

D Liability of the Company

D1 General.

In view of the fact that the subscriber has exclusive control over the use of service and facilities funded by the Company, and because of unavailability of errors incident to the services and to the use of such facilities of the Company, services and facilities are furnished by the Company subject to the terms, conditions, and limitations herein specified.

D2 Service Irregularities.

The liability of the Company for damages arising out of mistakes, omissions, interruptions, delays, errors or defects in transmission, or failures or defects in facilities furnished by the Company, occurring in the course of furnishing service or other facilities and not caused by the negligence of the subscriber, shall in no event exceed an amount equivalent to the proportionate charge to the subscriber for the service or facilities affected during the period such mistake, omission, interruption, delay, error or defect in transmission, or failure or defect in facilities continues after notice and demand to the Company.

When suitable arrangements can be made, facilities of other connecting carriers may be used in conjunction with the Company's facilities in establishing connections to points not reached by the Company's facilities. Neither this Company nor any connecting carrier participating in a service shall be liable for any act or omission or any other Company or companies furnishing a portion of such service.

D3 Claims of Misuse of Service.

The Company shall be indemnified and saved harmless by the subscriber against claims for libel, slander, fraudulent or misleading advertisements or infringement or copyright arising directly or indirectly from the material transmitted over its facilities or the use thereof, against claims for infringement of patents arising from combining or using apparatus and systems of the subscriber with facilities of the Company; and against all other claims arising out of any act or omission of the subscriber, its agents or employees in connection with the services and facilities provided by the Company.

D4 Defacement of Premises.

The Company is not liable for any defacement of or damage to the premises of a subscriber resulting from the furnishing of service or the attachment of the equipment and facilities furnished by the Company on such premises or by the installation or removal thereof, when such defacement or damage is not the result of the negligence of the Company.

D5 Period for the Presentation of Claims.

The Company shall not be liable for damages or statutory penalties in any case where a claim is not presented in writing within the period established by law in this state.

D6 Service at Outdoor Locations.

The Company reserves the right to refuse to provide, maintain, or restore service at outdoor locations unless the subscriber agrees in writing to indemnify and save the Company harmless from and against any and all loss or damage that may result to equipment and facilities furnished by the Company at such locations. The subscriber shall likewise indemnify and save the Company harmless from and against injury to or death of any person which may result from the location and use of such equipment and facilities.

D7 Certain Use of Subscriber-provided Equipment.

The services furnished by the Company are subject to the following limitations: the Company shall not be liable for damage arising out of mistakes, omissions, interruptions, delays, errors, or defects in the transmission or other injury, including but not limited to injuries to persons or property from voltages or currents transmitted over the service of the Company, caused by subscriber-provided equipment except where a contributing cause is the malfunctioning of a Company provided connecting arrangement, in which event the liability of the Company shall not exceed an amount equal to a proportional amount of the Company billing for the period of service during which such mistake, omission, interruption, delay, error, defect in transmission or injury occurs, or not prevented by subscriber-provided equipment but which would have been prevented had Company provided equipment been used.

D8 Billed Number Screening.

At the option of the Company, or in response to a subscriber request, Billed Number Screening will be used to control instances of fraud associated with billed to a third party, station-to-station collect, or person-to-person collect messages.

D9 Emergency Number 911 Service.

The Company is not responsible for any infringement or invasion of the right of privacy of any person or persons, caused or claimed to have been caused, directly or indirectly, by the installation, operation, failure to operate, maintenance, removal, presence, condition, occasion or use of Emergency Number 911 Service features and the equipment associated therewith, or by any services furnished by the Company in connection therewith, including, but not limited to, the identification of the telephone number, address or name associated with the telephone used by the party or parties accessing Emergency Number 911 Service, and which arise out of the negligence or other wrongful act of the Company, the subscriber, its user, agencies or municipalities, or the employees or agents of any one of them. The 911 Service calling party forfeits the privacy afforded by non-published and nonlisted telephone number service to the extent that the telephone number, address and name associated with the originating station location are furnished to the PSAP. Information will be provided only for the purpose of responding to emergency calls.

The Company, its employees, agents or representatives, except in cases of willful misconduct or gross negligence, shall not be liable for death or injury to the person or for damage to property as a result of undertaking, participating in or carrying out duties involved in originating, carrying, completing or tracing a 911 call in an emergency situation.

The Company's liability for any other loss or damage arising from errors, interruptions, defects, failures or malfunctions of this service or any part thereof whether caused by the negligence of the Company or otherwise shall not exceed an amount equivalent to the pro rata charges for the service affected during the period of time that the service was fully or partially inoperative.

D10 Third Parties.

Provision of service to a subscriber shall not create, nor give to, any third party any claim or right of action against the subscriber or Company.

D11 Advanced Custom Calling Features.

The Company is not responsible for any infringement or invasion of the right of privacy of any person or persons, caused or claimed to have been caused, directly or indirectly, by the installation, operation, failure to operate, maintenance, removal, presence, condition, occasion or use of custom calling services or by any services furnished by the Company in connection therewith, including, but not limited to, the identification of the telephone number, address or name associated with the telephone used by the party or parties accessing a line equipped with any advanced custom calling feature or features.

D12 Termination.

The Company shall have the right to terminate service without liability if it is prohibited from furnishing it or if any material rate or term is substantially changed by order of the highest court of competent jurisdiction to which the matter is appealed, the Federal Communications Commission, or any other federal, state, or local government authority.

D13 Damage or Destruction by Casualty.

If the Company's facilities, necessary for the provision of service to subscribers, are damaged or destroyed, so that such facilities are rendered wholly unfit for their originally intended purposes, and if those facilities cannot reasonably be repaired within 180 days from the time of such damage or destruction, or if the Company, in its sole discretion, chooses not to repair or replace such facilities, then it shall not be obligated to repair or replace such facilities. In the event that the Company is unwilling or unable to effect the repair or replacement of such facilities, service shall terminate as of the date on which the facilities were damaged or destroyed.

D14 Limitation of Liability.

Subscriber waives and releases all claims against Company, its agents and employees, and agrees that Company shall not be liable for injury to persons or damage to property sustained by subscriber, its agents or employees relating to

such service resulting directly or indirectly from any existing or future condition, for defects in equipment or appurtenance arising out of the repair of equipment, for any other occurrence or act in the provision of telecommunications services, other than the gross negligence or intentional misconduct of any officers, directors, agents, employees or servants of Company.

D15 Equipment in Explosive Atmospheres.

The Company does not guarantee nor make any warranty with respect to equipment provided by it for use in an explosive atmosphere. The subscriber shall indemnify and hold the Company harmless from any and all loss, claims, demands, suits or other action, or any liability whatsoever, whether suffered, made, instituted or asserted by the subscriber or by any other party or persons for any personal injury to or death of any person or persons, and for any loss, damage or destruction of any property, whether owned by the subscribers or others, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, removal, presence, condition, location or use of said equipment so provided.

The Company may require each subscriber to sign an agreement for the furnishing of such equipment as a condition precedent to the furnishing of such equipment.

The subscriber shall furnish, install and maintain sealed conduit with explosive-proof fittings between this equipment and points outside the hazardous area where connection may be made with regular facilities of the Company. The subscriber may be required to install and maintain this equipment within the hazardous areas if in the opinion of the Company, injury or damage to Company employees or property might result from installation or maintenance by the Company.

D16 Directory Errors or Omissions.

No liability for damages arising from errors or omissions of free directory and/or "information" listings shall be attached to the Company. In the case of charge listings, the liability of the Company shall be limited to and satisfied by a refund or credit at the monthly rate for each charge listing for the charge period during which the error or omission continues. In accepting listings as prescribed by

applicants or subscribers, the Company will not assume liability for the result of their publication in its directories, nor will the Company be a party to controversies arising between subscribers or others as a result of listings published in its directories.