

**ITS TELECOMMUNICATIONS SYSTEMS, INC.  
BUNDLED SERVICES PACKAGES  
TERMS AND CONDITIONS OF SERVICE**

When you, the Customer, purchase one of **ITS Telecommunications Systems, Inc.’s** (“ITS”) **Bundled Service Packages** (individually referred to as “Bundled Service Package,” or collectively as “Bundled Service Packages”), you agree to these Terms and Conditions. ITS’ Terms and Conditions of the Bundled Service Packages are located at ITS’ website: <http://www.itstelecom.net/termsandconditions/>,\* and incorporated herein by reference. Other restrictions, terms and conditions for the individual services in a Bundled Service Package (“Services”) may also apply.

**Service Contracts/Entire Agreement**

Acceptance of ITS’ online Terms and Conditions of Service is required. Your signed and executed Service Contract, these online Terms and Conditions of Service, any additional Terms, Policies, or Tariffs for the Services and the rates for Service as provided to you upon request, constitute the entire agreement between you as the Customer, and ITS and its affiliates (collectively referred to herein as “ITS”) for the purchase of the Bundled Service Package(s) from ITS (“Agreement”).

**Other Terms and Policies Incorporated Herein By Reference**

In addition to the Terms and Conditions of Service for the Bundled Service Packages provided herein below, these Terms and Conditions of Service also include, and incorporate herein by reference, all additional Terms, Policies and Tariffs for each of the Services offered by ITS.

This Agreement is binding upon you, the Customer, and governs your use of ITS’ services, superseding any prior agreements between you and ITS and any and all prior or contemporaneous statements, understandings, writings, commitments, or representations concerning its subject matter. No amendment to this Agreement shall be binding upon ITS unless and until posted.

The Bundled Service Packages are available to residential and small/home business customers in selected areas. Upon signing the Bundled Service Packages Contract (“Service Contract”), Customer understands and agrees that Customer has selected ITS as its preferred carrier for the Services provided in the Bundled Service Packages. This means that all of Customer’s Internet services, 1+ long distance and local services covered by the Service Contract will be carried by ITS. Therefore, Customer also understands and agrees that ITS will place a freeze on Customer's selection of ITS as Customer's preferred carrier for the Service. Upon written authorization or oral authorization, this freeze can be lifted; provided however, Customer understands and agrees that, in addition to any other termination charges that may apply, should Customer end this preferred carrier freeze on any or all of the Service provided herein during the

term of Agreement, or should the Customer terminate any one of the individual Service, Customer's rates for all Service under the Bundled Service Package shall automatically convert to, and Customer shall be obligated to pay, ITS' then prevailing standard rates for the remaining Service provided by ITS to Customer.

Bundled Service Packages include domestic, direct-dialed calls and direct-dialed calls to Canada only. If any Service in the Bundled Service Package is dropped, savings no longer apply. Customers with a credit limit, non-basic block or toll block on their existing services are not eligible to purchase an ITS Bundled Service Package. All other ITS accounts must be current at enrollment for a Bundled Service Package and the Customer must maintain a good payment history to keep the Bundled Service Package. You will incur penalty charges in the event of disconnection for non-payment. Eligibility for the Bundled Service Packages requires the Customer to have the same billing name and address for all of the Services offered within each Bundled Service Package.

Purchase of a Bundled Service Package requires you to commit to either a consecutive twelve (12) month or a consecutive twenty-four (24)-month term for the Service. An early termination penalty shall apply to the Customer's account if Customer does not fulfill minimum monthly requirement for Bundled Service Packages, as provided in the Service Contract. If the Customer fails to return any ITS equipment an equipment fee will apply. ITS does not guarantee Internet speeds and uninterrupted use of the Service.

ITS reserves the right to discontinue all offers of Service at any time.

\* Terms and Conditions of Service are also available in paper form upon written request to: ITS Telecommunications Systems, Inc. – P.O. Box 277, Indiantown, FL 34956.

### **Fees and Charges**

You agree to pay all charges and fees associated with the use of the Service offered by ITS, which charges may include, without limitation, monthly service fees, charges for the use of ITS' equipment, installation charges, charges for service calls and other charges. ITS shall have the right to change the amount of fees and charges from time to time at its discretion and upon reasonable advance notice. Monthly service, equipment and other fees shall be payable monthly in advance. Installation and other charges will be billed according to our then current billing policies. Your ITS invoice may also contain charges for other services provided by us or our subsidiaries or affiliates. If we receive partial payment of any such invoices, we will apply such payment in the amounts and proportions to the outstanding charges as we determine. Our acceptance of any partial payment by you does not mean that we waive our rights to collect the full balance owed to us.

### **Taxes**

You are responsible for, and shall pay, any applicable federal, state, provincial, municipal, local or other governmental sales, use, excise, value-added, personal property, public utility and any other taxes, fees, charges and surcharges now in force or enacted in the future, that arise from or as a result of your subscription or use or payment for the Service. Such amounts are in addition to payment for the Service. If you are exempt from payment of such taxes, you shall provide ITS with an original certificate that satisfies the applicable legal requirement attesting to tax-exempt status. Tax exemption will only apply from and after the date ITS receives such certificate.

### **Termination/Discontinuance of Service**

ITS reserves the right to suspend or discontinue providing its services generally, or to terminate your Service, at any time in its sole discretion. If ITS discontinues providing its services generally, or terminates your Service in its discretion without a stated reason, you will only be responsible for charges accrued through the date of termination, including a pro-rated portion of the final month's charges. If your Service is terminated for any stated reason, including without limitation, violation of your Agreement, including these Terms and Conditions, or because of any improper use of the Service (such as, but not limited to, your attempts to disrupt or misuse the service or your acts or omissions that violate any acceptable use policy of ITS or of a third party provider to which ITS is subject), you will be responsible for the full month's charges to the end of the current term, including without limitation unbilled charges, disconnect fees, and equipment charges as set forth herein these Terms and Conditions, all of which immediately become due and payable. Other fees may also apply.

### **Disconnect Fees**

In addition, labor charges and/or service order charges may be incurred if any on-premises or central office work is performed to restore any of the Services offered by ITS where such Services are disconnected for non-payment, as defined below:

A. The Customer will incur labor and/or service charges if ITS performs on-premise or central office work to restore any of the Bundled Service Packages due to disconnection as a result of non-payment. The reconnection fee for each of the Bundled Service Packages is \$10.00.

B. The Customer will incur labor and/or services charges if an ITS technician is required to come out on a trouble call and the Customer does not have the inside wire maintenance plan and if the trouble is not found in ITS equipment. A service charge of \$30.00 will apply for this visit.

### **Prohibited Uses**

You agree to use the Services only for lawful purposes. This means that you agree not to

use them for transmitting or receiving any communication or material of any kind when in ITS' sole judgment the transmission, receipt or possession of such communication or material (i) would constitute a criminal offense, give rise to a civil liability, or otherwise violate any applicable local, state, national or international law or (ii) encourages conduct that would constitute a criminal offense, give rise to a civil liability, or otherwise violate any applicable local, state, national or international law.

Customer represents and warrants that all Bundled Service Packages purchased hereunder are for retail purposes only. Customer's resale of any of the Services is strictly prohibited.

ITS reserves the right to terminate your Service immediately and without advance notice if ITS, in its sole discretion, believes that you have violated the above restrictions, leaving you responsible for the full month's charges to the end of the current term, including without limitation unbilled charges, plus a disconnect fee, all of which immediately become due and payable and may at ITS' discretion be immediately charged to your credit card. You are liable for any and all use of the Service by yourself and by any person making use of the Service provided to you, and agree to indemnify and hold harmless ITS against any and all liability for any such use. If ITS, in its sole discretion believes that you have violated the above restrictions, ITS may forward the objectionable material, as well as your communications with ITS and your personally identifiable information to the appropriate authorities for investigation and prosecution and you hereby consent to such forwarding.

### **Limitation of Liability**

ITS shall not be liable for any delay or failure to provide the Service, at any time or from time to time, or any interruption or degradation of voice quality that is caused by any of the following:

- 1.) act or omission of an underlying carrier, service provider, vendor or other third party;
- 2.) equipment, network or facility failure;
- 3.) equipment, network or facility upgrade or modification;
- 4.) force majeure events such as (but not limited to) acts of god; strikes; fire; war; riot; government actions;
- 5.) equipment, network or facility shortage;
- 6.) equipment or facility relocation;
- 7.) service, equipment, network or facility failure caused by the loss of power to Customer;
- 8) outage of Customer's ISP or High Speed Internet service provider;
- 9) act or omission of Customer or any person using the ITS' Service(s) provided to Customer; or
- 10) any other cause that is beyond ITS' control, including without limitation a failure of or defect in any device, the failure of an incoming or outgoing communication, the inability of communications to be connected or completed, or degradation of voice quality.

ITS' aggregate liability for (i) any failure or mistake; (ii) any claim with respect to ITS' performance or nonperformance hereunder or (iii) any ITS act or omission in connection with the subject matter hereof shall in no event exceed service charges with respect to the affected time period.

### **Disclaimer of Damages**

IN NO EVENT SHALL ITS, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS OR ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICES TO CUSTOMER IN CONNECTION WITH THIS AGREEMENT OR THE SERVICE BE LIABLE FOR ANY DIRECT, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF DATA, LOSS OF REVENUE OR PROFITS. THE LIMITATIONS SET FORTH HEREIN APPLY TO CLAIMS FOUNDED IN BREACH OF CONTRACT, BREACH OF WARRANTY, PRODUCT LIABILITY, TORT AND ANY AND ALL OTHER THEORIES OF LIABILITY AND APPLY WHETHER OR NOT ITS WAS INFORMED OF THE LIKELIHOOD OF ANY PARTICULAR TYPE OF DAMAGES.

### **Indemnification**

Customer agrees to defend, indemnify, and hold harmless ITS, its officers, directors, employees, affiliates and agents and any other service provider who furnishes services to Customer in connection with this Agreement or the Service, from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without limitation, reasonable attorneys fees) by, or on behalf of, Customer or any third party or user of Customer's Service, relating to this Agreement, or the Services being provided by ITS. This paragraph shall survive termination of this Agreement.

### **No Warranties on Service**

ITS MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS OF ANY OF THE SERVICES FOR A PARTICULAR PURPOSE, TITLE OR NONINFRINGEMENT OR ANY WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE OR ANY WARRANTY THAT ANY OF THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS. WITHOUT LIMITING THE FOREGOING, ITS DOES NOT WARRANT THAT ANY OF ITS'S SERVICES WILL BE WITHOUT FAILURE, DELAY, INTERRUPTION, ERROR, DEGRADATION OF VOICE QUALITY OR LOSS OF CONTENT, DATA OR INFORMATION. NEITHER ITS NOR ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS OR ANY OTHER SERVICE PROVIDER OR VENDOR WHO FURNISHES SERVICES OR PRODUCTS TO CUSTOMER IN CONNECTION WITH THIS AGREEMENT OR ANY ITS SERVICE WILL BE

LIABLE FOR UNAUTHORIZED ACCESS TO ITS'S OR CUSTOMER'S TRANSMISSION FACILITIES OR PREMISES EQUIPMENT OR FOR UNAUTHORIZED ACCESS TO, OR ALTERATION, THEFT OR DESTRUCTION OF, CUSTOMER'S DATA FILES, PROGRAMS, PROCEDURES OR INFORMATION THROUGH ACCIDENT, FRAUDULENT MEANS OR DEVICES OR ANY OTHER METHOD, REGARDLESS OF WHETHER SUCH DAMAGE OCCURS AS A RESULT OF ITS'S OR ITS SERVICE PROVIDER'S OR VENDORS' NEGLIGENCE. STATEMENTS AND DESCRIPTIONS CONCERNING THE SERVICE OR DEVICE, IF ANY, BY ITS OR ITS'S AGENTS OR INSTALLERS ARE INFORMATIONAL AND ARE NOT GIVEN AS A WARRANTY OF ANY KIND.

### **No Third Party Beneficiaries**

No provision of this Agreement provides any person or entity not a party to this Agreement with any remedy, claim, liability, reimbursement, or cause of action or creates any other third party beneficiary rights.

### **Content**

You are liable for any and all liability that may arise out of the content transmitted by or to you or Users using the Services. You shall assure that your or Users' use of the Services and content will at all times comply with all applicable laws, regulations and written and electronic instructions for use. ITS reserves the right to terminate or suspend affected Services, and/or remove your or Users' content from the Services, if ITS determines that such use or content does not conform with the requirements set forth in this Agreement or interferes with ITS' ability to provide Services to you or others or receives notice from anyone that your or Users' use or Content may violate any laws or regulations. ITS' actions or inaction under this paragraph shall not constitute review or approval of your or Users' use or content. You will indemnify and hold ITS harmless against any and all liability arising from the content transmitted by or to you or to Users using the Services. For purposes of this paragraph, the term "User" means any person, whether authorized or unauthorized, using the Service provided to you.

### **Governing Law / Resolution of Disputes - Mandatory Arbitration**

Any dispute or claim between you, the Customer, and ITS arising out of or relating to the Service provided in connection with these General Terms and Conditions shall be resolved by arbitration ("Mandatory Arbitration"), unless otherwise specified in Customer's individual Service Contract or the Terms or Policies for the individual Service being provided. To the extent that there is a conflict regarding this Mandatory Arbitration provision, the Customer's individual Service Contract supersedes the Terms and Policies of the individual Services.

Mandatory Arbitration will take place before a single arbitrator administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules. The arbitration shall take place in Indiantown, Florida and shall be conducted in

English. The arbitrator's decision shall follow the plain meaning of the relevant documents, and shall be final and binding.

Without limiting the foregoing, the parties agree that no arbitrator has the authority to: (i) award relief in excess of what this Agreement provides; or (ii) award punitive or exemplary damages. Judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. All claims shall be arbitrated individually and Customer will not bring, or join any class action of any kind in court or in arbitration or seek to consolidate or bring previously consolidated claims in arbitration. CUSTOMER ACKNOWLEDGES THAT THIS ARBITRATION PROVISION CONSTITUTES A WAIVER OF ANY RIGHT TO A JURY TRIAL.

### **Governing Law / Resolution of Disputes - Governing Law**

The Agreement and the relationship between you and ITS shall be governed by the laws of the State of Florida without regard to its conflict of law provisions. To the extent court action is initiated to enforce an arbitration award or for any other reason consistent with the Mandatory Arbitration provision herein, you and ITS agree to submit to the personal and exclusive jurisdiction of the courts located within the state of Florida and waive any objection as to venue or inconvenient forum. The failure of ITS to exercise or enforce any right or provision of the Agreement shall not constitute a waiver of such right or provision. If any provision of the Agreement is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the Agreement remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service or the Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred.

### **Severability**

If any part of this Agreement is legally declared invalid or unenforceable, all other parts of this Agreement are still valid and enforceable. Such invalidity or non-enforceability will not invalidate or render unenforceable any other portion of this Agreement.

### **Privacy**

ITS utilizes, in whole or in part, the public Internet and third party networks to transmit communications. ITS is not liable for any lack of privacy which may be experienced with regard to the Service. Please refer to our Privacy Policy applicable to you at <http://www.itstelecom.net/termsandconditions/> for additional information.