



## BROADBAND GENERAL TERMS & CONDITIONS

**THESE GENERAL TERMS & CONDITIONS** (the “**Agreement**”) constitute a contract by and between **BEC Communications, LLC** (herein referred to as either “**BECC**”, “**Provider**”, “**our**” or “**us**”), with a principal place of business at 27492 State Highway 95, Bartlett TX 76511, and the undersigned customer (herein referred to either as “**Customer**”, “**End User**” or “**you**”) at the address provided on the Application for the Customer. Each of Provider and Customer is a “**Party**” and, collectively, the “**Parties**”.

**WHEREAS**, BECC offers broadband services (as such terms are defined below); and

**WHEREAS**, Customer wishes to purchase from BECC certain Services (as defined below) as stated in service orders; and

**WHEREAS**, BECC is willing to provide said Services to Customer on the terms and conditions herein contained.

**NOW, THEREFORE**, for and in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**BY ACTIVATING THE SERVICES, CUSTOMER ACKNOWLEDGES RECEIVING, READING AND UNDERSTANDING THIS AGREEMENT AND ACCEPTS THE TERMS AND CONDITIONS HEREIN. CUSTOMER REPRESENTS THAT CUSTOMER IS OF LEGAL AGE TO ENTER INTO THIS AGREEMENT.**

**1. Definitions.** For all purposes of the Agreement, in addition to terms defined elsewhere in this Agreement, the following capitalized and bolded terms shall have the definitions set forth below:

“**Affiliate**” means an entity that (directly or indirectly) controls, is controlled by, or is under common control with a Party, where “control” means the direct or indirect ownership of more than fifty percent (50%) of the voting equity.

“**Customer Premises**” means the location or locations occupied by Customer to which Services are provided or delivered.

“**Device(s)**” means such item(s) of equipment or personal property provided by BECC in connection with the Services.

“**Effective Date**” means the date set forth at the signing of this agreement.

“**Facilities**” means all fixtures, equipment or personal property provided by BECC and delivered or installed for use at Customer Premises to deliver Services, including without limitation, optical network units, terminals and other equipment, wiring, lines, ports, routers, switches, channel service units, and data service units.

“**Service(s)**” means, individually and collectively, those broadband services and facilities described in a then- effective Service Order executed by Customer, and which has been accepted by BECC.

“**Service Order**” means a document which sets forth, at a minimum, (i) the Service that are the subject of such Service Order with Customer, and (ii) references to Provider’s rates and charges applicable to such Service, which may be by reference to Provider’s adopted and posted rates. "Service Order" expressly includes any upgrade Service Orders.

## **2. Terms and Conditions.**

Any Service made available to Customer shall be governed by the terms and conditions herein. Any additional, different, or conflicting terms and conditions issued by Customer at any time and not incorporated herein are hereby objected to by Provider, and any such terms and conditions shall be wholly inapplicable to any sale made or Service rendered hereunder and shall not be binding in any way on Provider. No waiver or amendment to this Agreement or these terms and conditions shall be binding on Provider, unless made in writing expressly stating that it is such a waiver or amendment and signed by a duly authorized representative of Provider.

## **3. Services.**

**a. Term.** Services are offered on a monthly basis. The terms for Service begins on the date that BECC activates any Service to you. This term will automatically renew on a monthly basis unless you give us prior notice in which case such term will terminate at the end of the current monthly period. **Expiration of the term or termination of Service will not excuse you from paying all accrued and unpaid charges due under this Agreement nor will termination of this Agreement affect or terminate provisions of this Agreement stated to survive.**

**b. Use of Service and BECC provided Facilities.** You shall not resell or transfer the Service or any Facilities to another party without our prior written consent.

## **4. Customer Premises; Facilities.**

**a.** Where Facilities are to be provided by BECC, Customer shall allow and grant BECC access to the Customer Premises to the extent reasonably necessary for the provision of Services and for the installation, inspection and scheduled or emergency maintenance of Facilities. BECC shall notify Customer in advance of any regularly scheduled maintenance of Facilities that will require access to the Customer Premises. Customer will be responsible for providing and maintaining, at their own expense, the level of power, heating and air conditioning necessary to maintain the proper environment for the Services and Facilities at the Customer Premises and shall ensure that the Customer Premises is secure and safe from hazards to the Services and Facilities or to BECC’s employees, agents or contractors.

**b.** Title to all Facilities shall remain with BECC and all Facilities shall remain the sole and exclusive property of BECC. Customer shall not, and shall not permit others to, without the prior written consent of BECC, (i) rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any Facilities, (ii) use any Facilities for any purpose other than that for which BECC provides them, or (iii) take any action that causes the imposition of any lien or encumbrance on the Facilities. Anything in the Agreement to the contrary notwithstanding, in no event will BECC be liable to Customer or any other person for interruption of Services or for any other loss, cost or damage caused or related to improper use or maintenance of the Facilities by Customer or third

parties provided access to the Facilities by Customer in violation of this Section 4. Customer agrees (which agreement shall survive the expiration, termination or cancellation of any Service Order or this Agreement) to allow BECC upon prior notice to Customer to remove the Facilities from the Customer Premises (i) after termination, expiration or cancellation of the Services in connection with which the Facilities were used, and (ii) for maintenance, repair, replacement or otherwise as BECC may determine is necessary or desirable from time to time. This Section 4 shall survive the expiration or termination of the term and this Agreement.

c. Customer assumes the risk of loss, theft or damage to all Facilities at all times prior to the removal of the Facilities by Provider or the return of the Facilities to Provider by Customer. Customer shall defend, indemnify and hold harmless BECC, and its successors or assigns, against any and all claims, liability, loss, damage, or harm (including, without limitation, reasonable legal fees) suffered by BECC to the extent that the same arise from Customer's negligence, willful misconduct or failure to perform its obligations under this Section 4, including without limitation any damage to the Facilities resulting therefrom.

**d. In the event that any Facility or portion thereof is destroyed, damaged, lost or stolen or has been tampered with, or is not returned to Provider within fourteen (14) days after termination, Customer shall be liable to Provider for the full replacement cost of the unreturned, destroyed, lost, stolen or damaged device.**

#### **5. Customer Provided Equipment.**

BECC has no obligation to install Customer provided equipment, even at the request of Customer. Customer shall be responsible for the operation or maintenance of any customer provided equipment, including interface or compatibility with the Facilities. BECC shall have no liability whatsoever for the configuration, management, or performance of the customer provided equipment.

#### **6. Credit Approval and Deposits.**

Customer may be required to provide BECC with credit information regarding Customer, as reasonably requested, and delivery of services is expressly made subject to credit approval by Customer by BECC. BECC may require Customer to make a deposit (which will not exceed Customer's estimated charges for all then-current Services for two months) as a condition to BECC's acceptance of any Service Order. The deposit will be held by BECC as security for payment of Customer's charges, and, in BECC's sole discretion, may be applied and set off against any past-due charge (and Customer may be required to replenish such deposit). Upon termination of the Agreement, the amount of the deposit then remaining will be credited to Customer's account and any remaining credit balance will be refunded to Customer.

#### **7. Rates and Charges.**

a. Rates and charges for Service shall be as established by BECC for the Service set forth in the Service Order. Charges for additional services required for installation or use of such Service shall be at BECC's then current charges for the same. Billing to Customer for recurring charges with respect to Service will commence on the date on which Customer is deemed to have accepted such Service in accordance with Section 7(b) below. All other charges for Service or additional Services may be billed at the times designated by BECC.

b. Upon completion of installation, testing and activation of each Service, BECC shall have Customer sign off on the day of installation that all services installed are working properly. In the event that Customer notifies BECC the Service is not installed and functioning properly, then BECC shall correct any deficiencies not caused by Customer to ensure that such Service is installed and functioning properly. The procedure described in this paragraph shall be repeated until the Customer expressly accepts such Services or is deemed to have accepted such Services as described herein or until BECC thereafter refuses service.

## **8. Billing; Payments; Termination.**

a. Billing Disputes. You must notify us by the due date after receiving your bill if you dispute any BECC charges on that statement or you will be deemed to have waived any right to contest such charges.

b. Payment and Collection. If your Service Order is terminated, you will remain fully liable to BECC for all charges pursuant to this Agreement, and if BECC retains an attorney or collection agency to collect any such charges, you agree, subject to applicable law, to reimburse BECC the fees charged by any collection agency, which may be based on a percentage at a maximum of 35% of the debt, and all costs, expenses and fees, including reasonable attorneys' fees, BECC incurs in such collection efforts.

c. Termination; Discontinuance of Service. Bills must be paid prior to the disconnect date, printed on the monthly statement, to avoid an interruption in Service. If your Service is disconnected, for nonpayment, all charges, plus reconnect fee(s) must be paid prior to your Service being restored. If your Service is terminated due to a breach of any provision of this Agreement, you will be responsible for the full month's charges to the end of the current term, including, without limitation, unbilled charges, plus the termination fee, if applicable, all of which will immediately become due and payable.

d. **This Section 8 shall survive the termination or expiration of term.**

## **9. Disputed Billing.**

In the event Customer disputes any portion of a BECC bill, Customer shall pay the undisputed portion of the bill by the date the same is due and shall contact BECC concerning the disputed amount. BECC shall credit the amount of the dispute, if validated, in full including any late fees on the Customer's next invoice. In the event that the dispute is resolved against Customer, Customer shall pay such amounts in full on the due date of the next invoice, including any applicable late fees. **CLAIMS OF FRAUDULENT USAGE SHALL NOT CONSTITUTE A VALID BASIS FOR A DISPUTE.**

## **10. Taxes.**

All charges for Service are net of Applicable Taxes (as defined below). Except for taxes based on a Party's net income and taxes assessed on a Party's tangible or intangible property, the Customer will be responsible for all applicable taxes, fees, duties, charges, or regulatory surcharges that arise in any jurisdiction on the provision, sale or use of the Services, including, without limitation, value added, consumption, sales, use, gross receipts, excise, access, bypass, franchise or other taxes or federal or state universal services charges (collectively, "**Applicable Taxes**").

## **11. Use of Marks.**

Neither Party shall use any trademarks, service marks, logos, or trade names of the other Party (individually and collectively the "**Marks**") in any manner whatsoever, including without limitation in any advertising, signage, marketing materials, website content, brochures or any other materials in any medium, without such other Party's express advance written consent. Neither Party shall issue any press release, announcement or public statement with respect to the Agreement or the other Party without such other Party's express advance written consent, and any such press release, announcement or public statement shall be subject to such other Party's review and written approval.

## **12. Customer's Use of Services.**

Customer shall defend, indemnify, and hold harmless BECC from and against any and all costs, losses, harm or damages (including without limitation reasonable attorney's fees) arising out of or relating to Customer's use of the Service, including claims resulting from use of the Service by Customer's End Users and/or the content of any communications transmitted via the Service.

## **14. Force Majeure.**

If a Party's performance (other than payment) hereunder is delayed or prevented by reason of an event or circumstance not within the reasonable control of the Party claiming the excuse and that with commercially reasonable diligence cannot be prevented or overcome, including, without limitation, acts of God or of the public enemy; governmental requirements; changes in governmental laws or regulations; earthquakes; fires; floods or other catastrophes; epidemics or quarantines; freight embargoes; war; civil strife; insurrection; riot; materials shortages; or labor stoppages (each, a "**Force Majeure Event**"), then the Party whose performance is delayed or prevented shall promptly notify the other Party of the Force Majeure Event and shall be excused from performance to the extent delayed or prevented; provided, however, that the Party whose performance is delayed or prevented shall take all reasonable steps to avoid or remove such cause of nonperformance and shall continue to perform whenever and to the extent reasonably possible, and provided further that any time for performance set forth in this Agreement shall be extended for a period equal to the period of any such delay.

## **15. Repair.**

BECC will make reasonable efforts to maintain its broadband system to respond to service calls in a prompt manner. BECC agrees to repair damage to the Facilities, or interruption of the Services, when due to reasonable wear and tear or technical malfunction of any of the Facilities. In the event of physical damage to the Facilities caused by negligent, willful or intentional misconduct by Customer or others, the Customer shall be solely responsible and shall pay BECC for the costs of repair or replacement of the Facilities so damaged.

## **16. Termination by BECC.**

BECC may terminate services to Customer in the event that:

a. any amounts due and owing by Customer (other than amounts which are the subject of a then current dispute in accordance with Section 9) remain unpaid five (5) days after the due date;

b. Customer (i) becomes insolvent, (ii) makes a general assignment for the benefit of creditors, or (iii) files (or has filed against it) a petition in bankruptcy which petition is not dismissed within sixty (60) days thereafter;

c. BECC is ordered, by a federal, state or local governmental entity, regulatory body or court of competent jurisdiction, to cease providing Service;

d. changes in applicable law, regulation, decision, rule or order materially increase the costs to BECC of, or materially affect other terms of BECC 's delivery of Service;

e. Customer has breached a provision of this Agreement, and following notice provided by BECC to such Customer, the Service Order or this Agreement may be terminated by BECC; or

f. BECC may terminate this Agreement immediately upon notification of Customer or any of Customer's household members engaging in abusive behavior through use of any of the services provided by BECC to Customer or by violating the BECC Acceptable Use Policy (AUP) presented in conjunction with this agreement and posted on BECC's publicly available website.

#### **17. Termination by Customer.**

Customer may terminate Service by contacting BECC in accordance with the terms of this Agreement or Provider's rules.

#### **18. Effect of Termination.**

Upon termination or expiration of any Service, Service Order, or this Agreement for any reason whatsoever:

a. all obligations of BECC under all Service Orders and under the Agreement shall immediately terminate; except those obligations stated to survive and each Party's respective defense and indemnification obligations shall survive the termination or expiration of the Agreement; and

b. all payment obligations of Customer under the Agreement with respect to such terminated Service (including any obligations to pay termination charges less disputed amounts in connection therewith), shall accrue through the date of such termination and shall become immediately due and payable less disputed amounts.

#### **19. Limitation of Liability.**

We will not be liable for any delay or failure to provide Service caused by any of the following:

a. an act or omission of an underlying carrier, service provider, vendor or other third party;

b. equipment, network or facility failure; or

c. equipment, network or facility upgrade or modification.

#### **20. Consent and Privacy.**

Providers utilize the public Internet and third-party networks to provide connectivity and broadband services. Accordingly, Provider cannot guarantee the security of internet-based communications of Customer. Provider is committed to respecting End User's privacy. Provider will not sell, rent, or lease Customer's personally identifiable information to others. Unless required by applicable law or subpoena or if End User's prior permission is obtained, Provider will

only share the personal data of End User with business partners that are acting on Provider's behalf to complete the Service. Such Provider entities and/or national business partners are governed by Provider's privacy policies with respect to the use of this data. **Upon the appropriate request of a government agency, law enforcement agency, or court as required by law, Provider is permitted to disclose personally identifiable information, and Customer hereby consents to such disclosure by BECC and by those third parties who provide services to BECC to a government agency, a law enforcement agency, or court as required by law without liability or responsibility to Customer.**

**21. Device Warranties.**

a. Limited Warranty. Except as set forth herein, if you received a Device new from us and the Device included a limited warranty at the time of receipt from the Manufacturer, you must refer to the separate limited warranty document provided with the Device for information on the limitation and disclaimer of certain warranties. Remedies for breach of any such warranties will be limited to those expressly set forth in such documentation and will be limited to the Manufacturer. BECC is not liable for any warranty provided with a Device.

b. No Warranty. If your Device did not include a limited warranty from us at the time of receipt, you are accepting the Device "as is". You are not entitled to replacement, repair or refund in the event of any defect.

c. Returns. If you need to return or exchange any item purchased from BECC, please know that you can return or exchange the item within 15 days of installation or when item is picked up from BECC. All returns are subject to a limited inspection to look for signs of misuse or neglect. In the event misuse or neglect is found, the item will not meet the criteria for return or exchange.

d. Disclaimer. OTHER THAN WARRANTIES AS TO THE DEVICE EXPRESSLY SET FORTH IN THE DOCUMENTATION PROVIDED WITH THE DEVICE, WE MAKE NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIM ANY WARRANTY OF MERCHANTABILITY, FITNESS OF THE DEVICE FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE OR ANY WARRANTY THAT THE DEVICE OR ANY FIRMWARE OR SOFTWARE IS "ERROR FREE" OR WILL MEET CUSTOMER'S REQUIREMENTS. THE FOREGOING WILL NOT BE DEEMED TO LIMIT ANY DISCLAIMER OR LIMITATION OF WARRANTY SET FORTH IN THE DOCUMENTATION PROVIDED WITH THE DEVICE. DEVICE WARRANTIES DO NOT APPLY TO BUSINESS CUSTOMERS.

I agree to the terms and conditions of BECC for broadband services within this agreement.

\_\_\_\_\_  
Customer Signature

\_\_\_\_\_  
Date