



SERVICE AGREEMENT

1. **Service.** This Agreement is between the customer ("**Customer**") and WESTERN IOWA TELEPHONE ASSOCIATION (A COOPERATIVE) (together with any subsidiaries or affiliates providing service, the "**Company**") and covers video and/or data services and related service features provided by the Company.

2. **Terms and Conditions of Service.** Customer's use of service is governed by this Agreement and any applicable Acceptable Use Policy. Customer affirmatively requests service and agrees to comply with all of the applicable terms, conditions and provisions contained in this Agreement and in any applicable Acceptable Use Policy. In the event of default, Customer agrees to pay the Company its reasonable damages, costs and expenses, including attorneys' fees and collection agency fees, incurred in enforcing its rights under this Agreement.

3. **Monthly Charges.** Customer agrees to pay for service as billed by the Company, including charges for installation, equipment, and any other services and all applicable local, state or federal fees and taxes. All charges will be billed monthly. Payment is due upon Customer's receipt of the monthly invoice. Customer's account is in default if payment is not received by the due date stated on the invoice. Late payment charges will accrue on unpaid balances at 1.5% per month. If payment by check is returned unpaid, Customer's account is immediately in default and subject to a returned check charge in the maximum amount permitted by law. Accounts unpaid ten (10) days after the due date may have service disconnected. An additional installation charge and/or a minimum service term may be required to restore service.

4. **Minimum Service Term and Service Commitment.** Customer will receive service on a month-to-month basis until service is terminated by Customer or canceled by the Company in accordance with this Agreement. If Customer receives a promotion or discount in connection with service and/or equipment, such as free service or equipment, reduced pricing, rebates or other incentives, the agreed Minimum Term is associated with the benefit Customer receives. Such Minimum Term begins the date Customer activates the service pursuant to the promotion or discount. If service is disconnected or canceled prior to the end of the applicable Minimum Term, Customer agrees to pay the Company a recovery fee for the promotion and/or discount received. Recovery fees are cumulative and in addition to any other charges or fees Customer may owe the Company and any fees or charges that the Company may charge upon disconnection in accordance with this Agreement. Each recovery fee will be charged at the option of the Company and will be equal to (a) a reasonable amount determined by the Company in relation to the calculated benefit of the promotion or discount or (b) the actual difference (calculated by the Company in accordance with its standard business practices) between the price Customer paid and the regular price of the service or equipment at the time Customer accepted the promotion or discount. The full amount of any such charge shall be billed by the Company within thirty (30) days of termination or cancellation of service and shall be paid by Customer within thirty (30) days of receipt of such bill.

5. **Billing Policy.** Wiatel bills go out on the 1st of the month and are DUE BY 4:30pm on the 28th of the month. Any payments received after 4:30pm on the 28th are considered delinquent and an additional 1.5% will be added to the total bill. Accounts that remain UNPAID BY 4:30pm on the 28th of the month (even if the 28th falls on a weekend or holiday) are subject to disconnection; allowing only Emergency 911 calls until a reconnection fee of \$26.75 per service and the amount of the bill is paid. Disconnection will occur on the third time that payment is received after the 28th at 4:30pm. There will be a \$20 charge for all returned checks.

6. **NO WARRANTY OF SERVICE.** THE COMPANY MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS OF SERVICE FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE OR ANY WARRANTY THAT SERVICE WILL MEET CUSTOMER'S REQUIREMENTS. WITHOUT LIMITING THE FOREGOING, THE COMPANY DOES NOT WARRANT THAT SERVICE WILL BE WITHOUT FAILURE, DELAY, INTERRUPTION, ERROR, OR DEGRADATION OF QUALITY. NEITHER THE COMPANY NOR ITS EMPLOYEES OR AGENTS WILL BE LIABLE FOR UNAUTHORIZED ACCESS TO TRANSMISSION FACILITIES OR EQUIPMENT OR FOR UNAUTHORIZED ACCESS TO, OR ALTERATION, THEFT OR DESTRUCTION OF SERVICE OR EQUIPMENT THROUGH ACCIDENT, FRAUDULENT MEANS OR DEVICES OR ANY OTHER METHOD. STATEMENTS AND DESCRIPTIONS CONCERNING SERVICE OR EQUIPMENT, IF ANY, BY THE COMPANY'S EMPLOYEES, AGENTS OR INSTALLERS ARE INFORMATIONAL ONLY AND ARE NOT GIVEN AND MAY NOT BE RELIED UPON AS A WARRANTY OF ANY KIND.

7. **Service Accounts.** Service accounts are assigned to customers only, and this Agreement shall be treated as the account owner for all purposes. Customer may not assign or transfer its rights or obligations under this Agreement without the express written consent of the Company. Unless consent is granted, all accounts must be closed and reopened under the name of a new customer for issuance of a new account number. Customer is responsible for keeping all billing data with the Company up-to-date and accurate. Furnishing false data to the Company is grounds for immediate disconnection of service and may subject Customer to civil or criminal liability.

8. **Theft of Service or Willful Damage to Equipment.** The receipt of service without proper payment to the Company is a crime. The law prohibits: (a) theft or unauthorized reception of service; (b) assisting theft or unauthorized reception of service (including the manufacturing or sale of equipment intended for such unauthorized use); and (c) willful damage, alteration or destruction of equipment or facilities installed in or located on Customer's premises or otherwise provided to Customer by the Company. Customer may be subject to both civil and criminal penalties for such conduct.

9. **Customer Equipment.** Service may involve certain minimum requirements for customer premises equipment. The Customer is solely responsible for any customer premises equipment. The Company makes no representations, warranties or assurances regarding the capability or suitability of any equipment independently purchased or otherwise owned by Customer. The Company assumes no responsibility for the operation, maintenance, or repair of any equipment independently purchased or otherwise owned by Customer. The Company assumes no responsibility or

liability for maintenance or malfunction of Customer equipment and shall not be liable for any loss or damage to Customer equipment not caused solely by the gross negligence or willful misconduct of the Company.

10. Company Equipment. For purposes of this Agreement "Company equipment" includes all equipment installed in or on Customer's premises by the Company. All Company equipment shall remain the sole and exclusive property of the Company, unless otherwise specified in writing by the Company or as provided by applicable law.

11. Leased Equipment. If approved by the Company and subject to availability, Customer may lease certain equipment from the Company under the terms and conditions of this Agreement and/or a separate equipment rental agreement. The Customer agrees to pay all equipment rental and installation charges in accordance with applicable invoices.

12. Damaged, Lost, or Stolen Equipment. Customer is responsible for the safekeeping of all equipment (whether customer equipment or Company equipment) placed in or on Customer's premises. In the event that the equipment is destroyed, damaged, lost or stolen while in Customer's possession (including by lightning strikes or other force majeure event), Customer shall be solely responsible for the cost of repair or replacement of the equipment.

13. Return of Equipment. In the event service is discontinued, disconnected or otherwise terminated by Customer or the Company, Customer agrees to return all Company equipment in good working order. If any Company equipment is not returned in good working order, the Company may bill Customer for all or a portion of the cost to repair or replace the damaged equipment. If any Company equipment is not returned within thirty (30) days of the date service is terminated, the Company may bill Customer for the full replacement cost of the unreturned equipment.

14. Service and Repairs. The Company undertakes reasonable efforts to maintain its network and respond to service calls in a timely manner. The Company will repair damage to Company equipment or interruption of service due to reasonable wear and tear or technical malfunction. Physical damage to Company equipment caused by Customer's intentional or negligent misuse is Customer's sole responsibility, and Customer shall pay the Company its then current rate for the cost of repair or replacement. The Company assumes no responsibility for the maintenance or repair of equipment owned by the Customer.

15. Access to Premises. The Company may enter into, upon and over the Customer's premises periodically during the term of this Agreement to install, connect, inspect, maintain, repair or alter its service facilities and Company equipment. To the extent the same is consistent with Customer's ownership of the premises, the Customer hereby grants the Company a temporary and permanent easement to construct, install, maintain, and/or replace transmission facilities and all other equipment necessary or convenient in connection with the provision of service. In the event the Customer is not the owner of the premises upon which the Company's facilities and equipment are to be installed, the Customer hereby warrants to the Company that Customer has obtained the consent of the owner of the premises for the Company to make installation and maintenance contemplated by this Agreement. If Customer is not the owner of such premises, Customer hereby agrees to indemnify and hold the Company harmless from and against any claims of the owner arising out of the performance of this Agreement.

16. Service Changes. Changes to location, quantity, type or grade of service may be made at Customer's request or by the Company if necessary to protect the security or technical integrity of the Company's network or the network of any underlying service provider.

17. Service Interruptions. Service may be suspended from time to time for routine maintenance or rearrangement of equipment and facilities, provided the Company will give Customer not less than twenty-four (24) hours prior notice of any planned service interruption reasonably anticipated to interfere with or disrupt Customer's ordinary business operations. In the event of complete failure of service for twenty-four (24) consecutive hours or more, Customer is entitled to a prorated credit upon request. To qualify for an adjustment, Customer must request a credit within thirty (30) days of the failure. The Company assumes no liability for alterations or interruptions of service due to circumstances beyond its control, including, without limitation, acts of God, natural disaster, fire, civil disturbance, strike, or weather.

18. Installation and Maintenance. Customer expressly assumes all risks associated with installation, connection, maintenance, operation, failure and removal of any equipment or other technology provided by the Company. Customer hereby agrees to indemnify and hold the Company and its employees and agents harmless from all claims, demands and causes of action of every nature or kind, caused by, arising from or developing out of or as a result of any act or failure to act by the Company in connection with the installation, connection, maintenance, operation, failure and removal of any equipment or other technology provided by the Company, except those claims, demands and causes of action caused solely by the gross negligence or willful misconduct of the Company.

19. Information and Security. The Company makes no attempt to verify accurate receipt of any messages and is not responsible for any loss of data resulting from delays, non-deliveries, incorrect deliveries, viruses, e-mail filtering, service interruptions, etc. Access to and use of any information or data obtained by Customer via use of Internet service is at Customer's own risk, and the Company is not responsible for the accuracy, reliability or security of such information. Except as may be provided as separate service under a separate agreement between Customer and the Company, the Company is not responsible for providing any type of system or network security and the Company makes no representations, warranties or assurances regarding the security of any system or network or the protection or privacy of e-mail or any other information transferred or communicated through any system or network. Except as otherwise expressly provided, Customer agrees to indemnify and hold the Company and its employees and agents harmless from any and all claims, demands and causes of action of every nature or kind, caused by, arising from or developing out of or as a result of Customer's use of the Internet.

20. Limitation of Liability. In addition to other limitations on liability contained herein, the Company shall not be liable for any delay or failure to provide service at any time or from time to time, or any interruption or degradation of service quality that is caused by any of the following:

- an act or omission of an underlying carrier, programming provider, service provider, vendor or other third party;
- equipment, network or facility failure;
- equipment, network or facility upgrade or modification;
- force majeure events such as (but not limited to) acts of God, acts of nature, strikes, fire, war, riot, acts of terrorism and government actions;
- equipment, network or facility shortage;
- equipment or facility relocation;

- service, equipment, network or facility failure caused by the loss of power;
- any act or omission by Customer or any person using the service; or
- any other cause that is beyond the Company's control, including, without limitation, a failure of or defect in any hardware, software or equipment.

In any event, the Company's aggregate liability under this Agreement shall not exceed the service charges with respect to the affected service for the applicable time period.

21. DISCLAIMER OF LIABILITY FOR DAMAGES. IN NO EVENT SHALL THE COMPANY BE LIABLE FOR ANY DIRECT, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, COMPENSATORY, OR CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE OR INABILITY TO USE SERVICE, INCLUDING BUT NOT LIMITED TO PERSONAL INJURY, WRONGFUL DEATH, PROPERTY DAMAGE, LOSS OF DATA, LOSS OF REVENUE OR PROFITS. THE LIMITATIONS SET FORTH HEREIN APPLY TO CLAIMS FOUNDED IN BREACH OF CONTRACT, BREACH OF WARRANTY, PRODUCT LIABILITY, TORT AND ANY AND ALL OTHER THEORIES OF LIABILITY AND APPLY WHETHER OR NOT THE COMPANY WAS INFORMED OF THE LIKELIHOOD OF ANY PARTICULAR TYPE OF DAMAGES.

22. Termination by Customer. Customer may terminate service at any time by notifying the Company or a representative thereof, and directly surrendering all Company equipment to the Company. Account holders are liable for all services rendered by the Company prior to notice of intent to terminate service and all recovery fees and any other fees or charges that the Company may charge upon disconnection in accordance with this Agreement. Customer is liable for all services rendered until the time that Company equipment is returned. Information regarding an intended moving or disconnection date must be communicated to the Company business office during normal business hours.

23. Disconnection or Discontinuance of Service by Company. The Company reserves the right to suspend or discontinue service generally, or to disconnect service, at any time in its sole and absolute discretion. If the Company discontinues service generally, or disconnects Customer's service without cause, Customer will only be responsible for charges (if any) accrued and unpaid through the date of disconnection, including a pro-rated portion of the final month's charges. If Customer's service is disconnected on account of Customer's breach of any provision of this Agreement, Customer will be responsible for the full month's charges to the end of the current service term, including, without limitation, unbilled charges plus the applicable recovery fee or other fees and charges associated with disconnection, all of which will immediately become due and payable. The Company will pursue collection for unpaid amounts on disconnected accounts and may report failure to pay to credit bureaus.

24. Survival. The provisions of this Agreement that by their sense and context are intended to survive termination of this Agreement and the discontinuance or disconnection of service shall survive such termination, discontinuance or disconnection.

25. No Third Party Beneficiaries. No provision of this Agreement provides any person or entity not a party to this Agreement with any remedy, claim, liability, reimbursement, or cause of action or creates any other third party beneficiary rights.

26. Governing Law. This Agreement and the relationship between Customer and the Company shall be governed by and construed in accordance with the substantive laws of the State of Iowa, without regard to the principles of conflict of law.

27. No Waiver of Rights. The Company's failure to exercise or enforce any right under or provision of this Agreement shall not constitute a waiver of such right or provision.

28. Entire Agreement. This Agreement along with any applicable Acceptable Use Policy (including any future modifications made in accordance with this Agreement) constitute the entire agreement between Customer and the Company and govern the use of service by Customer, members of Customer's household, guests and employees. This Agreement supersedes any prior agreements between Customer and the Company and any and all prior or contemporaneous statements, understandings, writings, commitments or representations concerning its subject matter.

29. Severability. If any part or provision of this Agreement is legally declared invalid or unenforceable, that part or provision will be construed consistent with applicable law as nearly as possible, and the remaining parts and provisions will remain in full force and effect. Such invalidity or non-enforceability will not invalidate or render unenforceable any other part or provision of this Agreement.

30. Important Customer Information. In addition to the terms and conditions set forth in this Agreement, service is subject to the applicable Acceptable Use Policy (AUP), which Customer should read carefully before activating the applicable service.

31. Modifications. The Company may modify the terms and conditions of this Agreement and/or the applicable AUP in a commercially reasonable manner from time to time and shall provide the Customer notice of such changes by website publication, bill message or other commercially reasonable notice. Customer's use of Service following such notice constitutes Customer's agreement to the modified terms and conditions.