

## Wellman Cooperative Telephone Association

### Terms and Conditions

**1. Terms and Conditions.** These Terms and Conditions govern any and all communications services (“Service”) and ancillary equipment (“Equipment”) you order and receive from Wellman Cooperative Telephone Association (WCTA). By ordering and accepting Service, you agree to adhere to these 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 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) you’re application for Service; (b) our standard service agreements or service catalogs, if and as applicable to any Service; (c) our policies if and as applicable to any Service, including our Acceptable Use Policy, Network Management Policy and Privacy 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. Changes to Service.** We may, from time to time, modify the Service to reflect improvements and other changes and modifications to our network. In addition, we reserve the right to discontinue or limit Service as required to comply with or satisfy our obligations under applicable laws or regulations, including when changes to or interpretations of such laws and regulations have a material, adverse effect on the business, technical or economic feasibility of providing Service, as determined by us in our reasonable judgment.

**4. Change to Terms.** We reserve the right to change these Terms and Conditions upon thirty (30) days 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, upon receipt of notice of such change, cancel your Service; 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 these Terms and Conditions. If you elect not to cancel your Service 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.

**5. Service Package.** Your “Service Package” includes the rates, pricing and features or applications associated with your selected Service. Current rates for available Service Packages are listed on our Service application, online at our website or are available upon request by contacting us. From time to time, WCTA may modify or delete specific service features or programming, and may change its charges for any Service Package, including pricing for packages bundled with other services we offer. WCTA will give you reasonable prior notice of increases or other changes in its charges in conformity with applicable legal and regulatory requirements.

**6. Service Term.** Depending on the Service Package you select, you may receive Service for an agreed minimum term (your “Minimum Term”). In the absence of any Minimum Term or after any Minimum 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 these Terms and Conditions. If you select a Service Package with a Minimum Term, you understand that you have received a special rate and/or we have incurred costs in exchange for your commitment to the full Minimum Term. If your Service is downgraded, canceled or disconnected prior to the end of the agreed Minimum Term, you may be charged an early termination fee (“ETF”) as set forth in your Service Package. 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 cancellation or disconnection of Service.

**7. Billing.** Nonrecurring and recurring charges for Service are as set forth in your selected Service Package and/or the rate schedules maintained by WCTA, 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 think your statement is incorrect or if you need more information about it, contact us immediately. We will try to resolve any complaints you have as promptly as we can. 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 our customer service number. Failure to pay invoices when due may result in late payment fee of \$20 per month and/or other penalties, including suspension or disconnection of Service. An additional installation charge and/or a minimum service term may be required to restore Service. For more details, refer to your monthly bill or contact a customer service representative. If we don’t receive your payment before the next billing cycle, you agree to pay any costs and expenses associated with our collection’s 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.

**8. Use of Service.** By activating and using Service, you agree to use Service in accordance with these Terms and Conditions and our Additional Terms. Without limiting the preceding, Service is subject to (a) your compliance with our Acceptable Use, as amended from time to time and (b) our use of reasonable network management practices in accordance with our Network Management Policy, as amended from time to time. Under those policies, you have no right to resell the Services or rebrand the Services for resale to third parties. We reserve the right to terminate or suspend your Service immediately or to otherwise disconnect, remove, block, filter or restrict your use of Service if we determine that your use violates the Acceptable Use Policy. We reserve the right to manage our network and network resources as set forth in our Network Management Policy. Subject to applicable legal and regulatory requirements, we reserve the right to modify the Acceptable Use Policy and Network Management Policy from time to time. We will provide you with commercially reasonable notice of any such changes, including notice of immediately effective changes if reasonably required under specific circumstances. Notice of such changes may be provided on your monthly bill, as a bill insert, by email, on our website, or by other written communication. If you continue to use the Service after receiving notice of such changes, your continued use of Service will be subject to the Acceptable Use Policy and/or Network Management Policy, as amended.

**9. 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. You will cause all users of Service to comply with these Terms and Conditions and you are responsible for any users' use of any Service. 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 WCTA 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 account 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 WCTA up-to-date and accurate.

**10. 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 Services, Equipment may be licensed to you at no additional charge. All leased or licensed Equipment remains the property of WCTA 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. WCTA 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.

**11. Safekeeping and Return of Equipment.** You are responsible for the safekeeping of all Equipment placed in or on your premises. WCTA has no responsibility for replacing Equipment destroyed or damaged by your misuse, abuse or neglect. In the event that any Equipment is destroyed, damaged (ordinary wear and tear excepted), lost or stolen while in your possession, you may be liable to WCTA for an equipment recovery fee ("ERF") up to the full cost of repair or replacement of such Equipment. If you cancel Service or if Service is disconnected by us, then you must return any leased or licensed Equipment to us during regular business hours, Monday through Friday (except holidays), within twenty (20) days of the cancellation or disconnection of Service. Do not return Equipment by mail or delivery service. The Equipment must be returned to us in the same condition that you received it, except for normal wear and tear. All Equipment must be returned to WCTA's business office or an alternative location designated by us at the time of cancellation or disconnection. If you are unable to travel to our business office or other designated location to return the Equipment, you may request pick-up. Provision of pick-up service is solely at WCTA's option and our refusal or failure to provide pick-up service will not excuse your obligation to return Equipment. If WCTA 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 after twenty (20) days from cancellation or disconnection of Service, any leased or licensed Equipment has not been returned to WCTA, you may be liable to WCTA for an ERF in an amount up to the full cost of replacement of such Equipment. 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. Customer's Cooperation.**

**a. Access Right.** You will in a timely manner allow WCTA access as reasonably required for the Services to property and equipment that you control and will obtain at your expense timely access for WCTA as reasonably required for the Services to property controlled by third parties such as your landlord. WCTA will coordinate with and, except in an emergency, obtain your consent to enter upon your property and premises, which consent shall not be unreasonably withheld, conditioned or delayed. These access rights include the right to construct, install, repair, maintain, replace and remove Equipment and/or facilities (including access lines and network facilities) and the right to use ancillary equipment space within a building for your connection to WCTA's network. You must provide WCTA timely information and access to your facilities and equipment as WCTA reasonably requires for the Services. You must furnish any conduit, holes, wireways, wiring, plans, equipment, space, power/utilities and other items as WCTA reasonably requires for the Services and will obtain any necessary licenses, permits and consents (including easements and rights-of-way). You must have the site where Service is to be provided ready for WCTA to perform its work according to a mutually agreed schedule.

**b. Safe Working Environment.** You must ensure that the location at which WCTA installs, maintains or provides Services is a safe working environment, free of Hazardous Materials and reasonably suitable for the Services. "Hazardous Materials" mean any substance or

material capable of posing an unreasonable risk to health, safety or property or whose use, transport, storage, handling, disposal or release is regulated by any law related to pollution, to protection of air, water or soil or to health and safety. WCTA shall have 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 Materials.

**13. Disconnection of Service.** If you fail to comply with these Terms and Conditions, your Service may be suspended or disconnected. We also reserve the right to suspend or discontinue Service generally, or to disconnect your Service, at any time in our sole and absolute discretion. If we discontinue Service generally, or disconnect your Service without cause, you 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 your Service is disconnected on account of your breach of our Terms and Conditions, you will be responsible for the full month's charges to the end of the current term, including, without limitation, unbilled charges plus the applicable ETF or ERF (if any), all of which will immediately become due and payable.

**14. Customer Privacy.** We collect personally identifiable information as needed to provide Service and/or other ancillary services to subscribers or to detect unauthorized reception of Service. The use and disclosure of this personal data is governed by federal law, our Privacy Policy. A copy of our Privacy Policy was provided to you at the time of installation of Service and is available on our website. We will also send you a copy of our Privacy Policy if you send your written request to the address of our business office as shown on your invoice.

**15. 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. By applying for Service, you authorize WCTA to investigate or verify your credit history and to share credit information with credit reporting 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.

**16. Information and Security.** Access to and use of any information or data obtained by you via use of Service is at your own risk, and WCTA is not responsible for the accuracy, reliability or security of such information. WCTA makes no attempt to verify accurate receipt of any messages, and we are not responsible for any loss of data resulting from delays, non-deliveries, incorrect deliveries, viruses, e-mail filtering, Service interruptions, etc. We are not responsible for providing any type of anti-virus, firewall or filtering software. Set-up, maintenance and use of such programs are solely your responsibility. We make no representations, warranties or assurances regarding the security of any system or network, or the protection or privacy of email or other information transferred or communicated through the Internet or any other system or network. WCTA shall not be liable for any breach of security arising from origin connection with your use of Service. To the extent permitted by law, you agree to indemnify and hold harmless WCTA and its affiliates, officers, agents and employees from any and all claims, suits or actions arising from or related to your use of the Internet or other public networks.

**17. 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 these Terms and Conditions, 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.

**18. 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.

**19. Limitation on Remedies.** WCTA 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, strikes, fire, war, riot, lighting strikes, 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 our 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 CONCERNING SERVICES OR EQUIPMENT, 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.

**20. Severability.** If any part or provision of these Terms and Conditions 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 these Terms and Conditions.

**21. Application and Survival.** The disclaimers of warranties and liabilities, and limitations of liability set herein will apply regardless of the form of action, whether in contract, equity, tort, strict liability or otherwise, of whether damages were foreseeable and of whether a party was advised of the possibility of such damages. The disclaimers of warranties and liabilities, and limitations of liability set forth herein will survive failure of any exclusive remedies provided for herein or in our other Terms of Service.

**22. Governing Law; Jurisdiction.** These Terms and Conditions and our Service 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 concerning our Service relationship (other than to enforce a judgment or award) will be brought in the federal or state courts in the districts which include Wellman, Iowa.