



WINN TELECOM SERVICE TERMS AND CONDITIONS

The following Terms and Conditions shall apply to all users of Winn Telecom's Copper Wireline, Fiber, DNS, DSL, SIP, VoIP, Web Hosting, and direct connection via dedicated circuit services.

For the purposes of the Terms and Conditions, the client will be referred to as "the Customer".

- 1. TERM:** The term of this Agreement shall commence on the service activation date specified on the order opened by Winn Telecom (indicated on first bill) and will continue for the period of time stated on the Agreement signed by the Customer. Contractual term commitment to the service agreement will automatically renew for an additional 24 months term upon the expiration of the current term unless the Customer notifies Winn Telecom in writing at least 90 days prior to the end of the current term. Service rates will adjust at the time of renewal to current pricing but will include any discounts that were applied under the original agreement. Winn Telecom reserves the right to cancel service(s) in accordance with its Acceptable Use Policy (AUP).
- 2. BILLING:** All monthly recurring charges (MRC) and one-time charges (OTC) through Winn Telecom will accrue on a one (1) month (thirty (30) calendar day) cycle to be produced as a billing statement to the Customer. The Customer agrees to pay all charges posted to the Customer's account, including applicable taxes and other required charges on the service(s) provided, in accordance with billing terms in effect at the time the fee or charge becomes payable. All charges are due in accordance to the date of the Customer's monthly statement-and are non-refundable. Initial charges may include non-recurring installation charges, including, but not limited to: equipment, inside wiring, and other installation fees. Subsequent billing cycles may procure additional MRC or OTC based off the requests of the Customer, causing the Customer's due charges inconsistent for a period of time. Reflection of any changes in MRC to a Customer's service(s) may take thirty (30) to sixty (60) days to occur on the Customer's billing statement. Delinquent accounts are subject to immediate termination or suspension of services at the sole discretion of Winn Telecom. Delinquent accounts are subject to additional fees for reconnection. If the Customer's account is terminated for billing delinquency, the Customer is subject to early termination fees as described in this document.

3. TERMINATION: Winn Telecom or the Customer has the right to terminate this Agreement with cause in writing. The terminating party must specify the cause for termination and request correction within thirty (30) days. The other party then has a thirty (30) day period to make the correction. "Cause" is any material breach of the terms of this Agreement. The Agreement may also be terminated with cause without notice in accordance with the Tariff on file with regulatory authorities. If services are disconnected for delinquency, other reasons stated by Winn Telecom, or at the request of the Customer, the thirty (30) day correction period must expire for both parties unless otherwise discussed and agreed upon by both parties. Upon this expiration or mutually agreed waiver of expiration, the Customer agrees to pay early termination fees, if applicable. If termination of services is prior to the service activation date, but after execution of this Agreement, early termination charges are those reasonable expenses incurred by Winn Telecom through the date of termination.

If termination of service(s) occurs after the service activation date (as defined in *Section 1: Term*) the Customer understands their termination fee will include the following:

- Any waived costs or fees incurred by Winn Telecom to deliver service(s)
- Any waived installation and/or setup fees
- Revocation of all discounts provided on monthly recurring charges, including promotional pricing. Month-to-month rates as of the termination date will be applied to lost revenue fees. Winn Telecom will not back-charge for discounts given during active service dates
- A lost revenue fee equal to no greater than 100% of the remaining monthly recurring charges, minus any discounted rates, through the end of the contracted term commitment
- Full undepreciated list cost of Equipment provided by Winn Telecom if unrecovered after ten (10) business days
- Costs for collections, including reasonable attorney's fees
- A \$50 collections processing fee will apply if payment of final bill is not received within 30 days and additional collections efforts must be made by Winn Telecom personnel.

Only upon receipt of proper written documentation from the Customer and other applicable entities, upon request by Winn Telecom, will a review of any early termination fees be conducted in the case of bankruptcy or going-out-of-business. Month-to-Month service agreements may be terminated with thirty (30) days written notice to Winn Telecom by the Customer or Winn Telecom. In all cases where this Agreement is terminated, the Customer agrees that the Customer's telephone number(s) in

service with Winn Telecom will not be released to another service provider until all charges owed to Winn Telecom are paid.

EQUIPMENT: The Customer agrees that the installation, inspection, maintenance, repair, and/or removal of any equipment could result in service outages or potential damage to the Customer's computer, computer network, data network, and/or the contents thereof. Accordingly, the Customer agrees that they are solely responsible for providing any needed back-up for their information and data in question and that in no event will Winn Telecom, Winn Telecom employees, or other representatives of Winn Telecom (including contractors and their respective employees, business associates, affiliates, etc.) be liable for any consequential or inconsequential loss of the Customer's information, data, income, and/or property.

Unless expressly identified as being sold to the Customer, title to all hardware and/or software provided by Winn Telecom in connection with this Agreement (hereby known as "the Equipment") shall remain with Winn Telecom. Winn Telecom's repair and maintenance obligations to its Equipment are limited solely in regard to ordinary wear and tear and shall not include maintenance and/or repair necessary as a result of any other cause, including without limitation, vandalism, intentional or negligent acts, or omissions by the Customer or third parties. Maintenance and repairs related to such are the Customer's sole responsibility and liability. The Customer shall provide appropriate space, power, and environment for, and take reasonable care of the Equipment. The Customer will be solely responsible and liable for the maintenance and repair of all equipment and Services provide by the Customer. Unless expressly agreed to in writing by Winn Telecom and the Customer, the Customer will be solely responsible and liable for connection of the Customer's computers and other equipment to the Equipment. Upon expiration or termination of this Agreement, the Customer shall return to Winn Telecom all Equipment within (ten) 10 business days following the agreed upon termination date. Winn Telecom will charge the Customer the undepreciated list price of the unreturned Equipment in addition to all applicable termination fees.

Any anti-virus and SPAM protection offered in connection with Winn Telecom's service(s) are offered for the Customer's incoming email services and are provided through third party vendors and subject to their warranties and limitations. No guarantees are made or provided that the service(s) will be virus- or spam-free or that the Customer's equipment will be protected from network intrusions, viruses, spam e-mails, spyware, worms, Trojan horses, or other harmful components. The Customer is

solely responsible for maintaining adequate security, firewalls, intrusion detection, anti-virus, anti-spyware, and other protections on equipment not provided by Winn Telecom.

- 4. AUTHORIZATION AND SERVICE(S) ACCESS:** Upon Winn Telecom's acceptance of the Customer's registration for certain service(s), Winn Telecom will provide the Customer with their applicable username(s), password(s), and user identification number(s). Usernames, passwords, and user identification number(s) are Winn Telecom's property and Winn Telecom may alter or replace them at any time as deemed necessary.

Only personnel specifically identified by the Customer are authorized users of the account and must comply with the Agreement. If no additional personnel are identified to Winn Telecom by the Customer, the Customer is the sole authorized user on the account. The Customer must keep all username(s), password(s), and user identification number(s) confidential so that no one else may access the service(s) through the Customer's account. The Customer must notify Winn Telecom immediately upon discovering any unauthorized use of the account. Winn Telecom will also notify the Customer of any attempted or confirmed unauthorized account access.

- 5. CUSTOMER RELATIONS:** By providing valid phone number(s), the Customer authorizes Winn Telecom to contact them at such number(s) regarding their account using any means of communication, including but not limited to, calls (including prerecorded calls) and/or SMS text messages to a mobile device using an automated or predictive dialing device, even if the Customer will be charged by their mobile service provider

The Customer hereby grants Winn Telecom, Winn Telecom employees, or other representatives of Winn Telecom (including contractors and their respective employees, business associates, affiliates, etc.) permission to enter the Customer's premises in order to install, maintain, inspect, repair, and/or remove Winn Telecom Equipment and/or service(s). The Customer understands that they or a person authorized to represent the Customer's interests (18 years of age or older) must be present during an appointment at a mutually convenient time for Winn Telecom and the Customer.

The Customer acknowledges that the Internet is an ever-changing network not controlled by any single government or entity, but reliant upon the interconnectivity and operability of various networks. Accordingly, notwithstanding anything herein to the contrary, any internet access, as well as all services related to such access, are provided on an "as is" and "as available" basis. No advice or information given by Winn Telecom, Winn Telecom employees, or other representatives of Winn Telecom (including contractors and their respective employees, business associates, affiliates, etc.)

shall create a warranty. Neither Winn Telecom, Winn Telecom employees, or other representatives of Winn Telecom (including contractors and their respective employees, business associates, affiliates, etc.) warrants that service will be uninterrupted or error-free or that any information, software, or other material accessible through the Internet is free of viruses, spyware, worms, Trojan horses, and/or other harmful components. The Customer also understands that the Internet contains unedited materials, some of which are explicit and/or offensive. Winn Telecom has no control over and accepts no responsibility whatsoever for any such materials. The Customer agrees that the Customer accesses such materials at the Customer's own risk.

- 6. INTENDED USE OF THE SERVICE:** The Customer agrees not to use or permit its users to use the service(s) provided by Winn Telecom in ways that violate laws, infringe the rights of others, interfere with the users of Winn Telecom's network or other provider networks, or otherwise violate any terms of the Winn Telecom's AUP.

The Customer agrees not to use the service(s) in a manner prohibited by any local, federal, or state law or regulation. The Customer further agrees to adhere to Winn Telecom's AUP. Transmission of any material in violation of local, federal, or state law or regulation, including but not limited to, any copyrighted material, material protected by a trade secret, or material or messages that are unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene, or otherwise objectionable in any manner or nature or that encourages conduct that could constitute a criminal offense, give rise to civil liability, or otherwise violate any applicable local, state, national, or international law or regulation, is prohibited.

Use of an account that is classified by name, or pricing tier, as "residential or consumer" for high volume or commercial use (e.g. revenue generation, advertising, etc.) is strictly prohibited.

- 7. INTERNET PROTOCOL (IP) ADDRESS:** IP addresses are not "portable" (transferrable to another service provider) and are not assigned for independent administration or distribution. The Customer understands the IP assignments are not guaranteed, and may be modified as required by Winn Telecom and/or the American Registry for Internet Numbers (ARIN). The Customer cannot alter, modify, or tamper with the IP connection of provided IP addresses or any customer on the system.
- 8. RESTRICTIONS:** The Customer agrees to limit their use of the service(s) to a single residence or business. The Customer agrees that the following terms and restrictions apply to the service(s):

- The service(s) are provided in accordance with applicable tariffs. In the event of any conflict between the terms of the tariffs and this Agreement, the tariffs shall control. All Tariffs for Winn Telecom are on file with the Michigan Public Service Commission (MPSC) and/or the Federal Communications Commission (FCC).
- The Customer will maintain Equipment furnished by Winn Telecom and take reasonable precautions to prevent damage. All electronic equipment will be protected by surge protectors. If the device has a password, that password will be 15 characters long, mixed case, alphanumeric, with special characters where possible. SIP based phones will be behind a firewall to safeguard them from intrusion by outside parties.
- Speed is not guaranteed. Actual data transfer, or “throughput”, may be lower than sync-rate due to Internet congestion, poor configuration, server or router speed limitations, protocol overheads, or other factors which cannot or may not be controlled by Winn Telecom.
- The specific Monthly Recurring Charges (MRC) and One Time Charges (OTC) for service(s) are from time to time established by Winn Telecom. Winn Telecom reserves the right to change the rates it charges for any service(s) with written notice sent by mail or electronically via the Customer’s service(s) or other means. If the Customer has an active contractual term commitment to service agreement active at the time of a MRC rate change, the Customer is exempt from that rate change, unless requested by the customer. All month-to-month term commitment to service agreements are subject to change. Exemption does not apply to state or federal tax or mandated fee rate changes.

9. INSIDE WIRING AND COMPUTER HARDWARE / SOFTWARE INSTALLATION: The Customer acknowledges that the inability of the Customer or a third party’s facilities to access the service(s) or other operational impediments may preclude or delay delivery of service(s). The Customer acknowledges that the installation representative of Winn Telecom may require inside wiring or additional equipment (either by the Customer or Winn Telecom) in order to complete service delivery at an additional hourly charge or other fee. The Customer further acknowledges this charge will occur at the sole discretion of the installation representative. The Customer acknowledges that Winn Telecom may need to install hardware and/or software on the Customer’s computer or other hardware not provided by Winn Telecom at the customer premise. The Customer agrees that Winn Telecom, Winn Telecom employees, or other representatives of Winn Telecom (including contractors

and their respective employees, business associates, affiliates, etc.) are not liable for any computer or hardware problems which may arise because of this.

10. DISCLAIMER OF LIABILITY: The service(s) provided by Winn Telecom are provided on an “as is” and “as available” basis. Winn Telecom will use reasonable efforts to provide service(s) in accordance with prevailing industry standards. Winn Telecom makes no warranty of any kind, expressed or implied, including but not limited to, any warranty of merchantability, fitness for a particular purpose or non-infringement, or any warranty regarding the reliability or suitability for a particular purpose of its service(s). The Customer understands and acknowledges that Winn Telecom exercises no control over the nature, content, or reliability for the information passing through its network. No oral or written information of advice given by Winn Telecom, its dealer, agents, or employees shall create a warranty and the Customer may not rely on such information or advice. Winn Telecom makes no warranty of any kind, either expressed or implied, regarding the quality, accuracy, or validity of the information and/or data residing on or passing through any network. Use of any information obtained from or through service(s) provided by Winn Telecom will be at the Customer’s own risk. The Customer acknowledges that Winn Telecom is not liable for any errors or interruptions in the service(s), whether within or outside the control of Winn Telecom.

Under no circumstances shall the customer hold Winn Telecom responsible for any form of damages or losses, including without limitation, any direct, indirect, consequential, or incidental damages or losses suffered from, but not limited to, errors, delays, loss of information, or interruptions in service(s) caused by the negligence, fault, misconduct, or failure to perform on the part of the Customer, Winn Telecom, or a third party. The Customer understands that telecommunications and/or network access service(s) may be temporarily unavailable for scheduled or unscheduled maintenance and for other reasons within and outside the direct control of Winn Telecom. Under no circumstances do any such errors, delays, loss of information, or interruptions in service(s) nullify or modify these Terms and Conditions. Winn Telecom reserves the right to refuse or terminate service(s) to a customer for any violation of a term or condition listed in this document, Winn Telecom’s AUP, or a subsequent modification of these Terms and Conditions or Winn Telecom’s AUP as determined by Winn Telecom.

In no event will Winn Telecom be liable to the Customer or to any third party for any indirect, special, incidental, or consequential losses or damages, including without limitation, loss of revenue, loss of goodwill, or loss of profits arising in any manner from this Agreement and the performance or non-performance of Winn Telecom’s obligations stated in these Terms and Conditions or Winn Telecom’s

AUP. The Customer's sole remedy related to any defect or failure of service(s) is limited to a refund of the pro-rated portion of the monthly charges for the affected service(s) up to an aggregate maximum of one (1) month's charges. Winn Telecom must have had previous knowledge and resolution of said failures as reported by the Customer for refunds to be reviewed and credited to the Customer's account.

- 11. ENTIRE AGREEMENT:** These Terms and Conditions contain the entire agreement and understanding concerning the services and supersede all prior negotiations, proposed agreements, and all other agreements, whether electronic, written, or oral. Without prior notice to the Customer, these Terms and Conditions may be modified at any time by Winn Telecom. The latest version of the Terms and Conditions may be found at **www.winintel.com**. A printed version of these Terms and Conditions and of any notice given in electronic form shall be admissible in judicial and administrative hearings based upon or relating to the Terms and Conditions to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.
- 12. ASSIGNMENT AND SUCCESSORS IN INTEREST:** All of the Terms and Conditions shall be binding upon, inure to the benefit of, and be enforceable by the respective successors and permitted assigns of the Customer.
- 13. VENUE / CHOICE OF LAW:** These Terms and Conditions shall be construed in accordance with the laws of the State of Michigan and The United States of America. Any claims or causes of action related to the Internet service must be instituted within one year after the claim or cause of action has arisen or will be barred.
- 14. SEVERABILITY:** In the event that it is determined by a court of competent jurisdiction as a part of a final non-appealable judgment that any provision of these Terms and Conditions (or part thereof) is invalid, illegal, or otherwise unenforceable, such provision will be enforced as nearly as possible in accordance with the stated intention of the parties, while the remainder of the Terms and Conditions will remain in full force and effect.
- 15. INDEMNIFICATION:** Customer shall indemnify and hold Winn Telecom harmless against all claims, losses, damages, and liabilities sustained by Winn Telecom resulting from, arising out of, or connected with any breach of, or non-fulfillment of any representation, warranty, covenant, or agreements made by or obligation of the Customer contained in these Terms and Conditions.