

## SERVICE APPLICATION/AGREEMENT

- 1. Service Agreement.** The communications services (“**Service**”) and ancillary equipment (“**Equipment**”) provided to you by **Estherville Communications** (together with any subsidiaries or affiliates providing your Service or Equipment, “**we**,” “**us**,” or the “**Company**”) are subject to: (a) this Service Application/Agreement, including the terms of your selected Service Package; (b) the Service-Specific Terms and Conditions for each Service; (c) our Acceptable Use Policy and Network Management Policy; and (d) our General Terms and Conditions of Service (items (a) – (d) collectively, your “**Service Agreement**”). For purposes of your Service Agreement, your “**Service Package**” includes the rates, pricing and features associated with your selected Service. Nonrecurring and recurring charges for Service are as set forth in your selected Service Package and/or the Company’s rate schedules, current versions of which are available upon request.
- 2. Acceptance.** Your Service Agreement commences upon your acceptance of Service after receipt of your Service Application/Agreement. Acceptance of Service occurs upon any of the following: (a) you provide a written or electronic signature applying for Service and/or accepting your Service Agreement; (b) you orally or electronically order and/or activate Service; or (c) you use Service, including use of Service after notification of any change in Service or change to applicable terms and conditions, when we have told you that the change requires your acceptance. **IMPORTANT: PLEASE REVIEW YOUR SERVICE AGREEMENT CAREFULLY. BY ORDERING AND ACTIVATING SERVICE, YOU AGREE TO COMPLY WITH ALL OF THE APPLICABLE TERMS, CONDITIONS AND PROVISIONS CONTAINED IN YOUR SERVICE AGREEMENT. IF YOU DO NOT ACCEPT ALL OF THESE TERMS, CONDITIONS AND PROVISIONS, PLEASE NOTIFY US PRIOR TO INSTALLATION OR ACTIVATION OF SERVICE, AND WE WILL CANCEL OR DISCONNECT YOUR SERVICE.**
- 3. Additional Terms.** By accepting Service, you agree to adhere to (a) the Company’s General Terms and Conditions, (b) the Company’s Service-Specific Terms and Conditions applicable to your Service, and (c) the Company’s Acceptable Use Policy and Network Management Policy (items (a)-(c) collectively, the “Additional Terms”) including any changes to such terms and conditions as we may communicate to you from time to time. If you fail to comply with the Additional Terms, your Service may be suspended or disconnected.
- 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.
- 5. Federal Lifeline Program.** The Company is an eligible telecommunications carrier (ETC) within all or portions of its service area, meaning that it provides certain services supported by the federal Universal Service Fund, including the federal “Lifeline” program for qualifying low-income consumers. Lifeline is a government benefit program which provides a monthly credit toward a single line, local residential voice service or a residential broadband internet access service. Only eligible low-income consumers may enroll in the Lifeline program. Lifeline assistance is non-transferable, and eligible subscribers may receive only one benefit per household. If you believe you may qualify for the Lifeline program, please visit our website at [www.esthervillecommunications.com](http://www.esthervillecommunications.com) or contact us at 1-855-859-3363.
- 6. Service and Equipment Pricing.** If you select a Contract Term, you understand that you have received a special rate for Service and Equipment 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. If Equipment is damaged, destroyed or lost while in your possession, or if you fail to return Equipment upon termination of Service, you may be charged an equipment recovery fee (“**ERF**”) up to the full replacement cost of the Equipment. ETFs and/or 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.
- 7. Changes to Terms.** We reserve the right to change the terms and conditions of any Service. 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 ETF 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 any such changes, your continued use of Service will constitute acceptance of the changed terms and conditions.
- 8. 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.
- 9. 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.
- 10. Limitation on Remedies.** 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.
- 11. Severability.** If any part or provision of your Service Agreement is held, in whole or in part, to be invalid, illegal, or unenforceable by any law or regulation of any governmental or regulatory authority or by the final determination of any court of competent jurisdiction, that part or provision will be construed consistent with applicable law or regulation 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 Service Application/Agreement or collectively, your Service Agreement.
- 12. Entire Agreement; Conflicts.** Your Service Agreement supersedes any prior agreements between you and the Company, and any and all prior or contemporaneous statements, understandings, writings, commitments or representations concerning its subject matter
- 13. No Implied Waiver.** Our failure to exercise or enforce any right under or provision of your Service Agreement shall not constitute a waiver of any such right or provision.
- 14. Governing Law; Jurisdiction.** 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 suit under your Service Agreement (other than to enforce a judgment or award) will be brought in the federal or state courts in the districts which include Sioux Center, Iowa. You hereby agree and submit to the personal jurisdiction and venue of such courts.