

- 1. Terms and Conditions.** These General Terms and Conditions govern any and all communications services (“**Service**”) and ancillary equipment (“**Equipment**”) you order and receive from ESTHERVILLE COMMUNICATIONS (together with any subsidiaries or affiliates providing any Service or Equipment, “**we,**” “**us,**” or the “**Company**”). These General Terms and Conditions of Service are incorporated into your Service Agreement. By ordering and accepting Service, you agree to adhere to these General Terms and Conditions, including any modifications to such terms and conditions as we may communicate to you from time to time. If you fail to comply with these General Terms and Conditions, your Service may be suspended or disconnected.
- 2. Additional Terms.** Our Services are diverse, so sometimes additional terms and conditions will apply. For example, Service will or may be subject to (a) your Service Application/Agreement; (b) the Company’s Service-specific Terms and Conditions; (c) the Company’s Acceptable Use Policy and Network Management Policy; and (d) your selected Service Package(s) (items (a)-(d) collectively, the “**Additional Terms**”), each of which you should read carefully before ordering or activating any Service. By accepting Service, you agree to adhere to all Additional Terms applicable to your Service, including any modifications to such terms and conditions as we may communicate to you from time to time. If you fail to comply with any applicable Additional Terms, your Service may be suspended or disconnected.
- 3. Rates; Invoicing.** Nonrecurring and recurring charges for Service are as set forth in your selected Service Package and/or the rate schedules maintained by the Company, current versions of which are available upon request. All Service charges, along with applicable local, state and federal taxes, regulatory assessments, fees and charges, cost recovery charges and other applicable charges and fees will be itemized on your invoice. You must pay all charges for your Service, including all applicable taxes, fees and surcharges, by the due date on the invoice. If you have signed up for electronic billing, we will not mail you a paper invoice. Invoice information will remain available in your account information or by calling us at our customer service number. Failure to pay invoices when due may result in late payment fees of \$10.00 and/or other penalties, including suspension or disconnection of Service. An additional installation charge, deposit, and/or a minimum service term may be required to restore Service. Additionally, your prior Service Package may no longer be available after disconnection has occurred. In order to restore disconnected Service, you may be required to select a new Service Package with the rates, features, and terms offered at the time of restoration of Service. If we don’t receive your payment before the next billing cycle, you agree to pay any costs and expenses associated with our collections efforts, including attorneys’ fees. We may charge you an insufficient funds or returned check fee, up to the maximum rate allowed by law, if your check, bank draft, electronic funds transfer, or other order for payment is dishonored or returned for insufficient funds or any other reason. Our acceptance of late or partial payment and late payment charges will not constitute waiver of any of our rights to collect the full amount due.
- 4. Service Term.** Depending on the Service Package you select, you may receive Service for an agreed minimum term (your “**Contract Term**”). In the absence of any Contract Term or after any Contract Term has expired, you will receive Service on a month-to-month basis until Service is canceled by you or disconnected by us in accordance with your Service Agreement. If you select a Contract Term, you understand that you have received a special rate and/or we have incurred costs in exchange for your commitment to the full Contract Term. **If your Service is downgraded, canceled or disconnected prior to the end of your Contract Term, you may be charged an early termination fee (“ETF”) of \$6.25 for each full month remaining on your Contract Term (i.e., the ETF when 12 months are remaining on your Contract Term is \$75.00) If your pricing is based on a bundled package of Service, downgrading, canceling or disconnecting any Service within the bundle may, in addition to an ETF, result in increased pricing for the remaining Services.** ETFs are cumulative and in addition to any other charges or fees you may owe us and any fees or charges that we may charge upon cancelation or disconnection of Service.
- 5. Changes to Terms.** We reserve the right to change these General Terms and Conditions. If a change occurs, we will provide written notice to you. The notice may be provided on your monthly bill, as a bill insert, by email, on our website, or by other written communication. You may, within fourteen (14) days of your receipt of notice of any such change, cancel your Service Agreement; provided that no early termination fee will apply if the communicated change would materially adversely modify the terms (including price) of Service or your rights under your Service Agreement. If you elect not to cancel your Service Agreement and continue to use Service after receiving notice of such changes, your continued use of Service will constitute acceptance of the changed terms and conditions.
- 6. Credit Check; Deposits.** In connection with your request or application for any Service, we may conduct an investigation into your credit-worthiness, including obtaining one or more reports or ratings from one or more independent credit reporting or credit scoring agencies. We may require a deposit for you to establish Service or obtain Equipment. The deposit amount, the length of time we hold the deposit and changes to the deposit amount are determined based on your credit and payment history and any applicable laws or regulations. If Service is canceled or disconnected for any reason, we may, subject to applicable law and regulations, apply your deposit toward payment of outstanding charges.

**7. Service Accounts.** Service accounts are assigned to customers only, and the customer in whose name the account is established will be treated as the account owner for all purposes. Account owners may designate one or more “authorized users” who will have access to account information and may make certain account changes in accordance with our policies. As the owner of the account, you are responsible for designating (or changing the designation of) any authorized users. You will hold the Company harmless from any claims arising from account instructions given or inquiries made by you or any authorized user. You may not assign or transfer your rights or obligations under your Service Agreement without our express written consent. 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. You are 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 you to civil or criminal liability.

**8. Equipment.** Equipment is provided to you for the term of Service and solely for your use in connection with lawfully receiving and using Service. We may from time to time sell you certain Equipment at a price and otherwise on such terms as are specified in a purchase order or equipment purchase agreement. Ownership of, and title to, any purchased Equipment shall transfer to you at the time of sale. You will bear all risk of loss, theft or damage to purchased Equipment. We may from time to time lease to you certain Equipment at a price and otherwise on such terms as specified in a service order or equipment lease. In connection with certain Service Packages, Equipment may be licensed to you at no additional charge. All leased or licensed Equipment remains the property of the Company and must be maintained and returned as provided herein. You may elect to independently acquire or supply equipment (“**Customer Supplied Equipment**” or “**CSE**”) instead of buying, leasing or using Equipment provided directly by us. The Company shall not be responsible in any way for the compatibility or fitness for use of any CSE, including any end-user devices. We will install Equipment provided by us in accordance with our policies as in effect from time to time. You acknowledge that the Company is not the manufacturer of, nor a dealer in, any Equipment.

**9. Access to Premises.** We may enter into, upon and over your premises periodically during the term of this Agreement to install, connect, inspect, maintain, repair, alter, disconnect and remove Equipment and facilities. To the extent the same is consistent with your ownership of the premises, you grant the Company a temporary and permanent easement to construct, install, maintain, and/or replace Service facilities and to install, connect, inspect, maintain, repair, alter, disconnect and remove all Equipment necessary to provide Service. In the event you are not the owner of the premises upon which installation is requested, you warrant to the Company that you have obtained the consent of the owner of the premises for the Company to install and maintain its Equipment as contemplated herein. It is customer’s responsibility to ensure that the Service premises is a safe working environment, free of hazards or conditions that pose or are capable of posing an unreasonable risk to the health and safety of Company personnel. The Company has no obligation to perform work at a location that is not a suitable and safe working environment or to handle, remove or dispose of hazardous or unsafe materials. The Company may require persons present in a working environment, including customers and guests of customers, to comply with applicable federal, state or local health and public safety guidelines, including but not limited to personal safety and hygiene protocols applicable to pandemics, epidemics or other risks of infectious disease.

**10. Safekeeping of Equipment.** You are responsible for the safekeeping of all Equipment placed in or on your premises. The Company has no responsibility for replacing Equipment destroyed or damaged by your misuse, abuse or neglect. In the event that any Equipment provided by the Company is destroyed, damaged (ordinary wear and tear excepted), lost or stolen while in your possession, you may be liable to the Company for an equipment recovery fee (“**ERF**”) up to the full cost of repair or replacement of such Equipment.

**11. Return of Equipment.** If you cancel Service or if Service is disconnected by us, then you must return any leased or licensed Equipment to the Company during regular business hours, Monday through Friday (except holidays). **Do not return Equipment by mail or delivery service unless packaging material has been approved or provided by the Company.** The Equipment must be returned to the Company in the same condition that you received it, except for normal wear and tear. All Equipment must be returned to the Company’s business office or an alternative location designated by the Company at the time of cancellation or disconnection. If you are unable to travel to the Company’s business office or other designated location to return the Equipment, you may request pick-up. Provision of pick-up service is solely at the Company’s option and the Company’s refusal or failure to provide pick-up service will not excuse your obligation to return Equipment. If the Company agrees to provide pick-up service, pick-up will occur during the business week and only during regular business hours. There may be a fee for pick-up, which you will be informed of when you request pick-up service and which will be payable at time of pick-up. If you fail to return Equipment at the time of cancellation or disconnection of Service, you will be billed an ERF in an amount up to the full cost of replacement of such Equipment. ERFs will be applied to your next bill and are due upon receipt. If equipment is returned in good working condition within sixty (60) days from the date of cancellation or disconnection of Service, the Company will credit back the full amount of the ERF. ERFs are cumulative and in addition to any other charges or fees you may owe us and any fees or charges that we may charge upon cancellation or disconnection of Service.

**12. Service and Repairs.** The Company undertakes reasonable efforts to maintain its network and respond to service or trouble calls in a timely manner. The Company will use commercially reasonable efforts to repair damage to Company-provided Equipment or interruption of Service due to reasonable wear and tear or technical malfunction. Support, including diagnostics, servicing and repairs, will normally be provided during regular business hours, Monday through Friday (except holidays). Service and repair of all outside wiring, up to and including the network interface device (NID) and optical network terminal (ONT) installed at the premises, are a Company responsibility and are covered by the recurring fees you pay for Service. Recurring fees do not cover service or repairs to Service jacks, inside wiring, internal Wi-Fi networks, or Customer Supplied Equipment, which are a customer responsibility. Recurring fees do not cover service or repairs to licensed Equipment or leased Equipment due to causes other than ordinary wear and tear or technical malfunction, which are a customer responsibility. For service and repairs which are a Company responsibility, we will send a technician to your service premises to perform diagnostics and repair the problem at no cost to you beyond the ordinary recurring charges. For service and repairs which are a customer responsibility, we will, at your request, perform diagnostics and/or make repairs, for which you will be billed at the standard hourly rate, including any applicable minimum charges for time and materials. For service and repairs which are a customer responsibility, use of the Company's support and repair service is optional. You may elect to use other companies for such services or may do the work yourself.

**13. Indemnification.** You agree to hold harmless and indemnify us and our affiliates, officers, agents and employees from any claim, suit or action arising from or related to your abuse or misuse of any Service or Equipment, or any other violation of your Service Agreement, including any liability or expense arising from claims, losses, damages, suits, judgments, litigation costs and attorneys' fees arising from or in connection with the same.

**14. Disclaimer of Warranties.** WE MAKE NO WARRANTIES WITH RESPECT TO ANY SERVICE OR EQUIPMENT, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES CONCERNING THE SPECIFIC FUNCTION OF ANY SERVICE OR EQUIPMENT, OR THEIR RELIABILITY, AVAILABILITY, OR ABILITY TO MEET YOUR SPECIFIC NEEDS. TO THE EXTENT PERMITTED BY LAW, WE EXPRESSLY DISCLAIM ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF SATISFACTORY QUALITY, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**15. Limitation on Remedies.** 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, service or content 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, pandemic, epidemic, or similar outbreak of infection disease, 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 you or any person using your Service or Equipment; 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.

TO THE EXTENT PERMITTED BY LAW, OUR TOTAL LIABILITY FOR ANY CLAIM UNDER YOUR SERVICE AGREEMENT, INCLUDING FOR ANY EXPRESS OR IMPLIED WARRANTIES, IS LIMITED TO THE AMOUNT YOU PAID US FOR THE SERVICES OR EQUIPMENT WE PROVIDED, WHETHER SUCH CLAIM OR REMEDY IS SOUGHT IN CONTRACT OR TORT, INCLUDING NEGLIGENCE, STRICT LIABILITY OR OTHERWISE. TO THE EXTENT PERMITTED BY LAW, WE SHALL NOT BE LIABLE TO YOU FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL OR TREBLED OR ENHANCED DAMAGES, INCLUDING, BUT NOT LIMITED TO LOST PROFITS, LOST BUSINESS, OR OTHER COMMERCIAL OR ECONOMIC LOSS, WHETHER SUCH DAMAGES ARE CLAIMED FOR BREACH OF CONTRACT, NEGLIGENCE OR OTHERWISE AND WHETHER OR NOT WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**16. Conflicts of Terms.** Your Service Agreement and our contractual relationship with you shall be governed by and construed in accordance with the substantive laws of the State of Iowa, without regard to the principles of conflicts of law. Any conflict among or between the terms and making up your Service Agreement will be resolved in accordance with the following order of precedence (from highest to lowest priority):

- (a) your Service Application/Agreement, including the terms of your selected Service Package;

- (b) the Service-Specific Terms and Conditions for each Service and our Service Catalogs;
- (c) our Acceptable Use Policy; and
- (d) these General Terms and Conditions of Service.