User (or End User)** - Any person or entity that obtains the Company's Services provided under this document, regardless of whether such person or entity is so authorized by the Customer.

**900 Blocking:** Prevents access from the Customer's lines/trunks to any 900-telephone number.

## SECTION 2 - RULES AND REGULATIONS

### 2.1 Scope

The Company furnishes communications Service pursuant to the terms of this document in connection with one-way and/or two-way information transmission originating from points within the State. The Company may provide Service on both a facilities based and resale basis. Title to all facilities provided in accordance with this document remains in the Company, its partners, agents, contractors or suppliers.

Customers may use Services and facilities provided under Contract to obtain access to Services offered by other service providers. The Company is responsible only for the Services and facilities provided herein, and it assumes no responsibility for any service provided by any other entity that purchases access to the Company network in order to originate or terminate its own services, or to communicate with its own customers.

Local Services may be connected to the services or facilities of other communications carriers only when authorized by, and in accordance with, the terms and conditions of the of the other communications carriers which are applicable to such connections.

### 2.2 General Service Terms and Conditions

- A. Service is provided on the basis of a minimum period of at least thirty days, 24-hours per day. For the purpose of computing charges in this document, a month has thirty (30) days.
- B. Customers are required to enter into written contracts of one to five years. Upon expiration, the contract will automatically be renewed at each applicable location for successive terms equal in length to the minimum term previously agreed to by the Company and the Customer (or as otherwise stated in the Contract) unless either party gives the other party written notice of non-renewal no less than thirty (30) days prior to the end of the then current term.
- C. Each Contract shall contain a description of the Service ordered, the rates to be charged, the duration of the term, and the terms and conditions. Additional terms and conditions, policies, and product information are available on the Company's website ([www.nuvox.com](http://www.nuvox.com) or [www.windstream.com](http://www.windstream.com)) and are applicable based on the Services obtained by Customer. Customers will also be required to execute any other documents as may be reasonably requested by the Company including, but not limited to, a Letter of Authorization and RESPORG form, if applicable.
- D. The Company reserves the right to increase rates during the Contract term. Such rate increases will take effect following customer notification as specified in the Contract. Services provided under contract are not eligible for any promotional offerings, which may be offered by the Company from time to time.
- E. This document shall be interpreted and governed by the laws of Indiana to the extent that a particular matter is within the jurisdiction and authority of the Indiana Utility Regulatory Commission to determine; all other matters shall be governed by Delaware law.
- F. If a Customer requests that Service being provided pursuant to a term Contract be moved to a different address during the term, then a new Contract, term commitment, installation charges and disconnect charges may apply, and MRCs may be affected. The Company will undertake a request for Service to be moved to a different address upon at least 60 days advance notice by the Customer, subject to availability.

- G.** All Services are offered subject to the provisions of this document. The furnishing of Service under this document is subject to the availability on a continuing basis of all the necessary facilities and equipment and is limited to the capacity of the Company's facilities and equipment as well as facilities and equipment the Company may obtain from other carriers to furnish Service. The Company reserves the right to limit, allocate, or deny the use of Services/facilities when necessary due to lack of facilities, costs, technical limitations, or other causes beyond its control. The Company may substitute, change or rearrange any equipment or facility at any time and from time to time, but shall not thereby alter the parameters of the Service provided the Customer, unless requested by the Customer or required to do so by technical considerations.
- H.** The Company reserves the right to refuse Service to end users, resale common carriers, or to independent representatives due to insufficient or invalid billing information, and/or refusal of a third party to accept billing, and/or for other reasons as specified by the Company.
- I.** The Customer has no property right to telephone number(s) and the Company does not guarantee the availability of same. The Company reserves the right to change telephone numbers, the central office designation associated with such numbers, or both, assigned to the Customer, whenever the Company deems it necessary in the conduct of its business.

### 2.3 Installation and Company-Provided Equipment

- A. Due Dates.** The Company will use its reasonable best efforts to provide the Services ordered on or before the requested dates, however, because of the potential difficulties involved in interfacing with multiple vendors, there is no delivery guarantee. The Customer must be prepared to allow for installation when notified of the circuit(s) availability for being testing and release.
- B. Special Construction.** If the Customer requires special construction to its premises or facilities as part of the Company's provision of Service, or if the Customer requests a change in location of all or part of the Service prior to the completion of construction or installation, the Customer will be responsible for all costs associated with the special construction or relocation, as described elsewhere in this document. The Company will have no responsibility or obligations for the repair or maintenance of any third-party equipment purchased by the Customer in connection with this Service.
- C. Non-Routine Installation and Service.** At the Customer's request, non-routine installation, support, service and/or maintenance may be performed by the Company or performed outside the Company's regular business hours or in hazardous locations. Charges based on cost of the actual labor, material, or other costs incurred by or charged to the Company will apply. If, at the Customer's request, installation or other support extends beyond regular business hours into time periods including, but not limited to, weekends, holidays, and/or night hours, additional charges may apply.
- D. Customer Changes.** If the Customer makes or requests material changes in circuit engineering, equipment specifications, service parameters, premises locations, installation intervals, or otherwise materially modifies any provision of the application for Service, NRCs or installation fees may apply according to the Company's costs and/or charges.
- E. Company Equipment.** Any equipment installed by the Company on the Customer's premises and not purchased by the Customer will remain the property of the Company. The Customer will be responsible for all damage to any Company equipment caused by the Customer or its employees. The Customer will be responsible for providing reasonable access to the equipment for purposes of repair, maintenance, removal or otherwise. Upon termination of Service, the Customer will permit access by the Company to remove the Company's equipment.

  - 1. The Customer shall operate Company-provided equipment in accordance with instructions of the Company or the Company's agent. Failure to do so will void Company liability for interruption of service and the Customer will be responsible for damages.

2. The Company shall use reasonable efforts to maintain the facilities and equipment that it furnishes to the Customer. The Customer may not, nor may the Customer permit others to, rearrange, disconnect, remove, attempt to repair, or otherwise interfere with any of the facilities or equipment installed by the Company, except with prior written consent of the Company.
3. Equipment the Company provides or installs at the Customer premises for use in connection with the services the Company offers shall not be used for any purpose other than that for which the equipment is provided.

## **2.4 Customer-Provided Equipment**

- A.** The Company shall not be responsible for the installation, operation, or maintenance of any customer-provided communications equipment. Customer equipment and the electric power consumed by such equipment shall be provided by and maintained at the expense of the Customer. The Customer is responsible for the provision of wiring or cable to connect its equipment to the Company's network.
- B.** Customer-provided equipment at the Customer's premises for use in connection with Service shall be so constructed, maintained and operated as to be compatible and work satisfactorily with the facilities of the Company. The magnitude and character of the voltages and currents impressed on Company-provided equipment and wiring by the connection, operation, or maintenance of such equipment and wiring shall be such as not to cause damage to the Company-provided equipment and wiring or injury to the Company's employees or to other persons. Any additional protective equipment required to prevent such damage or injury shall be provided by the Company at the Customer's expense, subject to prior Customer approval of the equipment expense. All Customer equipment must be registered with the FCC and all wiring must be installed and maintained in compliance with any applicable regulations.
- C.** Any special interface equipment necessary to achieve compatibility between the facilities and equipment of the Company used for furnishing Service and the channels, facilities, or equipment of others shall be provided at the Customer's expense.
- D.** Upon suitable notification to the Customer, and at a reasonable time, the Company may make such tests and inspections as may be necessary to determine that the Customer is complying with the requirements for the installation, operation, and maintenance of Customer-provided facilities, equipment, and wiring in the connection of Customer-provided facilities and equipment to Company-owned facilities and equipment. No credit will be given for such inspections.
- E.** If the requirements for Customer-provided equipment are not being complied with, the Company may take such action, as it deems necessary to protect its facilities, equipment, and personnel including, but not limited to, the right to terminate Customer's Service immediately without notice in the event of a condition determined by the Company to be hazardous or dangerous. In the event of circumstances that do not cause immediate harm to Company's equipment, network and/or facilities or are not hazardous or dangerous, the Company will notify the Customer promptly if there is any need for further corrective action. Within ten days of receiving this notice, the Customer must take this corrective action and notify the Company of the action taken. If the Customer fails to do this, the Company may take whatever additional action is deemed necessary, including the suspension of Service, to protect its facilities, equipment and personnel.

## **2.5 Customer Responsibilities and Prohibitions/Limitations on Use**

- A. The Customer Is Responsible For:**
  1. Placement of any stickers or cards provided by the Company or as required by law and for assuring that it and its Users comply with this document;
  2. Compliance with any applicable laws, regulations, orders or other requirements (as they exist from time to time) of any governmental entity relating to Services provided or made available by the Customer to Users;

3. Providing any personnel, equipment space, supporting structure, HVAC, conduit and electrical power without charge to the Company necessary for the Company to provide Services and equipment in a proper operating environment;
4. Arranging access to its premises at times required by Company to install, repair, maintain, program, inspect or remove Company's equipment;
5. Providing the Company with access to the premises for equipment removal and other necessary activities to terminate Service upon termination of Service;
6. Payment of all charges for Services, usage, installation, and equipment provided by the Company and billed to the Customer's accounts, even where those Services or calls are unauthorized and/or originated by fraudulent means from the Customer's premises, remote locations, or calling cards. Customers are responsible for using toll blocking and providing appropriate security measures to protect and secure their computers, data, and telecommunications networks;
7. Keeping all Company equipment free from liens, security interests, and other encumbrances;
8. Designating an authorized Customer Contact (or Contacts) to the Company;
9. Obtaining and maintaining all rights-of-way and conduit necessary for installation of cable, interconnection, and associated equipment used to provide Services to the Customer from the cable building entrance or property line to the location of Company equipment (any costs associated with obtaining and maintaining the rights-of-way described herein, including the costs of altering the structure to permit installation of the Company-provided facilities, shall be borne entirely by, or may be charged by the Company to, the Customer and Company may require the Customer to demonstrate its compliance with this section prior to accepting an order for Service);
10. Providing a safe place to work and complying with all laws and regulations regarding the working conditions on the premises at which Company employees and agents shall be installing or maintaining the Company's facilities and equipment;
11. Ensuring that its equipment and/or systems or that of its agent is properly interfaced with the Company's Service, that the signals emitted into the Company's network are of the proper mode, band-width, power, data speed, and signal level for the intended use of the Customer and that the signals do not damage Company equipment, injure its personnel or degrade service to other Customers. If the Customer or its agent fails to maintain and operate its equipment and/or system or that of its agent properly, with resulting imminent harm to Company equipment, personnel, or the quality of service to other Customers, the Company may, upon written notice, require the use of protective equipment at the Customer's expense.

**B. Customer Shall Not:**

1. Use the Services for any unlawful or fraudulent purpose or for any use as to which the Customer has not obtained all required governmental approvals, authorizations, licenses, consents and permits;
2. Use the Company's offerings for resale and/or for shared/joint use except with written consent of the Company. Joint use arrangements will be permitted at the discretion of the Company. From each joint use arrangement, one member will be designated as the Customer responsible for the manner in which the joint use of the Service will be allocated. The Company will accept orders to start, rearrange, relocate, or discontinue Service only from the Customer. Without affecting the Customer's ultimate responsibility for payment of all charges for the Service, each joint user shall be responsible for the payment of the charges billed to it;
3. Cause interference to the Company's network or other users;
4. Permit, through its actions or omissions, unauthorized use of the network, as further described in the following section.

**C. Unauthorized Use of the Network**

1. Unauthorized use of the network occurs when a person or entity that does not have actual, apparent, or implied authority to use the Network, obtains the Company's Services provided under this document OR a person or entity that otherwise has actual, apparent, or implied authority to use the Network, makes fraudulent use of the Network (as defined in the "Definitions" section) to obtain the Company's Services provided under this document, or uses specific services that are not authorized.
2. Customers are advised that use of telecommunications equipment and Services, including that provided under this document, carries a risk of various forms of telecommunications fraud (including, but not limited to fraud perpetrated by Users who gain access to a Customer's facilities, account numbers, security or authorization codes, etc.). Customers are responsible for taking all necessary steps to restrict their facilities and equipment and any Company equipment located on Customer's premises from intrusions or fraudulent use and to detect and for preventing unauthorized use of same.
3. Payment of all charges for unauthorized use is the Customer's responsibility regardless of any use, misuse, or abuse of the Customer's Service, calling cards, and/or access numbers. Additionally, the Customer is responsible for:
  - a. payment of all call charges arising from calls placed to a Customer's 800 service number, whether or not such calls are authorized or fraudulent, where the User gains access to the Customer's outbound calling equipment and Services;
  - b. all costs incurred as a result of unauthorized use of the Network, including Service charges and any direct, indirect, special, incidental, reliance, consequential, exemplary or punitive damages.
4. Customers shall notify the Company verbally or in writing of unauthorized use or charges appearing on the Customer's bill. The Company will take reasonable steps, upon verbal or written notification that fraud has occurred, or is believed to have occurred, to assist the customer in identifying the nature and/or source of the fraud, and in terminating the fraudulent use of the Customer's Service. The Company will also assist the Customer in facilitating changes in phone numbers, and assist the Customer in identifying the perpetrator(s) of the fraud for purposes of pursuing civil remedies.

**2.6 Billing and Payment for Service**

- A.** Billing at a location will begin upon the earlier of (i) the Installation Date; or (ii) thirty (30) days after delivery of the applicable facility to the Customer premises by the facility provider (if the delay in connection of the facility is due to Customer).
- B.** Customer is responsible for the payment of all NRCs, MRCs, and usage charges for facilities, equipment, and services furnished by the Company to Customer and Users upon receipt of an invoice from Company. MRCs are billed to Customer in advance of the month in which service will be provided and NRCs and/or billing based upon usage, will be billed for the preceding billing period. When service does not begin on the first day of the month, or end on the last day of the month, the charge for the fraction of the month in which service was furnished will be calculated on a pro rata basis.
- C.** Customer is responsible for the payment of fees, surcharges, and taxes including federal excise, franchise, state/local sales and use taxes, and other taxes imposed by governmental and regulatory jurisdictions, all of which shall be separately designated on the Company's invoices. Any taxes imposed by a local jurisdiction (e.g., county and municipal) will only be recovered from those Customers residing in the affected jurisdictions. The Customer is responsible for payment of any taxes that apply retroactively. If any entity other than the Company imposes charges on the Company as part of a service the Customer requested, those charges may be passed on to the Customer.
- D.** Charges may apply for Customer bill payments made via telephone by a Company representative.
- E.** A charge will be assessed on each check or draft for payment is returned for insufficient funds or non-existent accounts.

- F.** If any portion of the payment is not received by the Company within twenty (20) days from the date of billing, then a late payment charge of 1.5% per month shall be due to the Company. A late payment charge will not be assessed to any previously billed late payment charges. Additionally, if Customer has undisputed past-due charges, the Company reserves the right not to honor the customer's request for a change in toll-free service to another carrier, including a request for a Responsible Organization (Resp. Org.), until such charges are paid in full.
- G.** Billing accrues through and includes the day that the Service, circuit, arrangement or component is discontinued.
- H.** Customer must notify the Company of any disputed items on an invoice within thirty (30) days of receipt of the invoice, after which time the charges will be considered correct and binding on the Customer. Customer must pay the undisputed portion of the charges while a dispute is investigated. Adjustments to the bill shall be made to the extent that circumstances reasonably indicate that changes are appropriate.
- I.** All Services provided by the Company are subject to service ordering and change charges where the Customer requests new services or changes in existing services, as well as applicable NRCs and MRCs.

## 2.7 Deposits and Advance Payments

To safeguard its interests, the Company may at any time require the Customer to make a deposit and/or advance payment to be held as a guarantee for the payment of charges. An advance payment may be required in addition to a deposit.

- A. Deposits.** A deposit may be required if the Customer's financial condition is not acceptable to the Company or is not a matter of general knowledge. The deposit requested will be in cash or the equivalent of cash and does not relieve the Customer of the responsibility for the prompt payment of bills on presentation. Upon discontinuance of Service, the Company shall promptly and automatically refund the Customer's deposit plus accrued interest, or the balance, if any, in excess of the unpaid bills including any penalties assessed for Service furnished by the Company.
- B. Advance Payments.** An advance payment may be required before Services and facilities are furnished where special construction is involved and may be required by Company in an amount equal to the estimated NRCs for the special construction and MRCs (if any) for one month. Advance payments do not accrue interest.

## 2.8 Credit for Interruptions in Service

- A.** A credit will be given when Service is interrupted in accordance with the Company's then-current credit policy, except as specified below. A Service is interrupted when it becomes inoperative to the Customer, e.g., the Customer is unable to transmit and receive because of a failure of a component furnished by the Company. An interruption period begins when the Customer reports a Service, facility or circuit to be inoperative and, if necessary, releases it for testing and repair. An interruption period ends when the Service, facility or circuit is operative. The Company reserves the right to periodically review and modify its credit allowance policy.
- B.** No credit will be made for any interruption in Service:
  - 1.** Due to the negligence of or noncompliance with the provisions of this document or with other Company policies/Terms and Conditions documents by any person or entity other than the Company, including but not limited to the Customer, its vendors, and its joint/authorized users;
  - 2.** Due to the failure of power, equipment, systems, facilities, or connections or services not provided by the Company;
  - 3.** Due to circumstances or causes beyond the reasonable control of the Company;

4. During any period when the Customer has released Service to the Company for maintenance purposes or for implementation of a Customer order for a change in service arrangements;
5. That occurs or continues due to the Customer's failure to authorize replacement of any element of special construction;
6. That was not reported to the Company within thirty (30) days of the date that Service was affected;
7. If the Customer reports a Service, facility or circuit to be interrupted but declines to release it for testing and repair, or refuses access to its premises for test and repair; and/or when the service difficulty or trouble report results from the use of equipment or facilities provided by any party other than the Company, including but not limited to the Customer (and Customer shall be responsible for the payment of service charges for visits by the Company's agents or employees to the premises of the Customer in such instances

**C. Application of Credits for Interruptions in Service**

1. Credits will be issued for MRCs only; no credit is given for usage sensitive charges. The credit shall in no event exceed an amount equivalent to the proportionate charge to the Customer for the period of service during which the event that gave rise to the claim for a credit occurred. A credit allowance is applied on a pro rata basis against the Customer's MRCs and is dependent upon the length of the interruption. Only those facilities on the interrupted portion of the circuit will receive a credit.
2. For calculating credit allowances, every month is considered to have thirty (30) days.
3. A credit allowance will be given for interruptions of more than twenty-four (24) consecutive hours. If Service is interrupted due to malfunction of utility equipment and remains out of order for more than twenty-four (24) consecutive hours after it has been reported or found to be out of order and access has been made available for repairs, appropriate pro rata adjustments will be made upon request.
4. If the Customer elects to use another means of communications during the period of interruption, the Customer must pay the charges for the alternative service used.

**2.9 Discontinuance and Cancellation of Service and/or Contract**

- A. Discontinuance by Customer.** Customer must provide Company with at least thirty (30) days notice of cancellation of Service or as otherwise set forth in its Contract. All cancellations of Service must be submitted in writing to the Company's address as stated in the Customer's Contract, clearly stating the name of the Customer and the location for which cancellation is being requested, the account number, and the authorized signature of the Customer, and the Services to be cancelled.
1. Prior to installation (which for these purposes is when Company delivers the facility to the Customer's premises), if the Customer cancel its Contract, a cancellation charge will apply. In addition, if the Company incurs any expenses in installing the Service or in preparing to install the Service that it otherwise would not have incurred, a charge equal to the costs the Company incurred, less net salvage, shall apply, but in no case shall this charge exceed the sum of the charge for the minimum period of Services ordered, including installation charges, and all charges others levy against the Company that would have been chargeable to the Customer had Service begun. In such cases, the charge will be based on such elements as the cost of the equipment, facilities, and material, the cost of installation, engineering, labor, and supervision, general and administrative expense, other disbursements, depreciation, maintenance, taxes, provision for return on investment, and any other costs associated with the special construction or arrangements. These special charges will be calculated and applied on a case-by-case basis.

2. After installation, in the event Company has failed to substantially cure any material default or failure of performance under the Contract within thirty (30) days after Company's receipt of Customer's written notice describing with reasonable specificity such alleged material default of failure of performance ("for cause"), then Customer may terminate the Contract for cause by giving Company a written notice of termination within thirty (30) days after the expiration of said thirty (30) day period. In the event the Contract covers Services at several locations, Customer's right to terminate such Contract shall be limited to termination of the Services at the affected locations only.
3. After installation, if a Customer cancels a Contract or terminates Services before the completion of the term for any reason other than for cause as set forth above, or if the Company terminates for cause pursuant to the provisions set forth below in "Discontinuance by Company":
  - a. All NRCs reasonably expended by Company to install, provide, and remove Service to Customer, plus any disconnection, early cancellation or termination charges reasonably incurred and paid to third parties by Company on behalf of Customer, plus
  - b. Any disconnection fees, plus
  - c. All applicable MRCs multiplied by the number of months remaining in the current term and associated fees, plus
  - d. Damages and costs incurred by Company in connection with Customer's cancellation or termination of the Contract, including, without limitation, court costs, reasonable attorneys' fees and interest on past due amounts.

#### **B. Discontinuance by Company**

1. **Circumstances Requiring Disconnection with Notice.** The Company may disconnect Services with ten (10) days notice or whatever shorter or longer period is set forth in regulatory requirements:
  - a. Upon nonpayment of any amounts owing to the Company;
  - b. Upon violation of any of the material terms or conditions for furnishing service other than as set forth in the "Circumstances Requiring Immediate Disconnection" section below; or
  - c. Upon the Customer's insolvency, assignment for the benefit of creditors, filing for bankruptcy or reorganization (non-liquidation), or failing to discharge an involuntary petition within the time permitted by law.
2. **Circumstances Requiring Immediate Disconnection.** The Company reserves the right to discontinue furnishing Service immediately and without liability:
  - a. When necessitated by conditions beyond its control;
  - b. When the Customer is using the Service in violation of the provisions of this document and such violation is also a violation of the law or is allegedly fraudulent;
  - c. For misuse or incompatibility of Service.
  - d. For refusal to furnish information or providing false information to the Company regarding the Customer's creditworthiness, identity, location, or past, current, or planned use of Company Services
  - e. Upon any governmental prohibition or governmental required alteration of the services to be provided
  - f. Upon the Customer's filing for bankruptcy (liquidation) or abandonment of Service,
  - g. In the event of unauthorized, unlawful, or fraudulent use of any Company Service, including using or attempting to use Service with the intent to avoid payment by tampering with or manipulating connections, or using schemes, false or invalid numbers, or electronic devices.
  - h. In the event of Customer use of equipment or Services in such a manner as to adversely affect the Company's Service to others, network, or facilities.
  - i. In the event of tampering with equipment or Services furnished by the Company.

3. **800 Services.** The Customer is responsible for providing adequate lines to enable the Company to terminate all toll-free (e.g., 800/888) service calls to the Customer's telephone equipment. Should the Customer have insufficient lines on which to terminate 800 Service calls, the Company reserves the right to request the Customer to add additional lines for call terminations. If, after ninety (90) days, the Customer has not made the requested change, the Company, without incurring any liability, reserves the right to terminate the Customer's 800 Service, with thirty (30) days' written notice.
  4. **Reservation of Rights.** The Company reserves the right to discontinue Service, limit Service, or impose requirements on customers as needed to meet changing regulatory or statutory rules and standards, or to address an adverse effect on the business or economic feasibility of providing Services, as determined by the Company.
- C. **Payment for Services and Cancellation and Termination Charges.** The suspension or discontinuance of Service(s) does not relieve the Customer of any obligation to pay the Company for charges due and owing for Service(s) furnished during the time of or up to suspension or discontinuance. Upon the Company's discontinuance of Service to the Customer, charges for all Services provided by the Company, including cancellation or termination charges, are immediately due and payable.
- D. **Reconnection.** If Service is disconnected or suspended in accordance with the terms of this document and later re-installed, re-installation of Service will be subject to all applicable installation, NRCs and reconnection charges.

## 2.10 Liability and Limitations of Liability

- A. **Customer Liability.** The Customer must pay the Company for replacement or repair of damage to the equipment or facilities of the Company caused by the acts or omissions of the Customer, Users, or any agent of Customer, by improper use of the Services, or by use of equipment provided by the Customer, Users, or others, or through theft at the Customer's premises.
- B. **Indemnity.** The Company shall be indemnified, defended and held harmless by the Customer or User from and against any and all claims, loss, demands, suits, expense, or other action or any liability whatsoever, including attorney fees, whether suffered, made, instituted, or asserted by the Customer or by any other party, for any personal injury to or death of any person or persons, and for any loss, damage or destruction of any property, including environmental contamination, whether owned by the Customer or by any other party, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, presence, condition, location, use or removal of any Company or Customer equipment or facilities or the Service provided by the Company.
- C. **Disclaimer of Warranties.** EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE.
- D. **Disclaimers of Liability.** The Company shall not be liable for any claims for loss or damages of any kind involving:
1. Any act, omission, negligence, or failure of: (1) the Customer, (2) any other entity furnishing Service, equipment or facilities for use in conjunction with Services or facilities provided by the Company; or (3) common carriers;
  2. Any delay or failure of performance or equipment due to causes beyond the Company's control, including but not limited to, acts of God, fires, floods, earthquakes, hurricanes, or other catastrophes; explosions or other catastrophes; national emergencies, insurrections, riots, wars or other civil commotions; strikes, lockouts, work stoppages or other labor difficulties; criminal actions taken against the Company; unavailability, failure or malfunction of equipment or facilities provided by the Customer or third parties; and any law, order, regulation or other action of any military or governing authority or agency thereof;
  3. Any unlawful or unauthorized use of the Company's facilities and Services;

4. Libel, slander, invasion of privacy or infringement of proprietary or intellectual property right, patents, trade secrets, or copyrights arising from or in connection with the transmission of communications by means of Company-provided facilities or Services; or by means of the combination of Company-provided facilities or Services with Customer-provided facilities or Services;
5. Breach in the privacy or security of communications transmitted over the Company's facilities;
6. Changes in any of the facilities, operations or procedures of the Company that render any equipment, facilities or Services provided by the Customer obsolete, or require modification or alteration of such equipment, facilities or Services, or otherwise affect their use or performance, except where reasonable notice is required by the Company and is not provided to the Customer, in which event the Company's liability is limited as set forth in this document;
7. Defacement of or damage to Customer premises resulting from the furnishing of Services or equipment on such premises or the installation or removal thereof;
8. Injury to property or injury or death to persons, including claims for payments made under Workers' Compensation law or under any plan for employee disability or death benefits, arising out of, or caused by, any act or omission of the Customer's employees, agents, representatives or invitees, or the construction, installation, maintenance, presence, use or removal of the Customer's facilities or equipment connected, or to be connected to the Company's facilities;
9. Any intentional, wrongful act of a Company employee when such act is not within the scope of the employee's responsibilities for the Company and/or is not authorized by the Company;
10. Any representations made by Company employees that do not comport, or that are inconsistent, with the provisions of this document or the Contract;
11. The availability or performance of any cable, satellite, or other facilities under the control of other entities, or for other facilities provided by other entities used for Service to the Customer, even if the Company has acted as the Customer's agent in arranging for such facilities or Services.

**E. Limitations of Liability.**

1. Except for the extension of allowances to the Customer for interruptions in Service as set forth in this document, the Company shall not be liable to a Customer or third party for any direct, indirect, special, incidental, reliance, consequential, exemplary or punitive damages, including, but not limited to, loss of revenue, profits, business or goodwill, for any reason whatsoever, including, but not limited to, any act or omission, failure to perform, delay, interruption, failure to provide any Service or any failure in or breakdown of equipment and/or facilities associated with the Service.
2. The liability of the Company for damages arising out of the furnishing of its Service and for all other reasons, including, but not limited to, mistakes, omissions, interruptions, delays, errors or defects in any of its products, services, private lines, and all other services shall in no event exceed an amount equal to the pro rata charges to the Customer for the periods during which the services or facilities are affected by the mistake, omission, interruption, delay, error or defect, provided, however, that where any mistake, omission, interruption, delay, error or defect of any one service or facility affects or diminishes the value of any other service, said liability shall include such diminution, but in no event shall exceed the total amount of the charges to the Customer for all services or facilities for the period affected by the mistake, omission, interruption, delay, error or defect.

3. **Emergency 911 Service.** This Service is offered solely as an aid in handling assistance calls in connection with fire, police and other emergencies. The Company is not responsible for any losses, claims, demands, suits or any liability whatsoever, whether suffered, made, instituted or asserted by the Customer or by any other party or person for any personal injury to or death of any person or persons, and for any loss, damage or destruction of any property, whether owned by the Customer or others, caused or claimed to have been caused by: (1) mistakes, omissions, interruptions, delays, errors or other defects in the provision of this service, or (2) installation, operation, failure to operate, maintenance, removal, presence, condition, location or use of any equipment and facilities furnishing this Service, or (3) identification of the telephone number, address or name associated with the telephone used by the party or parties accessing Emergency 911 service.
4. **Directory Listing/ Directory Services.** For directory listing and directory services, the liability of the Company shall be limited to three months of MRCs.
5. **Waiver.** Any claim of whatever nature against the Company shall be deemed conclusively to have been waived unless presented in writing to the Company within thirty (30) days after the date of the occurrence that gave rise to the claim.
6. **Nonpublished Numbers.** In conjunction with a nonpublished telephone number, the Company will not be liable for failure or refusal to complete any call to such telephone when the call is not placed by number. The Company will make reasonable efforts to prevent the disclosure of the number of such telephone, but will not be liable should such number be divulged. When a Customer with a nonpublished telephone number, as defined herein, places a call to the Emergency 911 Service, the Company will release the name and address of the calling party, where such information can be determined, to the appropriate local governmental authority. By subscribing to Service, Customer acknowledges and agrees with the release of information as described above.
7. **Information Accessed Through Company Services and Monitoring Transmissions.** The Company assumes no responsibility for the information obtained or otherwise available through the Service. All information accessed by the Customer through the Service is accessed and used at the Customer's own risk and the Company will have no liability whatsoever for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to the access of such information by the Customer. The Company has no obligation to monitor transmissions made on the Service. However, the Company reserves the right to monitor such transmissions from time to time and to disclose the same as required to satisfy any applicable law, regulation or other lawful governmental request. The Company also reserves the right to remove any information or materials, in whole or in part, that it deems unacceptable, undesirable, or in violation of this document or its Acceptable Use Policy posted on its website.

## 2.11 Terms Specific to Intrastate Long Distance

- A. **Excessive Use.** If the Company determines that a Customer's total long distance usage is excessive, the Company may impose an additional per minute rate to the excessive usage. Excessive usage is defined as total usage per account or location that either: 1) exceeds the average usage for other customers utilizing the same long distance plan; or 2) is greater than 15% more for the account or location than the previous month's usage. Additionally, at the Company's discretion, the Customer can be required to change to a different long distance plan and/or provide a deposit or an additional deposit and/or make a partial payment on Customer's account(s). The Company reserves the right to disconnect the Customer's long distance service or other service if Customer does not provide a deposit or partial payment immediately on notice from the Company that usage is excessive or if the Company suspects the excessive usage is fraudulent.
- B. **Long Distance Minutes.** Unused Long Distance Bucket/Block minutes and unused free long distance minutes included in bundled product offerings will roll over to the next month until the 4<sup>th</sup> month, at which point any rollover balances will be reset to zero. Unused minutes will not be credited or refunded.
- C. Please refer to The Company's Domestic Long Distance Terms and Conditions as posted on [www.nuvox.com](http://www.nuvox.com) or [www.windstream.com](http://www.windstream.com) for additional terms regarding long distance services.

## **2.12 Assignment**

A Customer, joint user, or authorized user may not assign, or transfer in any manner, the Service or any rights associated with the Service without the written consent of the Company. The Company will permit a Customer to transfer its existing service to another entity only if the existing Customer has paid all charges owed to the Company for services. All regulations and conditions contained in this Document shall apply to all such permitted assignees or transferees, as well as all conditions of service and assignee must assume all of Customer's obligations.

## **2.13 Notices and Communications**

- A. Notices.** All notices shall be in writing. The parties shall designate an address to which all notices and other communications should be delivered and may also designate a separate address to which the bills for Service should be mailed or paid. The Customer may designate an email address for delivery of notices and communications. Each party shall advise the other when its physical or email address has changed.

Notices and other communications of either party, and all bills mailed by the Company, shall be presumed to have been delivered to the other party on the third business day following placement of the notice, communication or bill with the U.S. Mail or a private delivery service, prepaid and properly addressed, or when actually received or refused by the addressee, whichever occurs first. Email communication will be assumed to be delivered on the date sent.

**B. Notification of Service-Affecting Activities**

The Company will make good faith efforts to provide the Customer with notification of Service-affecting activities that may occur in normal operation of its business. Such activities may include, but are not limited to, equipment or facilities additions, removals or rearrangements and routine preventative maintenance. Generally, such activities are not specific to an individual Customer but affect many Customers' Services. No specific advance notification period is applicable to all service activities. The Company will work cooperatively with the Customer to determine the reasonable notification requirements. With some emergency or unplanned service-affecting conditions, such as an outage resulting from cable damage, notification to the Customer may not be possible.