

## NUCONNECT TERMS OF SERVICE

These Terms of Service apply to NUconnect IPTV, Phone and Internet and related services ("Services") delivered by the NUconnect Division of Newport Utilities and doing business as NUconnect ("NUconnect").

The terms and conditions contained herein outline essential information regarding the terms and conditions of service, billing procedures and the relationship between you, the Customer, and NUconnect regarding the provision of NUC services you have selected. Customer agrees to be bound by all the terms and conditions contained herein and posted on our website, [www.NUconnect.com](http://www.NUconnect.com). The website contains important information regarding NUconnect, Terms of Use, and our Privacy Policy.

### **I. PAYMENT and FEES**

#### **Payment**

Customer agrees to pay monthly charges in advance. Failure to pay the total balance when due shall constitute a breach of the Service Agreement and may be grounds for disconnection of Service and/or imposition of additional fees, in accordance with applicable law. NU may charge a reasonable service fee for all returned checks and bankcard charge backs. The returned check amount (plus fee) must be replaced by cash, cashier's check or money order. NU may also charge a deposit for service based on customer's credit rating as determined in accordance with NU's policies and procedures. Any charges associated with Service and Equipment additions required by Customer subsequent to the initial installation shall be reflected on the Customer's billing statement after the additional Service and/or Equipment has been added. Customer must bring any billing errors or requests for credit to NU's attention within thirty (30) days of the time Customer receives the bill for which credit or correction of a billing error is sought. If you default on payment, you agree to pay the amount owed and reasonable expenses, including attorney fees, court costs, service fees and collection agency fees, incurred in enforcing its rights under the NUconnect Service Agreement. Monthly service charges will be pro-rated if you cancel service. You may cancel service at any time by notifying NUconnect at (423) 625-2800, or in person at 170 Cope Blvd., Newport, TN, 37821.

Payments may be mailed to **P. O. Box 519; Newport, TN 37822**, brought into our business office at 170 Cope Blvd., Newport, TN, 37821, or paid online at [www.NUconnect.com](http://www.NUconnect.com). NUconnect also offers automatic payment services. Customers may pay their bill by using a debit or credit card. NUconnect reserves the right to change monthly fees. You will be notified at least 30 days prior to any proposed change in rates.

## **Deposits**

NU will not require a deposit upfront. However, NU reserves the right to require a deposit should the Customer's NUconnect service be frequently disconnected for non-payment. NU does require Customer to be current with their NU utilities account in order to establish new NUconnect service. If a deposit is retained, it will earn interest at NU's passbook savings rate plus 1%. The interest rate is reviewed and/or adjusted annually in July. Interest earned will be accumulated to Customer's deposit account on a monthly basis. Once a deposit is retained, the Customer may be eligible for a deposit refund at the Customer's request after 12 months of current account status (no disconnects for non-payment).

## **Late Fees**

If NU does not receive timely, full payment, Customer may be charged a 5% Late Fee. The Late Fee is intended to be a reasonable advance estimate of costs to manage past due accounts. Some examples of costs incurred to manage past due accounts include the additional expense associated with preparing additional bill statements, processing Customer's service records, mailing additional notices, tracking past due accounts, responding to inquiries regarding past due balances, making collection telephone calls, performing special procedures to process past due payments, generating work orders and performing necessary field work to collect past due accounts. NU will tell Customer the amount of the Late Fee and other separate or additional charges at the time Customer subscribes to and receives NU's services, prior to the time NU implements a new fee, and in NU's mailings to Customer thereafter. NU does not extend credit to our Customers and the Late Fee is not interest, a credit service charge, or a finance charge. NU's late fee practices may be revised to comply with applicable federal, state, or local laws, rules, or regulations.

## **Prior Accounts**

Customer warrants that no monies are owing to NU from previous accounts with NU. If NU finds a prior account with Customer with monies owed to NU, then NU may apply any funds received to that prior account.

## **Assignment Change of Occupancy**

The Service shall only be provided to Customer at the address where NU's installation is performed. Customer may not transfer Customer's rights or obligations to the Service to any successor tenant or occupant or to any other address without NU's prior written consent.

## **Resolution of Dispute**

Any dispute regarding charges to your account must be lodged within thirty (30) days of the date of the statement, or you will be deemed to have accepted the charges.

## **Taxes, Fees and Surcharges**

State and local governments may assess taxes, surcharges and/or fees on your use of the NUconnect Network and NUconnect Services. These charges may be a flat fee or a percentage of your charges and may change from time to time without notice. These charges are based on the rates applicable to the address you provided to us. You are responsible for all applicable federal, state, provincial, municipal, local or other governmental sales, use, excise, value-added, personal property, public utility or other taxes, fees or charges now in force or enacted in the future, that arise from or as a result of your subscription or use or payment for the NUconnect Network and NUconnect Services. Such amounts are in addition to payment for the NUconnect Network and NUconnect Services.

## **II. SERVICE INSTALLATION**

### **Appointments**

Installation and service call appointments are scheduled in advance. If NUconnect cannot meet a scheduled commitment, NUconnect will attempt to notify you and reschedule the appointment for a convenient time.

### **Moving?**

If you are moving within the same service area, NUconnect will be glad to schedule an appointment to install NUconnect services at your new location. Please notify NUconnect at least ten (10) days prior to your move and we'll arrange to transfer your services. Some fees and restrictions may apply. When you transfer your services, your account must be in current standing and any credits and charges from your previous service address will be transferred to your new account address. These credits and charges may take up to two (2) months to appear on your NUconnect bill.

### **Changes to Service**

NU reserves a time window (typically five to seven business days) to effect any changes in Service. Any refund due will be mailed within 30 days after settlement of account, return of Equipment to NU, and completion of the final billing cycle.

### **Access to Customer Premises**

From time to time, NUconnect may need to enter the premises at which you will use the Services ("Premises") in order to install, maintain, inspect, repair, and remove the NUconnect Equipment or Services. Accordingly, you authorize NUconnect and its employees, agents, contractors, and representatives to enter the Premises as necessary, at a time agreeable to you and us. You warrant either that you are the owner of the Premises, or if you are a tenant, that you have the authority to allow us access to the Premises. If you are not the owner of the

Premises, you agree to supply us, if we ask, the owner's name and address, evidence that the owner has authorized you to grant access to the Premises, and written consent from the owner.

"Adult at Home" Policy: Our installers and technicians will not enter your home to perform any work unless a responsible adult is present. We realize this may cause an inconvenience for some of our customers, but this policy is essential to protect you and our employees.

### **III. EQUIPMENT**

All equipment, including converters, terminals, and remote controls provided by NUconnect are the property of NUconnect and must be returned if you terminate your service. Your account will be charged a fee for any equipment which is not returned to NUconnect at the time your service is disconnected. This charge also applies should any of the equipment be stolen from your home or returned damaged beyond the normal wear and tear.

NUconnect will repair and/or replace the equipment we use to provide your services at no charge if the repair or replacement is not the result of your negligence, fault, or theft from your home. If you are experiencing problems with your service, contact Customer Service at (423) 625-2800. NUconnect does not repair equipment owned by you, such as DVD players, telephones, modems, computers and televisions and is only responsible for bringing service to the input of such equipment.

#### **Damage to or Failure to Return NUconnect Equipment**

In the event the NUconnect Equipment is lost, stolen, damaged, destroyed, or otherwise not returned promptly to NUconnect, you agree to pay the current replacement cost of the NUconnect Equipment. We suggest that the NUconnect Equipment in your possession be covered by your homeowners, renters, or other insurance. You understand that failure to pay the replacement charge will result in the matter being turned over to a collection agency and attorneys to pursue legal action.

#### **Unauthorized Use of NUconnect Equipment or Services**

Unauthorized use of NUconnect Equipment or Services constitutes a violation of federal and state law and a breach of this Agreement. NUconnect will press charges against all violators. You will be liable for all unauthorized use of the Services and for any and all stolen Services. You agree to notify NUconnect immediately in writing or by calling our customer service line during normal business hours if you become aware at any time that the NUconnect Equipment has been stolen or that your Services are being stolen or used without your authorization. If you fail to notify NUconnect in a timely manner, your Services may be terminated without notice, with additional charges to you.

## **Service and Maintenance Procedures**

In the event of a problem with Customer's service or NU Equipment, Customer should contact NU Customer Service at (423) 625-2800. Depending on the nature of the problem, we may at our option schedule an appointment for our Service Technician to visit Customer's service location, usually by the next business day. NU does not charge for service calls if NU Equipment caused the problem. Customer agrees to cooperate by all reasonable means to allow an NU representative to inspect its facilities either inside or outside the place of attachment and with its attempts to resolve a service or equipment problem. Customer agrees that NU is not obliged to service any Customer Equipment, including your telephone or fax equipment. In the event that NU determines in its sole judgment that the problem was caused by Customer Equipment, Customer negligence, lack of knowledge, Customer software, Customer-installed wiring or hardware, Purchased Equipment not covered by its limited warranty, or any problem not caused by NU, you agree to pay for the service appointment and our reasonable charges for repair. In some cases, NU may decline to undertake the repair.

If a problem is not resolved to your satisfaction, you may write or call us with concerns or complaints. Emergencies such as fallen trees or utility poles, violent storms or very cold weather may interfere with the Services. Our crews are promptly dispatched to correct any emergency when practicable. As these situations may affect a large service area, it may take several days to resume full service to the entire area.

## **Limitation of Liability; Indemnification; No Warranties**

### **No Warranties**

THE NUCONNECT EQUIPMENT AND SERVICES ARE PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER THE NUCONNECT PARTIES NOR THEIR SERVICE PROVIDERS WARRANT THAT THE NUCONNECT EQUIPMENT OR THE SERVICES WILL MEET YOUR REQUIREMENTS, PROVIDE UNINTERRUPTED USE, OR OPERATE AS REQUIRED, WITHOUT DELAY, OR WITHOUT ERROR, OR THAT THEY WILL NOT INTERFERE WITH OTHER THIRD-PARTY EQUIPMENT OR SERVICES. NEITHER THE NUCONNECT PARTIES NOR THEIR SERVICE PROVIDERS WARRANT THAT ANY COMMUNICATIONS WILL BE TRANSMITTED COMPLETELY OR IN UNCORRUPTED FORM. ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF PERFORMANCE, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, ARE HEREBY EXCLUDED. NEITHER THE NUCONNECT PARTIES NOR THEIR SERVICE PROVIDERS WARRANT, OR SHALL BE RESPONSIBLE IN ANY REGARD, FOR ANY MERCHANDISE OR SERVICES ORDERED THROUGH THE SERVICES FROM THIRD PARTIES OR OTHER COMMERCIAL TRANSACTIONS WITH THIRD PARTIES. CUSTOMER SHALL BE RESPONSIBLE FOR ALL SUCH CHARGES AND SHALL INDEMNIFY NUCONNECT FOR ALL LIABILITY IN CONNECTION THEREWITH.

### **Limitations on Liability for Malfunctions and Intellectual Property Claims.**

EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, IN NO CIRCUMSTANCE AND UNDER NO LEGAL THEORY (INCLUDING BUT NOT LIMITED TO TORT, CONTRACT, OR OTHERWISE), SHALL THE NUCONNECT PARTIES OR THEIR SERVICE PROVIDERS HAVE ANY LIABILITY TO YOU OR TO ANY PERSON OR ENTITY FOR (i) ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, TREBLE, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL LOSSES OR DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, LOSS OF EARNINGS, LOSS OF BUSINESS OPPORTUNITIES, OR PERSONAL INJURIES (INCLUDING DEATH), RESULTING DIRECTLY OR INDIRECTLY OUT OF, OR OTHERWISE ARISING IN CONNECTION WITH, THE INSTALLATION, SELF-INSTALLATION, MAINTENANCE, FAILURE, REMOVAL, OR USE OF THE SERVICES, INCLUDING LACK OF 911/E911 OR DIALING ASSOCIATED WITH A SECURITY SYSTEM, OR THE USE OR ATTEMPTED USE OF OR CUSTOMER'S RELIANCE ON OR USE OF THE NUCONNECT EQUIPMENT, PURCHASED EQUIPMENT, OR THE SERVICES, INCLUDING BUT NOT LIMITED TO ANY MISTAKES, OMISSIONS, INTERRUPTIONS, FAILURES OR MALFUNCTION, ERRORS, DEFECTS, DELAYS IN OPERATION, DELAYS IN TRANSMISSION, LOSS OF INFORMATION OR DATA, OR FAILURE OF PERFORMANCE OF THE NUCONNECT EQUIPMENT OR SERVICES; OR (ii) ANY LOSSES, CLAIMS, DAMAGES, EXPENSES, LIABILITIES, OR COSTS (INCLUDING LEGAL FEES) RESULTING DIRECTLY OR INDIRECTLY OUT OF, OR OTHERWISE ARISING IN CONNECTION WITH, ANY ALLEGATION, CLAIM, SUIT, OR OTHER PROCEEDING BASED UPON A CONTENTION THAT THE USE OF THE NUCONNECT EQUIPMENT OR THE SERVICES BY CUSTOMER OR ANY OTHER PERSON OR ENTITY INFRINGES THE COPYRIGHT, PATENT, TRADEMARK, TRADE SECRET, CONFIDENTIALITY, PRIVACY, OR OTHER INTELLECTUAL PROPERTY RIGHTS, OR CONTRACTUAL RIGHTS OF ANY THIRD PARTY.

### **Limitations on NUconnect's Liability for Customer Equipment and Software**

Customer Equipment may be damaged or suffer service outages as a result of the installation, use, inspection, maintenance, repair, and removal of the NUconnect Equipment and the Services. Except for gross negligence or willful misconduct by us, none of the NUconnect Parties shall have any liability whatsoever for any damage, loss, or destruction to the Customer Equipment. In the event of gross negligence or willful misconduct by NUconnect, we shall pay at our sole discretion for the repair or replacement of the damaged parts up to a maximum of \$250. This shall be your sole remedy relating to such activity. Use of certain features of the Services, such as integrated messaging (where available), may require special software, applications, or access to web portals. NUconnect makes no representation or warranty that any software or application installed on your computers or web portal does not contain a virus or other harmful feature. It is your sole responsibility to take appropriate precautions to protect any computer and other hardware of yours from damage to its software, files, and data as a result of any such virus or other harmful feature. We are not required to provide you with any assistance in removal of viruses. If we decide, in our sole discretion, to install or run virus check software on your computer, we make no representation or warranty that the virus check software will detect or correct any or all viruses. You acknowledge that you may incur additional charges for any service call made or required on account of any problem related to a virus or other harmful feature detected on your system. NEITHER THE NUCONNECT PARTIES

NOR ITS SERVICE PROVIDERS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY DAMAGE TO OR LOSS OF ANY HARDWARE, SOFTWARE, FILES, OR DATA RESULTING FROM A VIRUS, ANY OTHER HARMFUL FEATURE, OR FROM ANY ATTEMPT TO REMOVE IT.

NUconnect does not represent, warrant, or covenant that the installation of the special software or applications described in the preceding paragraph or access to our web portals will not cause the loss of files or disrupt the normal operations of any Customer Equipment, including but not limited to your computer. FOR THESE AND OTHER REASONS, YOU ACKNOWLEDGE AND UNDERSTAND THE IMPORTANCE OF BACKING UP ALL FILES TO ANOTHER STORAGE MECHANISM PRIOR TO SUCH ACTIVITIES. YOU UNDERSTAND AND ACCEPT THE RISKS IF YOU DECIDE NOT TO BACK UP FILES. NEITHER THE NUCONNECT PARTIES NOR ITS SERVICE PROVIDERS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY DAMAGE TO OR LOSS OF ANY SOFTWARE, FILES, OR DATA.

### **Limitations on NUconnect's liability for Third Parties**

Notwithstanding anything to the contrary in this Agreement, you acknowledge and understand that we may use third parties to provide components of the Services, including without limitation their services, equipment, and infrastructure ("Service Providers"). NUconnect is not responsible for the performance or non-performance of third-party services, equipment, or infrastructure, whether or not they constitute components of the Services. NUconnect shall not be bound by any undertaking, representation, or warranty made by an agent or employee of NUconnect or of our Service Providers in connection with the installation, maintenance, or provision of the Services, if that undertaking, representation, or warranty is inconsistent with the terms of this Agreement. The limitations of liability set forth herein apply to any acts, omissions, and negligence of the NUconnect Parties and their Service Providers which, but for that provision, would give rise to a cause of action in contract, tort, or any other legal doctrine.

### **Customer's Indemnification of NUconnect**

EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, YOU AGREE TO DEFEND, INDEMNIFY, AND HOLD THE NUCONNECT PARTIES AND THEIR SERVICE PROVIDERS, HARMLESS FROM CLAIMS OR DAMAGES RELATING TO OR ARISING OUT OF YOUR BREACH OF THIS AGREEMENT OR YOUR AND YOUR USERS' USE OF THE SERVICES OR ANY NUCONNECT EQUIPMENT, INCLUDING BUT NOT LIMITED TO ANY CLAIMS OR DAMAGES ARISING OUT OF THE LACK OF 911/E911 OR DIALING ASSOCIATED WITH A SECURITY SYSTEM, HOME DETENTION, OR MEDICAL MONITORING SYSTEM. YOU AGREE THAT NUCONNECT SHALL NOT BE RESPONSIBLE FOR ANY THIRD-PARTY CLAIMS AGAINST US THAT ARISE FROM YOUR USE OF THE SERVICES OR THE NUCONNECT EQUIPMENT. FURTHER, YOU AGREE TO REIMBURSE US FOR ALL COSTS AND EXPENSES RELATED TO THE DEFENSE OF ANY SUCH CLAIMS.

## **Service Interruptions Due to Technical Malfunctions and Force Majeure Events**

In the event of complete failure of a Service due to technical malfunction for 24 consecutive hours or more, you are entitled to a prorated credit upon request. To qualify for a credit, you must request it within 30 days of the failure. THE FOREGOING IS YOUR SOLE REMEDY FOR A SERVICE INTERRUPTION. YOU UNDERSTAND AND ACKNOWLEDGE THAT THERE MAY BE INTERRUPTIONS OF THE SERVICES DUE TO ACTS OF GOD, WAR, WEATHER, POWER FAILURES, EQUIPMENT FAILURES, OR OTHER SIMILAR EVENTS BEYOND THE CONTROL OF NUCONNECT. NONE OF THE NUCONNECT PARTIES OR THEIR SERVICE PROVIDERS SHALL HAVE ANY LIABILITY, INCLUDING AS SET FORTH IN THIS SECTION 12(g), FOR INTERRUPTIONS OF SERVICE DUE TO CIRCUMSTANCES BEYOND THEIR CONTROL, OR FOR CLAIMS OR DAMAGES ARISING FROM SUCH INTERRUPTIONS.

## **Customer's Sole Remedies**

Your sole and exclusive remedies under this Agreement are as expressly set forth in this Agreement. If any of the above exclusions is found invalid, the liability of the NUconnect Parties and their service providers is limited to the maximum extent permitted by law.

## **Home Wiring**

The following notice will serve to inform you of your options regarding the home wiring located within your dwelling that is used to provide cable service. NU's responsibility includes the wiring from our delivery point (NAP) to the primary Ethernet connection. It does not include extra outlets, splitters, connections and fittings or wall plates attached to the wire, nor does it include devices such as converters, descramblers, CableCARDS, A/B switches, parental lockout devices, security devices and the like.

For new and existing single unit installations, the cable wire inside the Demarcation point, as defined by the FCC, shall become a fixture to the realty upon installation. For multiple dwelling unit or commercial installations, the cable wire inside the Demarcation point shall not be deemed a fixture or part of the Customer's realty unless the Customer purchases the cable wire when Service is terminated. Pursuant to FCC regulations, all customers are given the option to acquire the home wiring within their dwelling unit upon termination of cable service. However, even prior to termination of cable service, we allow our customers to remove, replace, rearrange, repair or maintain any cable wiring located within the interior space of the customer's dwelling unit so long as such actions do not interfere with our ability to meet FCC technical standards or to provide services to you or your neighbors. For example, you may not attach any device or equipment to your home wiring in a way that impairs the integrity of the cable system, such as by creating signal leakage, or which may cause a violation of government regulations. Furthermore, you may not attach devices or equipment to the wiring which alone or together result in a degradation of signal quality to you or your neighbors.



If you choose to have us remove, replace, rearrange or maintain the wiring inside your home, you will be charged our regular hourly service charge on a per-visit basis. For maintenance, you have the option of purchasing our optional inside wiring maintenance plan for a small monthly fee. This optional program covers most but not all home wiring problems. For example, it does not cover damage to home wiring caused by you or any third party should you attempt to undertake your own removal, replacement, rearrangement, repair, extension or maintenance of that wiring. Furthermore, we are not responsible for problems relating to the operation of customer-owned consumer electronics equipment such as televisions, DVDs, DVRs, home antennas, etc., which may be connected to home wiring. We are, however, responsible for problems relating to any equipment which you lease from us, other than problems caused by tampering, neglect or abuse.

You also have the option of removing, repairing, rearranging or maintaining the home wiring yourself or of hiring a qualified outside contractor to do the work for you. It is extremely important that only high quality home wiring materials be used and that these materials be properly installed in order to avoid signal leakage and to maintain signal quality in compliance with FCC technical regulations.

Please Note...

In the event improper installation by anyone other than NUconnect or the use of improper materials causes signal degradation and/or leakage, you may be held responsible for the cost of rectifying the problem. Also, NUconnect may be required under federal law to terminate your cable service until the problem can be remedied.

#### **IV. SERVICE DISCONNECTION**

Customer may request to terminate Service in person at NU's main office or by telephone at (423) 625-2800. All complete Service terminations will require a service technician to retrieve NU's customer premise equipment. Please note that billing will continue on all Services until equipment has been returned. If Customer discontinues partial service, i.e. Video, but maintains other services, a determination shall be made regarding which equipment is to be returned at the time of partial termination.

#### **V. CUSTOMER OWNED and/or PROVIDED EQUIPMENT**

##### **Specifications**

Any customer-owned or provided equipment that you use in connection with the Services (except equipment purchased from NUconnect) ("Customer Equipment") must meet NUconnect's current minimum technical and other requirements.

## **No Warranty**

If you install or use Customer Equipment in connection with the Services that does not meet the minimum technical or other requirements described above (a "Non-Recommended Configuration"), you agree that you will not be entitled to customer support relating to any issues other than the quality of the signal delivered to the Customer Equipment. NEITHER NUCONNECT NOR ANY OF ITS OWNERS, OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, THEIR AGENTS, OR ASSOCIATED PARTIES ("NUCONNECT PARTIES") WARRANT THAT A NON-RECOMMENDED CONFIGURATION OR THE USE OF CUSTOMER EQUIPMENT WILL ENABLE YOU TO SUCCESSFULLY INSTALL, ACCESS, OPERATE, OR USE THE SERVICES. YOU ACKNOWLEDGE THAT ANY SUCH INSTALLATION, ACCESS, OPERATION, OR USE COULD CAUSE DAMAGE TO CUSTOMER EQUIPMENT. NONE OF THE NUCONNECT PARTIES SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY SUCH FAILURE OR DAMAGE, INCLUDING BUT NOT LIMITED TO LACK OF 911/E911 OR DIALING ASSOCIATED WITH A SECURITY SYSTEM. For purposes of this Agreement, "affiliate" means any entity that controls, is controlled by, or is under common control with NUconnect. The foregoing limitation of liability is in addition to and shall not limit any other limitation of liability set forth in this Agreement.

## **Maintenance of Customer Equipment**

NUconnect shall have no obligation to provide, maintain, or service Customer Equipment. You agree to allow us the rights to send software and/or downloads to Customer Equipment and install, configure, maintain, inspect and upgrade the Customer Equipment.

## **National Do Not Call List**

If you would like to add or remove your number from the National Do Not Call List, you may do so by calling 1-888-382-1222 or online at [www.donotcall.gov](http://www.donotcall.gov).

## **VI. SPECIFIC PROVISIONS REGARDING VIDEO SERVICES**

### **Products, Services and Pricing**

NUconnect provides customers with a wide selection of programming choices. All customers must subscribe to Basic service to access other programming choices, including tiers of service and services offered on a per program or per channel basis. A complete list of programming choices is provided to you upon subscription to our service or upon request.

### **Instructions on How to Use Your Cable Service**

Instructions on how to use your cable service are outlined in our Welcome Kit, which will be provided to you when your services are installed. This information is also available by request or on-line at [www.NUconnect.com](http://www.NUconnect.com).

## **Pricing and Service Changes**

Unless otherwise provided by applicable law, NUconnect will notify you 30 days in advance of any price or service change. Notice of these changes may be provided on your monthly bill, as a bill insert, as a separate mailing, in the Legal Notice section of the newspaper, or through other written means.

## **Restrictions**

Customer may not order or request PPV, digital music or any other programming for receipt, exhibition or taping in a commercial establishment. Customer may not exhibit or assist in the exhibition of PPV programming in a commercial establishment unless explicitly authorized to do so by agreement with an authorized program provider. If Customer fails to abide by this restriction, Customer accepts liability for any and all claims made against Customer or NU on account of any commercial exhibition.

Residential Customers may not commercially profit from reselling NUconnect content.

## **Programming**

Customer acknowledges that NU has the right at any time to preempt without notice specific advertised programming and to substitute programming which NU deems to be comparable.

## **Theft of Service**

Customer shall not intercept, receive, share or assist in the interception, receipt or sharing of any Service offered by NU. Customer shall not move Equipment to another location or use it at an address other than the Service address without prior authorization from NU.

## **Complaint Procedures**

If you have a complaint about your service, billing, or terms and conditions of service, you may call us directly at (423) 625-2800. In addition, where applicable, we have identified on your monthly bill the franchising authority that you may contact should we fail to resolve your complaint.

## **Maintenance**

Our technicians must periodically test and occasionally repair our cable equipment throughout the cable system. Cable repair may cause a temporary loss of cable service to an entire neighborhood known as a "maintenance outage." If your cable is not working properly, contact Customer Service at (423) 625-2800. If a maintenance outage is affecting your area, you will be informed when you call. If the problem is not being caused by maintenance, we will determine the source of the problem and will restore your service as quickly as possible.

## **Service Interruptions**

NUconnect maintains a high standard of technical operations within our cable systems and responds promptly to most service interruptions. On occasion, service interruptions may arise due to unforeseen problems such as power outages, electrical storms, severe weather conditions, equipment failures, auto accidents involving utility poles, and in some cases, loss of signal at the origination point of the program. In addition, twice a year our satellite reception is disrupted by activity from the sun. This disturbance, which affects most cable and satellite companies within the United States, occurs at the end of February and again in October, due to direct alignment of the sun with our satellite and our earth stations. Unless otherwise provided by applicable law, if you experience a verifiable service outage of more than two hours and notify us in a timely manner, we'll credit your account for such loss of service.

## **Sports Blackouts**

Professional sporting events, both local and national, may be subject to blackouts per the league's broadcast rules. Due to these blackouts, not all programming and services will be available in all areas and programming may be subject to change.

## **Equipment Compatibility**

NUconnect Video is an Internet protocol (IPTV) digital signal delivery system. A set-top box is required on each television to view television content. When using a digital set-top box, you may be unable to use certain features of your TV or DVR without additional equipment, including recording one program while watching another, recording two or more consecutive programs that appear on different channels, and picture-in-picture viewing.

Digital set-top boxes are available for lease from NUconnect. If you see advertisements for digital set-top boxes with built-in descramblers (so-called "pirate boxes" or "black boxes") or for CableCARD security devices, please remember that these devices are illegal to sell or use unless authorized by NUconnect. NUconnect does not authorize the use of any "pirate boxes." Receivers with descrambling capabilities and separate security devices may only be obtained from NUconnect.

Digital cable ready equipment including television sets cannot access two-way cable services such as pay-per-view events and video-on-demand without a digital set-top box. If your television cannot receive UHF television broadcast signals or the standard or high definition digital signals of television broadcast stations, you may need a digital set-top box to view these stations on primary and/or additional outlets. You must have an HD compatible television or other HD compatible video equipment to view services in high definition format.

A remote control is provided at no extra charge when you lease a digital set-top box from NUconnect. The remote control that came with your TV or other video equipment may also be

capable of controlling NUconnect's set-top boxes, or you may also purchase a "universal" remote control unit from a retail store that is capable of working with a digital set-top box.

Please note that these remotes may stop functioning if NUconnect begins to offer a different type of box. If you have any questions about the compatibility of your remote control unit, please call NUconnect's Technical Service Department at (423) 625-2800, or E-mail [support@NUconnect.com](mailto:support@NUconnect.com).

## **VII. SPECIFIC PROVISIONS REGARDING INTERNET SERVICES**

### **Prohibition from Unlawful Use**

You may use the Services for lawful purposes only. You may not submit or transmit through the NUconnect Network or via any NUconnect Service any material, or otherwise engage in any conduct that:

1. violates or infringes the rights of others including, without limitation, patent, trademark, trade secret, copyright, publicity or other proprietary rights;
2. is unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, tortuous, or contains explicit or graphic descriptions, or accounts of, sexual acts;
3. victimizes, harasses, degrades, or intimidates an individual or group of individuals on the basis of religion, gender, sexual orientation, race, ethnicity, age, or disability;
4. impersonates any person, business or entity, including and its employees and agents;
5. contains viruses or any other computer code, files or programs that interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment, or otherwise permit the unauthorized use of a computer or computer network;
6. encourages conduct that would constitute a criminal offense, or that gives rise to civil liability;
7. violates these Terms of Service, the Acceptable Use Policy guidelines or any policy posted on the NUconnect Network, or
8. interferes with the use of the NUconnect Network or any NUconnect Service by others.

You may not use the NUconnect Network or any NUconnect Service in any manner that could damage, disable, overburden, or impair our servers or networks, or interfere with any other party's use and enjoyment of the NUconnect Network or NUconnect Service. You may not attempt to gain unauthorized access to any services, user accounts, computer systems or networks, through hacking, password mining or any other means. We may take any legal and technical remedies to prevent the violation of this provision and to enforce these Terms of Service.

If NUconnect believes that you have used the NUconnect Network or any NUconnect Service in any of the aforementioned ways, NUconnect may forward the relevant communication and

other information, including your identity, to the appropriate authorities for investigation and prosecution. You hereby consent to our forwarding of any such communications and information to these authorities. In addition, NUconnect will provide information in response to law enforcement requests, subpoenas, or court orders, to protect our rights and property and in the case where failure to disclose the information may lead to imminent harm to the customer or others. NUconnect reserves all of our rights at law and equity to proceed against anyone who uses the NUconnect Network or any NUconnect Services illegally or improperly.

### **Content**

You may only post text, messages, information, software, images, audio and video (“Content”) to public areas on the Services that you created or that you have permission to post. You may not post Content that violates these Terms of Service. We do not claim ownership of any Content that you may post. However, by submitting Content to public areas of the Services, you grant us, our parent, affiliates, and distributors the right to use, copy, display, perform, distribute, adapt and promote this Content in any medium.

We are not liable for Content that is provided by others. We have no duty to pre-screen Content. We reserve the right to remove Content for any reason, but we are not responsible for any failure or delay in removing such material. We are not responsible for content made available on the Internet or any dealings that you have with advertisers found on the NUconnect Network are between you and the advertiser and you acknowledge and agree that we are not liable for any loss or claim you may have against an advertiser.

It is your responsibility to impose any restrictions on viewing of any Video Programming available over the NUconnect Network or through any NUconnect Service by you, other members of your household, or guests, and we shall have no liability to anyone due to or based on the content of any of the NUconnect Services furnished to you.

### **Content You May Use**

NUconnect, our suppliers, and our other users who lawfully post Content on the NUconnect Network own the property rights to that Content. The Content is protected by copyright, trademark, patent, trade secret, international treaties, laws and other proprietary rights, and also may have security components that protect digital information. You may only use such Content for personal, non-commercial purposes. You may use Content offered for downloading, such as photos and music, for personal use only and subject to the rules that accompany that particular Content. You may not use the Content in a manner that exceeds the rights granted for your use of the Content, which includes unauthorized copying or distribution of the Content or creating an unauthorized derivative work. You may not circumvent any mechanisms for preventing the unauthorized reproduction or distribution of the Content.

## **VIII. SPECIFIC PROVISIONS REGARDING PHONE SERVICES**

### **Restrictions Applicable to Residential Customers**

If you purchased service under a residential plan, we reserve the right to immediately disconnect or modify your access to the NUconnect Network or any NUconnect Service if we determine, in our sole and absolute discretion, that your use of the NUconnect Network or any NUconnect Service is, or at any time was, inconsistent with normal residential usage patterns. In addition, you will be required to pay our higher rates for commercial service for all periods in which your use of the Service was inconsistent with normal residential use.

### **Calling Plans**

NUconnect offers several different Calling Plans. Some Calling Plans include popular calling features, including Call Waiting, Caller ID, and Voice Mail. Other special features may be available for an extra monthly charge. All rates and fees are subject to change.

Unlimited Local and Long Distance Calling service allows you to call anyone, anytime, anywhere in the United States, U.S. Territories and Canada as frequently as you like for one simple monthly price, based on the package of services you purchase from NUconnect. Current rates and offers are available at [www.NUconnect.com](http://www.NUconnect.com). Additional charges apply for taxes, fees, international calling and calls to directory assistance and operator services. Unlimited Local and Long Distance Calling may be used to make calls using calling cards.

Your NUconnect phone charges will appear as a series of line items on your NUconnect bill. You may request a mailed copy of your recent outbound calling details by contacting Customer Service at (423) 625-2800. All calls to international locations will be billed on a per-minute basis. Current rates for calls to all locations outside the United States, Canada, Mexico, the Caribbean and U.S. Territories can be found at [www.NUconnect.com](http://www.NUconnect.com). Charges for directory assistance, operator services, and unpublished listings (“Additional Charge Services”) are not included in Calling Plans and will be billed separately, based on usage. Additional information about Calling Plans, rates and additional charge services may be requested by calling Customer Service at (423) 625-2800.

NUconnect phone service is compatible with most home monitoring and security systems. If you plan to use NUconnect phone service with your home monitoring and security system, you must contact your service provider in order to test the compatibility of the service with NUconnect phone service. NUconnect will not be responsible for the cost of conducting any tests or configuring your monitoring or security system.

### **Emergency 911 Access**

Our NUconnect Voice (VoIP) phone service is electrically powered, and phone service, including access to emergency 9-1-1 and home security services, may not operate in the event of an

electrical power outage. If a power outage occurs in your home, your NUconnect equipment is equipped with a battery, which may enable back-up service for a limited period. If your local NUconnect system loses power or experiences other service issues, NUconnect phone service may not be available.

You may not move your equipment to a new address. If you do so, Enhanced 9-1-1 services will not operate properly as emergency operators will be unable to accurately identify your location in an emergency. If you would like to establish service at a new address, you must call NUconnect.

### **Charges and Billing**

Usage charges are billed after each monthly usage cycle, unless otherwise specified in the Rates and Services Schedules. Usage charges and monthly recurring charges may be billed in advance or in arrears, depending upon the Service Plan selected by you.

### **Per-call and Measured-Call Charges**

Calling plans billed on a flat monthly fee basis do not include certain call types. These call types will instead be charged on a per-call (e.g., operator services) or a measured basis (e.g., international calls). For billing purposes, a measured call begins when the call is answered by the called party or an automated answering device (such as an answering machine or fax machine); it ends when one of the parties disconnects the call. Measured calls are recorded in whole minutes, with partial minutes rounded up to the next whole minute. However, some providers (e.g., those involved in calls to foreign countries) charge NUconnect for a completed call when the called party's line rings or after a certain number of rings. In these situations, NUconnect will charge for the call as if it were answered by the called party. Consult the Rates and Services Schedules at [www.NUconnect.com](http://www.NUconnect.com) for information on per-call.

### **Rounding of Fractional Charges**

If the computed charge for a measured call includes a fraction of a cent, the fraction is rounded up to the nearest whole cent. If the computed charge for taxes or surcharges includes a fraction of a cent, the fraction is rounded up to the nearest whole cent.

### **Third-Party Charges**

The Services may allow you to access "dial-up" Internet service providers, other enhanced service providers (e.g., information services accessible through 800, 888, and 877 numbers), and other third-party providers. You acknowledge that you may incur charges with such providers that are separate and apart from the amounts charged by us. You agree that all charges payable to third parties, including all applicable taxes, are your sole responsibility. In addition, you are solely responsible for protecting the security of credit card information provided to others in connection with such transactions.



## **Taxes and Other Charges**

All charges stated in the Rates and Services Schedules are computed by NUconnect exclusive of any federal, state, local, use, excise, gross receipts, sales or privilege taxes, universal service fees, duties, surcharges, fees or similar liabilities. Such taxes, fees, surcharges, duties, liabilities or other charges must be paid in addition to the rates and charges set forth in the Rates and Services Schedules. You must pay all taxes, fees, surcharges, and other charges that we bill you for the Services. Taxes and surcharges will be in the amounts that federal, state, and local authorities require us to bill you. NUconnect will not provide advance notice of changes to taxes and surcharges, except as required by applicable law.

## **Use and Maintenance of Equipment for Phone Service**

### **Handset and Wiring**

In order to use the Services, you are required to provide certain Customer Equipment such as a phone handset or equivalent, phone inside wire and outlets, and a powered electrical outlet. NUconnect does not guarantee that you will also be able to attach telephones to the jacks within your premises to use the Service, but you may request our assistance in attempting to enable such use. Additional charges may apply.

### **Incompatible Equipment and Services**

You acknowledge and understand that the NUconnect Phone Services may not support or be compatible with (i) Non-Recommended Configurations as defined in Section 8(b); (ii) certain non-voice communications equipment, including but not limited to alarm or security systems that make automatic phone calls; medical monitoring devices; certain fax machines; and certain "dial-up" modems; (iii) rotary-dial phone handsets, pulse-dial phone handsets, and models of other voice-related communications equipment such as answering machines and traditional Caller ID units; (iv) casual/dial around (10-10) calling; 976, 900, 700, or 500 number calling; (v) 211, 311, or other x11 calling (other than 411, 511, 611, 711, and 911); and (vi) other call types not expressly set forth in our product literature (e.g., outbound shore-to-ship calling and outbound satellite calling).

BY ACCEPTING THIS AGREEMENT, YOU WAIVE ALL CLAIMS AGAINST THE NUCONNECT PARTIES AND THEIR SERVICE PROVIDERS, FOR INTERFERENCE, DISRUPTION, OR INCOMPATIBILITY BETWEEN THE NUCONNECT EQUIPMENT OR THE SERVICES AND ANY OTHER SERVICE, SYSTEMS, OR EQUIPMENT. IN THE EVENT OF SUCH INTERFERENCE, DISRUPTION, OR INCOMPATIBILITY, YOUR SOLE REMEDY SHALL BE TO TERMINATE THE SERVICES IN ACCORDANCE WITH SECTION 19.

## **You Assume the Risk of High-Risk Activities**

The Services are not represented as fail-safe. They are not designed for use in situations where error-free or uninterrupted service is essential. You expressly assume the risk of any damages from high-risk activities involving vital communications in which an error or interruption in the Services could lead to material injury to business, persons, property, or the environment.

## **No Tampering with or Relocation of Equipment**

You will not service, alter, modify, or tamper with NUconnect Equipment or with the Services, or permit any other person not expressly authorized by NUconnect to do so. You agree that the equipment and the Phone Services will only be used at your service address appearing in our records. You understand and acknowledge that if you attempt to install or use such equipment or the Phone Services at another location, the Services, including but not limited to 911/E911, may fail to function or may function improperly. As described in Section 5 above, you must notify NUconnect if you wish to relocate the equipment or NUconnect Phone Services. If you move the equipment or Services to another location without complying with Section 5, you do so in violation of this Agreement and at your own risk.

## **Limitations of 911/E911 Dialing**

### **Limitations**

The Services includes the ability to place calls to emergency dispatch operators by dialing "911" ("911/E911") that may differ from 911/E911 functions furnished by traditional telephone service providers. As such, the 911/E911 Services may have certain limitations. CAREFULLY READ THE INFORMATION BELOW. YOU ACKNOWLEDGE AND ACCEPT ANY LIMITATIONS ON 911/E911. YOU AGREE TO CONVEY THESE LIMITATIONS TO ALL PERSONS WHO MAY HAVE OCCASION TO PLACE CALLS OVER THE SERVICES. If you have any questions about 911/E911, call NUconnect customer service at (423) 625-2800.

### **Correct Address**

In order for your 911/E911 calls to be properly directed to emergency services, NUconnect must have your correct service address. If you move the Services to a different address without NUconnect's approval, 911/E911 calls may be directed to the wrong emergency authority, may transmit the wrong address, or the Services (including 911/E911) may fail altogether. Therefore, you must call NUconnect customer service at (423) 625-2800 at least **10** days before you move the Services to a new address. All changes in service address require NUconnect's prior approval. YOU UNDERSTAND AND ACKNOWLEDGE THAT NUCONNECT WILL NEED SEVERAL BUSINESS DAYS TO UPDATE YOUR SERVICE ADDRESS IN THE E911 SYSTEM SO THAT YOUR 911/E911 CALLS CAN BE PROPERLY DIRECTED.

## **Network Congestion or Failures**

Calls, including calls to 911/E911, may not be completed if there is a problem with network facilities, including network congestion, network or network equipment failure, or another technical problem. Similar congestion and failures can occur with traditional phone service.

## **Service Interruptions Caused by Power Failures**

NUconnect uses the electrical power from your service location. YOU UNDERSTAND AND ACKNOWLEDGE THAT YOU MAY LOSE ACCESS TO AND USE OF THE SERVICES, INCLUDING 911/E911, UNDER CERTAIN CIRCUMSTANCES, INCLUDING BUT NOT LIMITED TO THE FOLLOWING: (i) IF OUR NETWORK OR FACILITIES ARE NOT OPERATING; (ii) IF ELECTRICAL POWER TO THE EQUIPMENT IS INTERRUPTED AND SUCH DEVICES ARE NOT SUPPORTED BY A WORKING BATTERY BACKUP. You also understand and acknowledge that the battery backup included in the NUconnect EQUIPMENT may provide power for only a limited time, that the performance of the battery backup is not guaranteed, and that if the battery is exhausted, the Services will not function until normal power is restored. You understand and acknowledge that your equipment may not have battery backup or another power source of its own.

## **Limitation on Liability**

YOU ACKNOWLEDGE AND AGREE THAT THE NUCONNECT PARTIES AND THEIR SERVICE PROVIDERS WILL NOT BE LIABLE FOR ANY SERVICE OUTAGE, INABILITY TO DIAL 911 USING THE SERVICES, OR INABILITY TO ACCESS EMERGENCY SERVICE PERSONNEL. YOU AGREE TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE NUCONNECT PARTIES AND THEIR SERVICE PROVIDERS, FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, FINES, PENALTIES, COSTS, AND EXPENSES (INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEY FEES) BY, OR ON BEHALF OF, YOU OR ANY THIRD PARTY OR USER OF THE SERVICES RELATING TO THE FAILURE OR OUTAGE OF THE SERVICES, INCLUDING THOSE RELATED TO 911/E911 SERVICES PROVIDED TO YOU IN CONNECTION WITH THE SERVICES. \*\*You agree to read and comply with the "NUconnect Phone Agreement for Residential & Small Business Service" posted on NUconnect's website at [www.NewportUtilities-NUconnect.com](http://www.NewportUtilities-NUconnect.com) which is hereby incorporated herein by this reference.

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## **Transferring Your Phone Number**

### **Switching to NUconnect from Another Provider**

If you are switching to NUconnect Services from another service provider, you may transfer your existing phone number (if any) to our Services, provided that (i) you request the phone number transfer when you place your order for our Services; (ii) your current service provider releases your existing phone number, at our request, without delay or charge; (iii) transfer of your existing phone number to our Services would not, in our view, violate applicable law or our processes and procedures; (iv) you acknowledge and agree that NUconnect will not transfer

numbers from certain other service providers, (v) you acknowledge and agree that if your equipment is set up before the date that the number transfer becomes effective ("Port Effective Date"), you may only be able to make limited outgoing calls over the phone that you have connected to such equipment. In that event, you should keep another phone connected to an existing phone extension at your service location to receive incoming calls until the Port Effective Date, after which you will be able both to make and to receive calls using our Services; and (vi) you acknowledge and agree that to avoid an interruption in your phone service, it is extremely important that you have the equipment installed on or before the Port Effective Date. Your existing phone service for the number you are transferring will be disconnected on the Port Effective Date; if your equipment is not yet activated, you will not have access to our Services. Therefore, you will not have service for that phone number. If you have questions about the timing of your Port Effective Date, please contact NUconnect.

### **Switching from NUconnect to Another Provider**

To transfer your phone number from NUconnect to another service provider, you must terminate the Phone Services and place the transfer order through your new service provider (and not through NUconnect). NUconnect will release your phone number to your new service provider, provided that (i) your new service provider requests the transfer upon termination of your account; (ii) your new service provider is willing to accept transfer of the phone number without delay or charge; and (iii) transfer of your existing phone number to the new service provider would not, in our view, violate applicable law or our processes and procedures.

### **Limitations on Liability for Directories and Directory Assistance**

THE LIMITATIONS IN THIS SECTION SHALL APPLY WHERE WE MAKE AVAILABLE A DIRECTORY LISTING OR PUBLICATION OPTION. IF (i) ANY PHONE NUMBER FOR WHICH YOU HAVE REQUESTED UNLISTED STATUS IS PUBLISHED IN ANY DIRECTORY; (ii) ANY PHONE NUMBER FOR WHICH YOU HAVE REQUESTED NONPUBLISHED STATUS IS INCLUDED IN ANY DIRECTORY, ANY DIRECTORY ASSISTANCE DATABASE, OR IS OTHERWISE DISCLOSED TO ANY UNAUTHORIZED PERSON; (iii) ANY PHONE NUMBER WHICH YOU REQUESTED BE PUBLISHED OR LISTED IN ANY DIRECTORY OR DIRECTORY ASSISTANCE DATABASE IS NOT SO PUBLISHED OR LISTED, OR (iv) ANY PUBLISHED OR LISTED PHONE NUMBER CONTAINS MATERIAL ERRORS OR OMISSIONS, THEN THE TOTAL LIABILITY OF THE NUCONNECT PARTIES AND THEIR SERVICE PROVIDERS IN CONNECTION WITH THE DESCRIBED ERROR OR OMISSION SHALL NOT IN THE AGGREGATE EXCEED THE MONTHLY CHARGES, IF ANY, WHICH YOU HAVE ACTUALLY PAID TO NUCONNECT TO LIST OR NOT TO LIST OR TO PUBLISH OR NOT PUBLISH THE NUMBER FOR THE AFFECTED PERIOD. YOU SHALL HOLD THE NUCONNECT PARTIES AND THEIR SERVICE PROVIDERS HARMLESS AGAINST ANY AND ALL CLAIMS FOR DAMAGES CAUSED OR CLAIMED TO HAVE BEEN CAUSED, DIRECTLY OR INDIRECTLY, BY THE ERRORS AND OMISSIONS DESCRIBED ABOVE.

## **IX. MISCELLANEOUS**

### **How to Contact NUconnect**

For any inquiries or notices required in connection with this Agreement, you may contact us in writing at NUconnect Customer Service, P. O. Box 519, Newport, TN 37822, or by calling our customer service line at (423) 625-2800 during normal business hours.

### **How You Will Receive Notices**

Notices from you to NUconnect must be provided as specified in this Agreement or the Rates and Services Schedules. Notice from you to NUconnect made by calling NUconnect is effective as of the date that our records show that we received your call. NUconnect 's notice to you under this Agreement will be provided by one or more of the following methods: posting on the NUconnect web site ([www.NUconnect.com](http://www.NUconnect.com)), recorded announcement, bill message, bill insert, newspaper ad, postcard, letter, call to your billed telephone number, or e-mail to an address provided by you.

## **X. PRICING**

You can find more information about pricing for the Services by calling NUconnect at (423) 625-2800. Pricing of Services may change from time to time. THIS AGREEMENT INCORPORATES BY REFERENCE THE PRICING INCLUDED IN NUCONNECT'S THEN-CURRENT RATES AND SERVICES SCHEDULES.

## **XI. ARBITRATION**

(a) EXCEPT FOR (i) CLAIMS FOR INJUNCTIVE RELIEF, AS DESCRIBED BELOW; (ii) CLAIMS BROUGHT BY NUCONNECT RELATED TO UNPAID CHARGES FOR THE SERVICES OR NUCONNECT EQUIPMENT; OR (iii) CLAIMS BROUGHT BY NUCONNECT FOR UNAUTHORIZED USE OF THE SERVICES OR NUCONNECT EQUIPMENT, ALL THREE OF WHICH MAY BE BROUGHT IN ANY FORUM, ANY PAST, PRESENT, OR FUTURE CONTROVERSY OR CLAIM ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL BE RESOLVED BY BINDING ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION UNDER ITS COMMERCIAL ARBITRATION RULES, INCLUDING, IF APPLICABLE, THE SUPPLEMENTARY PROCEDURES FOR THE RESOLUTION OF CONSUMER RELATED DISPUTES. CONSOLIDATED OR CLASS ACTION ARBITRATIONS SHALL NOT BE PERMITTED. THE ARBITRATOR OF ANY DISPUTE OR CLAIM BROUGHT UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT HAVE THE POWER TO AWARD INJUNCTIVE RELIEF; INJUNCTIVE RELIEF MAY BE SOUGHT SOLELY IN AN APPROPRIATE COURT OF LAW. NO CLAIM SUBJECT TO ARBITRATION UNDER THIS AGREEMENT MAY BE COMBINED WITH A CLAIM SUBJECT TO RESOLUTION BEFORE A COURT OF LAW. THE ARBITRABILITY OF DISPUTES SHALL BE DETERMINED BY THE ARBITRATOR. JUDGMENT UPON AN AWARD MAY BE ENTERED IN ANY COURT HAVING COMPETENT JURISDICTION. IF ANY PORTION OF THIS SECTION IS HELD TO BE UNENFORCEABLE, THE REMAINDER SHALL CONTINUE TO BE ENFORCEABLE.

(b) If any clause within this Arbitration section (other than the class action waiver clause) is found to be illegal or unenforceable, that clause will be severed from the Arbitration Provision, and the remainder of this Arbitration section will be given full force and effect. If the class

action waiver clause is found to be illegal or unenforceable, the entire Arbitration section will be unenforceable. In the event that this entire Arbitration section is determined to be illegal or unenforceable for any reason, or if a claim is brought that is found by a court to be excluded from the scope of this Arbitration section, you and NUconnect have each agreed to waive, to the fullest extent allowed by law, any trial by jury.

## **XII. REPRESENTATIONS AND WARRANTIES OF CUSTOMER**

You represent and warrant that you are at least eighteen (18) years of age. You may, at your discretion, permit minors to use the Services under adult supervision. You are solely responsible for monitoring all material that is accessed by minors using your Services. You also represent and warrant that you have provided and will continue to provide to NUconnect accurate, complete, and current customer information, including but not limited to your legal name, address, phone numbers, and payment data (including but not limited to credit card numbers and expiration dates). You agree that during the term of this Agreement you will promptly notify us if there is any change in the information that you have provided to us in accordance with the terms of this Agreement. If you fail to provide and maintain accurate information, you thereby breach this Agreement.

## **XIII. NO RELATIONSHIP BETWEEN NUCONNECT AND OTHER PROVIDERS**

Nothing in this Agreement will create any joint venture, joint employer, franchisor-franchisee, employer-employee, or principal-agent relationship between NUconnect and any providers of content or of backbone, network, circuit, and other technology or communications; between NUconnect and any software and other licensors; between NUconnect and any hardware and equipment suppliers; or between NUconnect and any other third-party providers of elements of the Services. Nor will anything in this Agreement impose upon any such companies any obligations for any losses, debts, or other obligations incurred by the other.

## **XIII. TERMINATION**

### **Term**

The term of this Agreement shall commence from the time that the Services are activated and shall continue thereafter until terminated as provided for in this Agreement. If you self-install NUconnect Equipment that we have provided to you, Service charges begin the earlier of (i) the day you install, or pick up from an NUconnect office or employee, such equipment, or (ii) five (5) days after the shipment date. Service is provided on a month-to-month basis unless you agreed to a specified minimum term, in which case you agree to maintain and pay for your Service for the duration of the specified minimum term.

### **Termination by You**

You may change or cancel individual Services by calling the NUconnect Customer Service number on your NUconnect bill, subject to the applicable terms and conditions in the NUconnect Rates and Services Schedules. This Agreement remains in effect for any Services that you continue to be enrolled in, use, or pay for.

### **Suspension and Termination by NUconnect.**

Upon five (5) days' written notice, we may suspend, restrict, or cancel the Services and this Agreement, if you do not make payments for current or prior bills by the required due date, including payments for late fees, deposits, or any other required additional charges. If Services are suspended, restricted, or cancelled, charges will continue to accrue through the date that NUconnect fully processes the suspension, restriction, or cancellation. You must pay all outstanding charges for these Services, including payment of any bills that remain due after the date of cancellation. You must reimburse us for any reasonable costs we incur, including attorneys' fees, to collect charges and other amounts owed to us. If you want us to restore Services following any such suspension, restriction, or cancellation, we may require that you pay a deposit and installation charges. You understand and acknowledge that all NUconnect Phone Services, **excluding** 911/E911, will be disabled because of termination of your account.

### **Termination of Service/Disconnected Account**

Upon termination, NU may charge additional fees on any unpaid balance. NU reserves the right to continue billing for Service through the end of the billing cycle or until all Equipment has been returned, whichever occurs first. The replacement costs for any unreturned Equipment will be posted to Customer's account once billing ends. In the event that the Equipment is destroyed, damaged, lost or stolen, or not returned to NU upon termination of Service, Customer shall be liable to NU for the full replacement cost of any unreturned Equipment. Customer understands and agrees that any deposit account may be used to offset any outstanding balance and or the cost of any unreturned Equipment. Further, Customer understands and agrees that NU may charge Customer's credit card on file at termination of Service in the amount of any outstanding balance and/or for the cost of any unreturned Equipment, in accordance with applicable law. If NUconnect incurs collection or legal costs as a result of your failure to comply with this Section, you will be liable for not only the value of the NUconnect Equipment, but also for collection and attorneys' fees as well as court costs upon judgment.

### **Deletion of Customer Information**

NUconnect and its service providers reserve the right both during the term of this Agreement and upon its termination to delete your voice-mail, data, files, or other Customer information that is stored on NUconnect's or its Service Providers' servers or systems, in accordance with our storage policies. You understand and acknowledge that we shall have no liability

whatsoever as a result of the loss or removal of any such voice-mail, data, files, or other Customer information.

### **NUconnect Firmware and Software**

The Services and NUconnect Equipment, including any firmware or software that may be embedded in the NUconnect Equipment or used to provide the Services, are protected by trademark, copyright, and/or other intellectual property laws and international treaty provisions. You are granted a revocable license to use such firmware and software in object code form (without making any modification thereto) strictly in accordance with this Agreement. This license will commence upon your acceptance of the relevant Services and will terminate immediately upon the termination of the Services for any reason. NUconnect and its licensors retain all rights and interests in and to any such software or firmware. You acknowledge and understand that you are not granted any other license to use the firmware or software embedded in the NUconnect Equipment or used to provide the Services. You expressly agree that you will use the NUconnect Equipment exclusively in connection with the Services. You are permitted to archive the software or re-load the software disk in its original format. All such copies must contain the same copyright notices and proprietary markings as the original software. You shall not reverse compile, disassemble, or reverse engineer or otherwise attempt to derive the source code from the binary code of the firmware or software. If you decide to use the Services through an interface device not provided by NUconnect, which NUconnect reserves the right to prohibit in particular cases or generally, you warrant and represent that you possess all required rights to use that interface device with the Services, including all software and firmware licenses. You will indemnify and hold harmless NUconnect against any and all liability arising out of your use of such interface device with the Services.

### **XV. NO RESALE**

You shall not resell or transfer the NUconnect Service or access to the NUconnect Network to another party without our prior written consent. You are prohibited from using the NUconnect Network or any NUconnect Service for auto-dialing, continuous or extensive call forwarding, telemarketing (including, without limitation, charitable or political solicitation or polling), fax or voice-mail broadcasting or fax or voice-mail blasting or bulk e-mailing.

### **XVI. NO THIRD PARTY RIGHTS**

These Terms of Service shall not provide any third party with a remedy, claim or right of reimbursement.

### **XVII. ACTS BEYOND NUCONNECT CONTROL**

Neither you nor NUconnect will be responsible to the other for any delay, failure in performance, loss or damage due to fire, explosion, power blackout, earthquake, volcanic action, flood, the weather elements, strike, embargo, labor disputes, civil or military authority,



war, terrorist acts, acts of God, acts or omissions of carriers or suppliers, acts of regulatory or governmental agencies, or other causes beyond our reasonable control.

### **XVIII. Severability**

If we do not enforce any right or remedy available under these Terms of Service, that failure is not a waiver. Except where these Terms of Service specifically provide otherwise, if any part of these Terms of Service is held invalid or unenforceable, the remainder of these Terms of Service will remain in force.

### **XVIII. PROTECTION of NUCONNECT'S INFORMATIONS and MARKS**

All Services information, documents, and materials on our websites are protected by trademark, copyright or other intellectual property laws, and international treaty provisions. All websites, corporate names, service marks, trademarks, trade names, logos, and domain names (collectively " NUconnect Marks") of NUconnect are and shall remain the exclusive property of NUconnect. Nothing in this Agreement shall grant you the right or license to use any of the NUconnect Marks.

### **XX. GOVERNMENT LAW**

The agreement and all matters arising out of or related to this Agreement shall be governed by the laws of the State of Tennessee without regard to conflicts of law provisions. The Customer agrees that the federal and state courts of Tennessee alone have jurisdiction over all disputes arising under this Agreement and the Customer consents to personal jurisdiction of those courts with respect to any disputes arising under this Agreement.

### **XXI. TRADEMARKS**

All trademarks appearing on the Services are the property of their respective owners, including, without limitation, Newport Utilities and NUconnect.

**NUconnect reserves the right to modify these Terms of Service at any time in its sole and absolute discretion. Changes and modifications will be effective when posted and any use of the Services after the posting of any changes will be considered acceptance of those changes.**

This NUconnect Terms of Service document was last updated on January 18, 2018.