Terms & Conditions

This document sets forth the Terms and Conditions by which Valley Communications, Inc. dba Valley FiberCom offers to you ("Customer", "you" or "your") the services identified by or in an order form(s), work invoice(s), and/or other Valley FiberCom-authorized service order or work order documentation or information provided to or requested by Customer (collectively, the "Service Order"), and the various responsibilities of Valley FiberCom and Customer. Valley FiberCom and Customer may be referred to individually as a "Party" or collectively as "Parties."

Customer acknowledges and agrees (i) the Services are provided subject to the Terms and Conditions, (ii) the Terms and Conditions shall be deemed incorporated into any Service Order executed by the Parties and the Parties' signature on or acknowledgement of such Service Order shall be evidenced of the Parties' adoption of the Terms and Conditions for the Service Order, (iii) this Agreement shall supersede and replace any prior Service Order or agreement between the Parties, and (iv) in the event that Valley FiberCom provides Service to a Customer that fails or refuses to sign a Service Order, Customer's payment of the invoice or use of the Service shall be conclusive evidence of Customer's acceptance of this Agreement.

1. **Products and Services**. Valley FiberCom shall provide the following services and products to Customer pursuant to the Terms and Conditions set forth herein, as well as any other terms and conditions set forth in Valley FiberCom policies, and rules and regulations of the South Dakota Public Utilities Commission ("SDPUC") and the Federal Communications Commission ("FCC"). Customer may submit one or more orders to Valley FiberCom for services, equipment or materials including (a) certain network services ordered from Valley FiberCom, which include but are not limited to local, long distance (including international long distance), facsimile service, data telecommunication services (including wireless, Ethernet transport or fiber), broadband, IP TV ("IPTV"), digital TV, cloud or hosted services like Valley FiberCom Surveillance and Monitoring services and other related telecommunications services, features or functions at the physical locations identified in a Service Order (collectively, the "Services") along with a separate service term for each Service Order, (b) certain equipment, software or materials, whether sold, licensed or leased to Customer, which may be required in connection with the Services (collectively, the "Products") and (c) delivery location of the Services or Products (the "Premises"). Valley FiberCom retains title to the Products used to deliver the Services, except for Products sold to Customer. Valley FiberCom will use all commercially reasonable efforts to deliver the Services on or before the date set by Valley FiberCom. Customer understands that an interruption of Services may occur in transferring the Services from the Customer's current provider to Valley FiberCom, despite Valley FiberCom's commercially reasonable efforts to switch the Services without interruption.

2. **E911 Disclosure Statement; 911 Calls from Remote Phones.**

(a) Valley FiberCom is subject to an FCC requirement to provide notification of any E911 limitations that may be associated with the service provided to its customers. As is the case with

E911 service provided with traditional telephone service, you are advised that the E911 service provided by Valley FiberCom:

(i) may not function with the loss of electrical power, including, but not limited to, the loss of power to telephone equipment or other equipment necessary to route E911 calls to the appropriate emergency call center;

(ii) will not function at a remote location or may transmit incorrect physical location information for the caller if calls are made from an off-premises extension, bridged on-premises extension, dedicated circuit, dry copper pair, or other communications link to another physical location;

(iii) will not function if the telephone equipment or other equipment necessary to place calls is not correctly configured;

(iv) may not transmit the correct physical address for the E911 call due to incorrect information provided by you, use of a non-native telephone number or delays in loading or updating automatic number identification and location information into the E911 databases;

(v) may not be capable of being received and/or processed by an emergency call center due to the center's technical limitations; and

(vi) may be affected by other factors or events, such as the quality of the broadband connection and network congestion.

(b) Your acknowledgement and agreement to the Service Order(s), this Agreement or your continued use and payment for the Services or Products will serve as your acknowledgement that Valley FiberCom has advised you of these potential limitations. The actual physical location of the building (as assigned by the county E911 coordinator) where the primary service line is delivered shall be the registered location that will be provided to the emergency call center when you place a 911 call.

3. **Customer's Obligations**. Without limiting any other obligations Customer may have hereunder, Customer hereby authorizes, represents and warrants, agrees to and/or shall:

(a) Customer is of legal age to enter into this Agreement if an individual and if an entity has the full power and authority to enter into this Agreement;

(b) provide and maintain, as applicable, adequate space, power (including batteries, if such Products are powered by batteries), broadband internet connection and climate control, for the Services and the Products;

(c) provide Valley FiberCom with continuous and reasonable access and rights to the Premises for access to all equipment and facilities, including, but not limited to, routes for Valley FiberCom’s cable access, antenna mounting, wall penetration and wall attachments to the Premises;

(d) authorizes Valley FiberCom to access Customer's consumer report or credit report from consumer reporting agencies and Customer certifies any information contained in such consumer report is true and accurate to the best of Customer's knowledge;

(e) New members requesting services from Valley FiberCom will be asked to provide a letter of good credit standing from their prior utilities provider or financial institution before Valley FiberCom will begin to provide the services being requested.

The party applying for service then has the option to pay basic connection fees prior to service being activated/installed, or to wait for their first bill.
If the party applying for new services is unable to provide a letter of acceptance credit at the time service is requested, the new member must then pay deposits for each service type requested as well as basic connections fees prior to service(s) being activated. Applicable Deposits will be: $45.00 Telephone; $45.00 Video TV; and $45.00 Internet.

(f) Existing Valley FiberCom subscribers with a credit rating of D that wish to activate new product services will be asked to pay a deposit for each service type requested, prior to the service(s) being activated. Applicable Deposits will be: $45.00 Telephone; $45.00 Video TV; and $45.00 Internet.

(g) Customer is responsible for the perfecting and establishing warranty and maintenance for any promotional consumer electronics provided by Valley FiberCom, including, but not limited to, all costs for such warranty and maintenance; and

(h) pay Valley FiberCom:

(i) All reoccurring charges for telephone, internet, video and wireless services will be billed on a monthly basis. Statements will be mailed to Customer within the first week of the month. Local service charges are billed one month in advance. Statements shall also include long distance charges for the period ending approximately the 15th of the month preceding. The statement is due when received and becomes delinquent if not paid by the twenty-fifth (25) day of the same month or as agreed to in a Service Order or otherwise (e.g., pursuant to authorizations or elections granted or made through SmartHub, Valley FiberCom's online customer portal). The first monthly invoiced amount will include the period from the installation of the Service(s) through the end of the month, including installation charges for the Services or Products;

(ii) all charges for the Service and Products, including, but not limited to (a) any unauthorized charges, fraudulent charges, charges incurred due to hacking of your account or incurred by a third party in relation to the Services or Products, (b) all undisputed portions of charges and (c) all service charges for visits to the Premises (unless waived);

(iii) any damages caused by Customer, or allowed to be caused, to the Products, including, but not limited to, Customer's negligence or willful acts or by fire, electrical, lightning surges, or any other cause except Valley FiberCom's equipment malfunction;

(iv) all non-recurring charges (e.g., installation fees, setup fees, reconnect fees, and other fees related to providing the Services or Products) associated with the installation or delivery of the Services or Products, unless specifically waived on the Service Order or Agreement submitted for the Services or the Products;

(v) In the event that payment is not received on the 25th day of the same month in which service is rendered, a "Reminder Notice" shall be mailed to the Customer. A $10.00 late payment fee shall be charged to the delinquent account.

(vi) If the past due amount on the delinquent account consisting of undeniable charges, such as local service or long distance, is not paid on the 15th day of the following month in which service was rendered, service will be subject to complete disconnection, unless the 15th falls on a Friday, Holiday or Weekend, then disconnection will occur on the next working day.

(vii) Any account that is subject to disconnection for nonpayment will be assessed a $25.00 minimum reconnection fee. If a site visit is necessary, a site fee may also apply. Full payment, plus any fees herein, must be paid before services will be reconnected. Any Customers that have been disconnected for nonpayment of telephone service will be required to pay the greater of a minimum deposit of $100 or twice the average of the preceding three month billings, in addition to full payment of the delinquent account, before service is restored. Any subscriber that has been disconnected for nonpayment will be required to pay a minimum deposit of $45.00 for Video and/or $45.00 for Internet, in addition to full payment of the delinquent account before service is restored. A $45.00 monthly purchase limit on Video TV will also be applied to the account in conjunction with (ix) below.

(viii) Management and employees of Valley FiberCom are not authorized to accept postdated/hold checks under any circumstances. Postdated/hold checks are not considered legal tender and will be returned to the subscriber.

(ix) Customers with a D credit rating under Valley FiberCom's billing system (customers who have been previously disconnected for non-pay within the last 9 months; who have not been written off; who have received a final notice within the last 6 months or customers who have submitted a NSF check to Valley FiberCom within the last 3 months) or customers who have not established a credit history with Valley FiberCom will be required to make a deposit equal to two months local service and pay basic connection fees in advance. Deposits will be refunded upon the customer notifying Valley FiberCom to terminate service. The deposit, less the amount of the customer's final bill, will be refunded. After one full year of service during which the customer has not been delinquent, the full deposit will be credited to the Customer's account.

(vi) all applicable taxes, including, but not limited to, federal, state, or local use, excise, sale, access, franchise, license fees, taxes, duties, or other governmental taxes, fees or liabilities incurred by Customer, however designated, whether charged to or against Valley FiberCom or Customer for the Services or Products furnished by Valley FiberCom;

(i) take all necessary and reasonable precautions in:

(i) guarding against the acts or causes of any action to rearrange, disconnect, remove, attempt to repair, or otherwise tamper with the Products, the Services or any facilities or equipment installed or owned by Valley FiberCom;

(ii) prohibiting the use of Services, Products, or any facilities or equipment installed by Valley FiberCom for any purpose (legal or otherwise) other than as contemplated by this Agreement; and

(iii) maintaining and operating Customer's activities, facilities, and equipment to protect against hazard or injury and to avoid interfering with the Services or the Products;

(j) upon cancellation or termination of any Service:

(i) return to Valley FiberCom or allow Valley FiberCom to retrieve the Products undamaged and in good working order and condition;

(ii) pay Valley FiberCom the charges identified in a Service Order for any damaged or unreturned Products; and

(iii) pay Valley FiberCom for any applicable Termination Fee (Section 17c) and promotional credits, promotional gifts or promotional consumer electronics Valley FiberCom provided in connection with the Products or Services;

(k) Customer shall not:

(i) use the Services, the Products or any facilities or equipment of Valley FiberCom for any unlawful, fraudulent, improper or inappropriate purposes;

(ii) use any automated means to manipulate the Services or Products;

(iii) commit or support the unauthorized access to prohibited areas in connection with or in relation to the Products or Services (such violation may lead to Service and Product termination and/or criminal prosecution);

(iv) sell, re-sell, distribute or allow to be distributed any of the Services or Products provided by Valley FiberCom;

(v) during the term and Services or Products are provided and for a period of 2 years thereafter, Customer shall not hire, retain or attempt to hire or retain any employee or independent contractor of Valley FiberCom or in any way interfere with the relationship between Valley FiberCom and Valley FiberCom’s employees or independent contractors; and

(vi) use Valley Telecommunication’s products or services to compete with Valley FiberCom in providing any of the Products or Services, without regulatory, franchise and jurisdictional authority, Valley FiberCom's prior written consent; and

(l) Customer shall:

(i) notify Valley FiberCom by phone, email or web before the due date of any invoice in which Customer has a dispute, Customer acknowledges and agrees that any failure to dispute the charge prior to the due date will be deemed a waiver of any right to dispute such invoiced amount;

(ii) be solely responsible for the contents of his, her or its usage of the Services and Products;

(iii) comply with all regulations, policies and procedures of networks connected to the Services; and

(iv) to the extent Customer becomes actually aware, report misuse or abuse of the Services or Products provided by Valley FiberCom to service@valleyfibercom.com or 866-453-4237.

4. **Legal Compliance.**

(a) You expressly agree that you are subject to and will comply with all applicable laws, rules and regulations related to your use of the Services and the Products, including, without limitation, wiretapping, eavesdropping, privacy, voyeurism, child pornography or similar laws, and that your use of the Services and Products is at your own risk. You are solely responsible, and we shall have no liability whatsoever, for any and all pictures, audio, video or other data that you upload, download, monitor, record, store, post, email, transmit, disclose or otherwise make available using the Products or the Services.

(b) You are required and agree to maintain compliance with all applicable state and federal call recording laws and regulations, and under no circumstances shall Valley FiberCom be held responsible or held liable for such compliance. You agree that, if you select settings as part of the Services that involve monitoring, recording, storing, or disclosing oral communications made by you and third parties, you consent to such monitoring, recording, storage and disclosure, on behalf of yourself and any minor children for whom you are the parent or legal guardian. You may need to inform your employees and third-parties whom you call that their calls are being recorded. You are responsible for obtaining any and all legally-required consents when you make a call with call recording enabled.

(c) You acknowledge that Valley FiberCom may be required by applicable law to disclose communications and records stored by Valley FiberCom, including, but not limited to, communications related to your use of the Services and the Products, to government agencies and law enforcement. You consent to such disclosure.

(d) The Services and Products are protected by trademark, copyright, patent and/or intellectual property laws and international treaty provisions, which you agree to comply with .

5. **Delivery of the Services and Products**. The Services and Products provided pursuant to this Agreement are subject to the continuing availability of all underlying facilities and the Services and Products themselves. Valley FiberCom may modify the pricing, packaging, bundling, underlying provider, technology, term, content, channel line-up of Services upon 30-day notice to Customer. Valley FiberCom may also terminate any or all Services provided pursuant to this Agreement without further liability to Customer, upon notice to Customer. Any Services or local programming will be provided using "commercially reasonable efforts" and the Services may not be available in all locations. Valley FiberCom has the authority to change third party service providers, originating service providers for any Service that is not specifically sold, delivered, fulfilled or originated by Valley FiberCom. Valley FiberCom may, in its sole discretion and at any time, change the underlying Internet carrier, long distance carrier, television content provider, channel line-up, news group provider, RSS feed, transport company, monitoring company, managed service company, software company or any other underlying service.

6. **Suspension of Services.** If Valley FiberCom does not receive payment in full on or before the respective due date, Valley FiberCom shall have the right, to suspend, disconnect, or discontinue the Services, charge all applicable late fees, disconnect fees, vacation rate fees, reconnect fees and, upon demand from Valley FiberCom, Customer shall return all Products.

7. **Seasonal Disconnect Policy**. Valley FiberCom offers a seasonal disconnect policy that provides its customers the opportunity to temporarily suspend Service during periods of extended absence from their residence within the Valley FiberCom operating or service territory. The primary purpose is to avoid the burden of the monthly charges, avoid breach of term agreements and avoid delays waiting for physical installation or de-installation of Service. During any seasonal disconnect period, any Service term, agreement or contract, excluding promotions, will be extended by the number of months the Customer utilized the seasonal disconnect relief. In the event that the Service term, agreement, contract or promotional offer stipulates a price guarantee, free use period or similar marketing offer, the duration of such offer will continue through the seasonal disconnect period and such offer shall not be extended. The maximum term for a seasonal disconnect period is 9 months after which Service will be permanently disconnected. Early termination penalties may apply if the terms and conditions of this Agreement are not fulfilled.

8. **Total Service Assurance Plan.** Valley FiberCom's Total Service Assurance Plan is intended to protect customer from unexpected repair costs and trip charges, and offered at a small monthly fee to customer. The following services and equipment are covered by the Total Service Assurance Plan:

- Repair and/or replacement of wiring beginning at the demarcation point (where Valley FiberCom's network connects with residence or business on-premise wiring) to the phone/data jack, Valley FiberCom router, or Digital TV receiver
- Necessary replacement of fittings, connectors, and phone/data jacks installed by Valley FiberCom that are impeding service delivery
- Necessary repair or replacement of TV set top boxes, remotes, or routers provided by Valley FiberCom that are impeding service delivery and/or quality
- Wiring or cables damaged by non-domestic animals
- Troubleshooting and problem isolation by designated Valley FiberCom Technician
- Trip charges associated with repairs and/or equipment replacement falling under the Total Service Assurance Plan guidelines
- Maintenance and repair performed during normal working hours (Mon-Fri; 8am-5pm, excluding non-working holidays)

The following services and equipment are not covered by the Service Assurance Plan:

- Replacement of customer-owned electronics or equipment
- Wiring damaged by fire, lightning, flood, or other natural disasters
- Wiring damaged by gross negligence, willful damage, vandalism, or domestic animals

- Installation of new wiring or the relocation of existing wiring
- Installation of new customer-owned electronics or equipment
- Wiring not installed by Valley FiberCom
- Trip charges associated with repairs and/or issues not falling under the Total Service Assurance Plan guidelines

Repair costs for issues not covered under a Total Service Assurance Plan are billed to customer at a rate of $75.00 per hour.

9. **Service Portability & Relocation**. Valley FiberCom provides for Service portability and relocation within the Valley FiberCom facility based service territory subject to the following conditions: (a) applicable relocation fees will apply, (b) if the Services are under a term agreement, the agreement will transfer without penalty, (c) in the event a Service is not available at the new address of the relocation and such address is within the Valley FiberCom facility based territory, the then existing term will be waived for only such Service(s) that is unavailable at the new location and (d) all term commitments, penalties and construction fees will be immediately due if the Services provided were made possible by construction investments or fees waived in lieu of a service term commitment, those fees may be prorated. For relocation outside the Valley FiberCom facility-based service territory where services are not relocated, all term commitments, penalties and construction fees will be immediately due if the Services provided were made possible by construction investments or fees waived in lieu of a service term commitment, those fees may be prorated as applicable.

10. **System Maintenance.** Valley FiberCom performs scheduled and unscheduled maintenance and repair of the network from time-to-time, including, but not limited to, between 12:00 a.m. and 5:00 a.m. Valley FiberCom reserves the right to disrupt the Services at any time for emergency maintenance and repair. If Customer experiences an outage of Services for an unscheduled, non-maintenance related outage, and that is not otherwise provided for in this Agreement, then Customer's sole remedy is issuance of any applicable credits pursuant to Section 12. If Customer experiences an outage of Service(s) for a scheduled, regular maintenance related outage, Customer shall not receive any credits unless such outage exceeds twenty-four (24) continuous hours, then such outage shall be credited pursuant to Section 11 herein as if such outage was deemed "unscheduled."

11. **Technical Support**. Valley FiberCom performs certain Customer specific technical support services from time-to-time, including, but not limited to, installation, troubleshooting, or repair of Customer hardware or software which may be required in connection with the Services or Products. Valley FiberCom will use its best efforts to resolve Customer technical problems in a professional, reasonable, and timely matter. Response times may be delayed due to research and inquiries, as may be necessary. Valley FiberCom does not assure that every request for technical support will be resolved. Customer technical problems may be a result of hardware or software failure, corruption, or user error and may not be correctable. Valley FiberCom reserves the right to refuse to provide technical support services if it is believed such technical support services may cause damage or create problems, if minimum system requirements are not met, or if technical conditions or Customer requirements are unusual, extensive, or beyond Valley FiberCom's control as reasonably determined by Valley FiberCom. Valley FiberCom will never share anything it may find or come across on a Customer's hardware or software unless required by applicable law to disclose such content or information to government agencies and law enforcement. You consent to such disclosure.

12. **Credits**.

(a) Product(s). Valley FiberCom's sole responsibility to Customer for the failure of any Product shall be that Product's repair or replacement determined in Valley FiberCom's sole discretion.

(b) Service(s). Valley FiberCom's sole responsibility to Customer and Customer's sole remedy against Valley FiberCom for any unscheduled interruption, defined as Valley FiberCom's inability to provide a service level of 99.9% or more, in a 30 day month, of the Services (a "Service Disruption") for Valley FiberCom Services shall be the issuance of applicable credits as follows: (A) a credit equal to one pro-rated day of Monthly Recurring Charge ("MRC") for each period over eight (8) continuous hours and up to twenty-four (24) continuous hours during a Service Disruption, and (B) a credit equal to one pro-rated day of MRC for each additional continuous twenty-four (24) hours of Service Disruption above the initial twenty-four (24) hour period. This credit applies only to Service Disruptions caused by problems or failures that are not caused by a Force Majeure and that occur on the Valley FiberCom side of any interface between Valley FiberCom's equipment or facilities and the Customer's equipment or facilities.

13. **Software, Numbers & IP Addresses**. "Licensed Software" means computer software required to use the Products or the Services, "Numbers" means any phone number under the administration of Valley FiberCom, "IP Addresses" means any number used in conjunction with the Internet to determine the point of origin or destination that is under the administration of Valley FiberCom (collectively such technical intellectual property is " Valley FiberCom TIP"). To the extent required for the delivery and Customer's use of the Services and Products as contemplated pursuant to this Agreement, Valley FiberCom hereby grants Customer a revocable, nonexclusive, nontransferable license to use Valley FiberCom TIP. Customer has not been granted any ownership in any Valley FiberCom TIP and Customer expressly disclaims ownership rights in any Valley FiberCom TIP (or any derivations/improvements thereto). Customer agrees not to (a) copy Valley FiberCom TIP, (b) reverse engineer, decompile or disassemble Valley FiberCom TIP, (c) sell, lease, license or sublicense Valley FiberCom TIP nor (4) create, write or develop derivative software or other software based on Valley FiberCom TIP or confidential information. All software used on the Premises or by Valley FiberCom is the property of Valley FiberCom or its software suppliers and is protected, as applicable, by United States and international copyright laws.

14. **Copyright**. All content included on Valley FiberCom websites, print material, emails, Valley FiberCom Video or in any other communications medium such as text, graphics, logos, button icons, images, audio, video, digital downloads, data compilations and software is the property of Valley FiberCom or its content suppliers and protected, as applicable, by United States and international copyright laws. The compilation of all content in printed, electronic or in any other communications form is the exclusive property of Valley FiberCom, its content suppliers and protected, as applicable, by U.S. and international copyright laws.

15. **Trademarks**. Valley FiberCom and other marks indicated on our websites, emails, in print, on Valley FiberCom Video or in any other communications medium are registered trademarks of Valley FiberCom in South Dakota. Valley FiberCom and other Valley FiberCom graphics, logos, page headers, button icons,

scripts, images, video, audio and service names are trademarks or trade dress of Valley FiberCom. Valley FiberCom's trademarks and trade dress may not be used in connection with any product or service that is not Valley FiberCom's, in any manner that is likely to cause confusion among customers or in any manner that disparages or discredits Valley FiberCom. All other trademarks not owned by Valley FiberCom that appear on this site are the property of their respective owners, who may or may not be affiliated with, connected to, or sponsored by Valley FiberCom.

16. **Customer Information; Customer Account.**

(a) Customer Information. Whenever you provide Valley FiberCom information, you agree to:

(i) provide true, accurate, current and complete information; and

(ii) maintain and promptly update such information to keep it true, accurate, current and complete.

If you provide any information that is, or Valley FiberCom has reasonable grounds to suspect that the information is, untrue, inaccurate, not current or incomplete, Valley FiberCom or its third-party suppliers may suspend or terminate your Services and refuse any and all current or future Services (or any portion thereof).

(b) Customer Account. If you use the Services or Products, you are responsible for maintaining the confidentiality of your account and password and for restricting access to your computer, and you agree to accept responsibility for all activities that occur under your account or password. You agree to:

(i) immediately notify Valley FiberCom of any unauthorized use of your password or account or any other breach of security; and

(ii) ensure that you exit from your account at the end of each session.

Valley FiberCom cannot and will not be liable for any loss or damage arising from your failure to comply with this Section 15.

17. **Termination**

(a) Valley FiberCom Termination. Valley FiberCom, at its sole discretion, may terminate the Services or provision of Products at any time, for any violation of the provisions contained in Sections 3 and 16 of this Agreement or for noncompliance with any other provision of this Agreement, including but not limited to, failure to pay all amounts due, rejection of any form of payment, unauthorized access or use of Products or Services, violation of any laws, violation of the Acceptable Use Policy (posted at www.valleyfibercom.com), suspected or actual fraud or misrepresentation or reasonable suspicion thereof, or Customer's bankruptcy, insolvency, assignment for benefit of creditors. If Valley FiberCom believes its Services or Products have been used for any unlawful purpose Valley FiberCom may, without notice, forward the relevant communications and/or other information to the appropriate authorities for investigation and prosecution. If Valley FiberCom terminates any Service or Service Order, demands the return of any Products or demands an equipment fee, then Valley FiberCom may collect all amounts identified in this Agreement (and applicable Service Order(s)), as if Customer had voluntarily cancelled this Agreement (or a Service Order). Valley FiberCom has the sole discretion over terms of restoration of the Services or the Products.

(b) Valley FiberCom Refusal of Service. Valley FiberCom may refuse to serve Customer if a Customer is in violation of governmental or telecommunications company rules concerning

evasion of payment, use of service for unlawful purposes, annoyance of other patrons, or interference with or destruction of service facilities. The Service and Products also may be refused if Customer's installation or equipment is known to be hazardous or of such character that satisfactory Service cannot be given or if the Customer is not current on any indebtedness to Valley FiberCom.

(c) Customer Termination. Customer may, at any time, terminate any portion of the Services (the "Termination"), upon thirty (30) days prior written notice to Valley FiberCom and shall pay to Valley FiberCom any outstanding charges plus an early termination fee ("Termination Fee") which will be an amount equal to the remainder of the commitment term for the Services and Products multiplied by the applicable rates for such Service(s) and Product(s) as then in effect plus any waived construction fees, installation fees, or promotional giveaways.

(d) Remediation. Upon Services or Product removal or service relocation in the Premise, Valley FiberCom is only responsible for sealing holes made by Valley FiberCom with colored or paintable caulk, painting using standard colors available in the retail market and filling drywall holes made by Valley FiberCom with caulk. Valley FiberCom will not be responsible for any other remediation, including, but not limited to, external siding replacement, molding replacement, floor covering or wood flooring replacement. If Customer has custom or matching paint, Valley FiberCom will use such provided material upon your request.

18. **Acceptable Use Policies**. It is not acceptable to use the Services or Products for any purpose that violates law, including, but not limited to, local, state or federal laws; violates any third party's intellectual property or personal rights; transmits communications that might be highly offensive or damaging to any recipients or to use the Services or Products in a manner that is unintended, including in a manner that is detrimental to Valley FiberCom's other Customers' ability to use Services or Products or which adversely affects Valley FiberCom's operations. Customer shall not interfere with, violate, circumvent, misuse, distribute or disrupt network users, the Services or Products, including, but not limited to, contrary to any of the following/in any of the following manners:

(a) Local Phone Service:

(i) use of the telephone service for unlawful purposes;

(ii) illegal harassment or terrorizing via the use of the phone network or Services;

(iii) use of the phone to simulate another identity or otherwise deceive another about one's true identity;

(iv) circumventing international banking or settlement regulation via the phone network or the Services; and

(v) distribution of local phone services.

(b) Network & Internet:

(i) attempting to obtain unauthorized access to any network or account, including accessing data not intended for Customer, logging into a server or account without being expressly authorized to access or probing the security of other networks;

(ii) attempts to interfere with the Service of others including users, hosts and networks, including "denial of service" attacks, "flooding" of networks, deliberate attempts to overload a Service and attempts to "crash" any host;

(iii) reselling any Services or Products, without Valley FiberCom's prior written consent;

(iv) distribution of the Services or Products;

(v) equipment, accessory, apparatus, circuit or devices that are harmful to the network, shall not be attached to or connected with Services or Products;

(vi) circumventing copyright laws and regulation, including the unauthorized download of music, video, images, books, software or content and/or other copyright protected works;

(vii) attempting to provide commercial or noncommercial distribution of content or information knowingly or unknowingly, directly or indirectly using peer to peer or other methods, under a residential service agreement with Valley FiberCom; and

(viii) excessive use of the Services, which is defined as exceeding 300% over the average of Service usage of Valley FiberCom customers in the same class of service that you have purchased from Valley FiberCom.

(c) E-Mail:

(i) illegal harassment through language, image, message frequency or message size;

(ii) sending messages to any person not wishing to receive them, including, but not limited to, requests by the recipient to stop receiving such messages;

(iii) sending unsolicited messages which are disruptive or generates a significant number of user complaints, including, but not limited to bulk-mailing of commercial advertising and/or informational announcements;

(iv) malicious mail, such as "mail bombing" or "flooding" a user or host with very large and/or frequent pieces of mail;

(v) forging message header information;

(vi) collecting message replies from messages sent through another service provider where those messages violate this Agreement or the terms of that other provider; or

(vii) introducing harmful code and/or viruses.

(d) Social Media: We welcome you and your comments to the Facebook Page for Valley FiberCom. This site intends to inform and engage with the fans, friends, family members, and other businesses, entities, or interested persons of Valley FiberCom. You are encouraged to submit comments, questions, and concerns, but note this is a moderated online discussion site and not a public forum. Once posted, Valley FiberCom reserves the right to delete submissions that contain vulgar language, personal attacks of any kind, or comments we deem to be offensive or

disparaging. The comments expressed on this site do not reflect the opinions and official position of Valley FiberCom. Further, Valley FiberCom also reserves the right to delete comments that:

(i) Contain spam, advertising, solicitations or include links to other sites;

(ii) Are clearly off topic or disruptive;

(iii) Are obscene, vulgar, or sexually explicit. This includes masked words (***), acronyms, and abbreviations;

(iv) Are chain letters, pyramid schemes, or fraudulent or deceptive messages;

(v) Promote particular services, products, or political organizations or campaigns;

(vi) Infringe on copyrights or trademarks;

(vii) Advocate illegal activity;

(viii) Violate any policies of Valley FiberCom.

(e) News/UseNet:

(i) cross posting, UseNet Spam, or otherwise posting the same messages to large numbers of unrelated newsgroups;

(ii) posting of message(s) of which the subject matter is unrelated to the content of the newsgroup posted to or generates a significant number of user complaints;

(iii) posting of binary or executable files to newsgroups not created for that purpose;

(iv) forging header information; or

(v) introducing harmful code and/or viruses.

(f) Personal Web Space:

(i) selling or distributing products or services that are unlawful;

(ii) illegal posting of content intended to commit slander or libel against another person;

(iii) illegal posting of scandalous, threatening, harassing or private information without consent of the person, persons or organizations involved;

(iv) posting content of a nature that is obscene, lewd, lascivious, violent, harassing or objectionable; or

(v) introducing harmful code and/or viruses on the Internet.

(g) Valley FiberCom Digital TV:

(i) distribution of Valley FiberCom provided TV content beyond its intended use pursuant to this Agreement;

(ii) copying, ripping, duplicating or capturing content for other than personal use;

(iii) opening, tampering, probing, experimenting or violating the technology used to deliver the Valley FiberCom TV Service;

(iv) public showing of any content on Valley FiberCom TV without the prior written consent of Valley FiberCom, without commercial distribution rights or its content partners;

(v) decryption, de-compiling, dissecting, decoding of any content other than provided by the set-top;

(vi) circumventing the conditional access or Digital Rights Management policies applicable to the content and/or Services; or

(vii) making any of the Valley FiberCom TV content portable via DVD, PMP, Internet, tape, memory card or stick, hard drive, IPOD, VPOD or similar devices under different product names.

(h) Remedies for Abnormal or Impermissible Usage: If Valley FiberCom determines that Customer is engaging in abnormal or impermissible usage of Products or Services, Valley FiberCom, with or without notice, may implement limitations; or suspend or terminate Customer's Product or Service.

19. **Network Management Practices Policy Disclosure** Pursuant to the Federal Communications Commission's Open Internet Rules found in Part 8 of Title 47 of the Code of Federal Regulations, Valley FiberCom policies regarding network management practices, performance characteristics, and commercial terms are provided in entirety so that its' current customers, prospective customers, third-party content providers and other interested parties can make informed choices regarding the broadband Internet access services offered by Valley FiberCom, and the extent Provider's network management practices may affect those services.

(a) Network Management Practices: In the interest of providing the best online experience possible for all of Valley FiberCom's customers, Valley FiberCom utilizes reasonable network management practices tailored to achieve legitimate network management purposes. Because bandwidth is a limited resource for broadband Internet service providers, it is essential that Valley FiberCom reasonably manages its network to promote the use and enjoyment of the Internet by all of Valley FiberCom's customers. By engaging in reasonable and responsible network management, Valley FiberCom prevents its customers from being subjected to the negative effects of spam, viruses, security attacks, network congestion, and other risks that threaten to degrade service. The network management practices employed by Valley FiberCom are consistent with industry standards.

(b) Congestion Management: Valley FiberCom does not employ any congestion management tools, practices and/or software on network traffic.

(c) Application-Specific Behavior: Valley FiberCom does not make use of any application-specific network management practices. FiberCom does not favor, modify, inhibit, rate control or block any specific protocols, protocol ports or fields, or any applications or classes of applications.

(d) Device Attachment Rules: In order for a device to be approved for use on Valley FiberCom's network, the device must conform to publicly available industry standards and be non-harmful to FiberCom's network.

(e) Security:

(i) Valley FiberCom offers its customers unrestricted access to all of the lawful content, services, and applications available on the Internet. Valley FiberCom uses industry standard tools and generally accepted best practices and policies to protect our customers from spam, phishing, and other unwanted or harmful online content and activities. In the instances where these tools and policies identify online content as harmful or unwanted, the content may be prevented from reaching customers, or customers may be permitted to identify or inspect content to determine if it is harmful or unwanted.

(ii) Traffic on Valley FiberCom's network is authenticated; however, individual network users are allowed to adjust and control spam and other personal email delivery settings. The authentication measures in place on Valley FiberCom's network should not interfere with an end user's ability to run specific applications.

(iii) To ensure added security protection for network users, Valley FiberCom has SecureIT services available for a minimal monthly fee. The SecureIT services available from Valley FiberCom include protection against computer viruses and spyware, pop-up blockers, parental controls, personal firewalls and PC cleanup.

(f) Performance Characteristics:

(i) Valley FiberCom offers broadband Internet access service via Ethernet across its fiber network. Ethernet is a high-speed data service that provides end-to-end transmission using Ethernet packet technology.

(ii) The advertised speed of Valley FiberCom's Internet service is the maximum speed achievable with the technology utilized by Valley FiberCom. While the maximum advertised speed is attainable for end users, several factors may affect the actual speed of Valley FiberCom's Internet service offerings, including, but not limited to: the end user's computer, router, activity during peak usage periods, and other Internet traffic.

(iii) In gauging network performance, Valley FiberCom utilizes a variety of testing mechanisms, including, but not limited to: EXFO, JDSU and Fluke, Calix Systems and SDN Communications.

(iv) Based on Valley FiberCom's internal testing measures, during peak usage periods (i.e., between 7:00 p.m. and 11:00 p.m. on weeknights) Valley FiberCom's end users achieve speeds nearly equivalent to their subscribed bandwidth tier. Valley FiberCom monitors network traffic during peak usage periods to ensure the broadband facility is sufficiently sized to accommodate all network activity. Latency on Valley FiberCom's network has been tested and qualified by the State of South Dakota and falls within industry standards.

(v) On its website, Valley FiberCom has made available the tools and resources to end users for the purpose of conducting speed tests on their Internet service. For more information on these tools, please visit:

http://speedtest.sdncommunications.com/

(vi) The actual speeds achieved with Valley FiberCom's Internet service offering make Valley FiberCom's Internet service suitable for real-time applications, such as Voice over Internet Protocol ("VoIP").

(vii) In terms of specialized services, Valley FiberCom offers Internet Protocol Television (i.e., IPTV) and a Transparent Local Area Network Service (i.e., TLS). The specialized services offered by Valley FiberCom do not affect the last-mile capacity available for, and the performance of, Valley FiberCom's broadband Internet access service. FiberCom continually monitors the bandwidth capacity and availability and has future plans to deploy additional capacity in order to meet network demand.

(g) Spam Filter. Valley FiberCom provides spam filtering services in connection with each Customer's email address. Details of this service are listed on www.valleyfibercom.com.

(h) Internet Privacy Policy: The various network management tools and techniques utilized by Valley FiberCom do not monitor, inspect or store the network activity and traffic of its Internet service users. Further, as part of its network management practices, Valley FiberCom does not distribute information on network activity and/or traffic to any third party or use network traffic information for any non-network management purpose. Valley FiberCom's network management practices as discussed herein are intended solely to provide the best online experience possible for all of Valley FiberCom's customers by safeguarding our network and its users from spam, viruses, phishing, and other unwanted or harmful online content and activities. Valley FiberCom's network management practices are not intended, nor implemented, to block consumers from accessing the content and applications of their choice, deprive consumers of their entitlement to competition, or discriminate against or in favor of certain network traffic. End users with questions, concerns or complaints regarding FiberCom's network management practices are encouraged to contact Valley FiberCom for issue resolution.

Further, if you believe that Valley FiberCom is in violation of the FCC's Open Internet Rules, you may file either an informal or formal complaint with the FCC.

http://esupport.fcc.gov/complaints.htm

(i) Additional Disclaimers: The Open Internet Rules, as adopted, and Valley FiberCom's Network Management Practices Policy are not intended to affect, alter or otherwise supersede the legal status of cooperative efforts by broadband Internet access service providers and other service providers that are designed to curtail infringement in response to information provided by rights holders in a manner that is timely, effective, and accommodates the legitimate interests of providers, rights holders, and end users. Furthermore, the Open Internet Rules, as adopted, and Valley FiberCom's Network Management Practices Policy do not prohibit Valley FiberCom from making reasonable efforts to address the transfer of unlawful content or unlawful transfers of content.

20. **Copyright Infringement Procedures**. If Valley FiberCom receives an authorized notice from a content provider that Customer is in violation of copyright law or regulation or has illegally obtained copyright-protected material, Valley FiberCom will comply with the Digital Millennium Copyright Act by providing notice to Customer using the procedures in this Section 19, which include several notices if the Customer does not comply. In these procedures, the first notice will be provided to any customer that has not had

any copyright violations within the previous twenty-four (24) months, otherwise the 2nd Notice will be the initial notice provided.

(a) Customer Notice Procedure.

(i) 1st Notice. Valley FiberCom will provide notification to Customer to explain copyright infringement and to request that the Customer take remedial action to resolve the copyright violation. "Remedial action" will include, but not be limited to, (A) securing the Customer's router, (B) removing copyright material, and (C) educating family members.

(ii) 2nd Notice. Valley FiberCom will provide notification via certified mail and directions for Customer to take remedial action.

(iii) 3rdNotice. Valley FiberCom will provide legal notification via certified mail with return receipt and notice of Service and Product termination risk.

(b) Public Internet Access (Schools, Hotels, Motels, Business Lobbies, Truck Stops and the like).

(i) No action will be taken.

21. **Privacy Policy and Statement.**

(a) Customer Privacy. Protecting the privacy of our customers is important to us. Any contact information you provide in an information request will be used only for purposes of selling, distributing, fulfilling or settlement of the Services or Products. Without your express authorization, we will not divulge any information to third party for purposes other than the sales, distribution, fulfillment or settlement of Services and Products except as otherwise provided herein.

(b) Use of Customer Information. The privacy of your information is important to us. The privacy policy and statement in this Section 20 tells you how we collect information from you and how we use it.

(i) Valley FiberCom Partners. Valley FiberCom sells various "co-branded" services on its website, in newspapers, via phone sales and other mass media. Although Valley FiberCom requests all partners to have a privacy policy consistent with the policy listed below, it is recommended that you view the privacy policy adopted by the Valley FiberCom partners when taking their services.

(ii) Customer Information. It is a fact of modern life that companies, including Valley FiberCom, must collect information about their customers in order to carry out business and offer services. Privacy concerns focus on protecting customer information that an individual expects to be kept private. Such information is information associated with a specific individual or entity, including, for instance, email address, Services offered and information about that customer's usage activities.

(iii) Customer Proprietary Information. From time to time, Valley FiberCom changes its Service and Product offerings and makes available additional features and Services and Products, which may enhance and augment the Service or Product to which you are already subscribed. In order for us to determine which customers may benefit from the new Services and Products, we will use information about your account from our databases, legally referred to as Customer Proprietary Network Information ("CPNI") unless you restrict that use in the manner described below. CPNI includes information such as the long-distance carrier and calling plan to which you are subscribed, calling features and plans to which you are subscribed, calling patterns and usage of various features, and charges associated with the Services you subscribe to. Use of this data will allow Valley FiberCom to identify Service and Product offerings to meet your individual needs. For this purpose, CPNI data will be used by Valley FiberCom only. This data will not be shared by Valley FiberCom with any other outside source except as necessary to provide the Services and Products to which you are already subscribed and when we are legally compelled to do so.

(iv) Restricting CPNI Usage. You have the right under federal law to protect the confidentiality of your account information and restrict the use of CPNI data, and we have a responsibility to protect your data. To restrict the use of your CPNI data, you must call the business office toll free at 1-800-463-4237 during regular business hours, or email us at service@valleyfibercom.com within 30 days of your receipt of this notice to request that we not utilize your CPNI data. Your denial or approval for Valley FiberCom to use this data will not affect the provision of any Services or Products to which you subscribe. You may change your decision at any time and your decision will remain valid until you tell us otherwise. Again, we will only use your account information to market other communications Services and Products Valley FiberCom offers and no action is required unless you wish to restrict our use of your CPNI. You will still receive monthly bill inserts, newsletters and other publications that are sent to all customers at the same time, so that you are kept up to date on what is happening at Valley FiberCom.

(v) "Cookies". Pieces of information that a website transfers to a customer's hard drive are called "Cookies." When you view our website or advertisements, some information is stored on your computer. This information will be in the form of a "Cookie" or similar file and will be used to determine ways to improve our website, advertisements, Products or Services. For example, Cookies allow us to tailor a website to better match your interests and preferences.

(vi) Information Security and Data Retention. Valley FiberCom maintains strict customer information privacy policies and uses current technology to safeguard customer information from unauthorized disclosure. Employees are trained on the importance of protecting privacy and on the proper access to, use and disclosure of customer information. Personally identifiable and other sensitive records are retained only as long as reasonably necessary for business accounting, tax, or legal purposes. If during the provision of services for customer, private information provided to customer by third-parties, as part of customer's business activities, is unintentionally or unavoidably disclosed to Valley FiberCom, Valley FiberCom will not copy, tamper with, remove from the place where found, retain, disclose or use in any way the information. Although we work hard to protect personal information that we collect and store, no program is 100% secure and we cannot guarantee that our safeguards will prevent every unauthorized attempt to access, use, or disclose personal information.

22. **Third-Party and External Links**. Our website may contain links to the websites of other companies or governmental offices that are outside our control. When you follow a link to another site, you leave our site and your interactions are no longer protected by our privacy policy. Valley FiberCom is not responsible for and does not endorse the privacy or security practices and content of these external websites.

23. **Tariff**. The Service(s) or any other matters described in or related to this Agreement which are or later become subject to any of Valley FiberCom's tariffs (collectively, the "Tariff") filed with, or regulations of, the FCC, the South Dakota Public Utilities Commission, or any other government body, board, or commission of competent jurisdiction, the provisions of this Agreement shall supersede any conflicting provisions of the Tariff, unless otherwise set forth herein.

24. **Electronic Communications**. When you visit Valley FiberCom websites or send emails to us, you are communicating with us electronically. We will communicate with you by email or by posting notices on this site www.valleyfibercom.com, or other sites that may be added from time to time.

25. **Limitation of Liability.** Neither party shall be liable to the other for any loss, damage, liability, claim or expense arising out of or in relation to this agreement or the provision of service or equipment, however caused, whether grounded in contract, tort (including negligence) or theory of strict liability. The parties agree to work in good faith to implement the purpose of the Agreement but recognize the network connection and services to be provided by Valley FiberCom could not be made available under these terms or other similar terms without substantial increase in cost if the parties were to assume a greater lability to each other.

26. **Warranty**. With respect to the services provided pursuant to this Agreement, Valley FiberCom makes no warranties of any kind, expressed or implied, including any implied warranty of merchantability or fitness of this service for a particular purpose. Valley FiberCom takes no responsibility for any damages suffered by the customer, including damage caused by its own negligence or customer's errors and/or omissions.

27. **Amendments; Website Use**.

(a) Valley FiberCom, at its sole discretion, may amend the pricing for its Products and Services in this Agreement. Changes to pricing for Products and Services shall become effective thirty days after the change is posted to Valley FiberCom's website at www.valleyfibercom.com. Customer may object to any change in pricing of Products or Services covered under this Agreement within the thirty-day period or shall be estopped and barred from contesting the validity of such price change. Customer, by continuing to use the Service and Product after such thirty-day notice of the changes to the pricing of the Product and Service in this Agreement, will have been deemed to acknowledge and agree to the changed pricing.

(b) Valley FiberCom, at its sole discretion, may change or amend the terms and conditions of this Agreement without notice by posting the change or amendment to Valley FiberCom's website. The change or amendment shall become effective when it is posted to the website. Customer, by continuing to use the Service and Product after the effective date of the

change or amendment will have been deemed to acknowledge and agree to the change or amendment.

(c) Valley FiberCom provides Customer access to its website subject to the conditions of this Agreement. Customer, by using Valley FiberCom's websites, signifies and acknowledges his, her or its agreement to all terms, conditions, and notices contained or referenced herein, which Valley FiberCom may update from time to time without notice. It is Customer's responsibility to stay informed of any posted changes.