



## SERVICE APPLICATION/AGREEMENT GENERAL TERMS AND CONDITIONS

**The undersigned (hereinafter called the “Customer”) hereby applies for fiber optic communication services as selected by the Customer (the “Service”) with Tombigbee Fiber, LLC (hereinafter called the “Provider”), and agrees to be bound by, and said Service to be governed by and upon the following General Terms and Conditions:**

1. The Customer will comply with and agrees to be bound by the provisions of these Terms and Conditions, and such Terms and Conditions of Service as may from time to time be adopted by the Provider in the future. The current General Terms and Conditions of service may be viewed at any time online at [TombigbeeFiber.com](http://TombigbeeFiber.com).
2. The Customer will, when Service is made available, pay monthly the current rates determined by the Provider for the level of service or types of service selected by the Customer. The standard rates are published at [TombigbeeFiber.com](http://TombigbeeFiber.com). Business or commercial rates will vary. The monthly service fee begins upon completion of the installation of the service at the Customer’s service location and may be prorated the first and last month of service.
3. Any default by the Customer in the payment of Customer’s service bill shall give the Provider the right to disconnect and discontinue the Service and also to remove any property of the Provider from the service location.
4. Customer shall be provided with a Router as part of the Service obtained from Provider. The Router and ONT device (where the fiber optics media conversion takes place), along with all fiber optic materials utilized, are and shall remain the property of the Provider. Customer shall not tamper with, alter or open the Router, ONT, or any other property of Provider. Upon termination of the Service, Customer shall return the Provider the Router and any other property belonging to it.
5. The Customer represents and warrants that they are the owner of the property for which service is sought, or that they have sought and obtained the permission of the owner of the property should they be leasing or otherwise occupying said property. Customer consents and agrees that no easement is needed to provide them this Service as pursuant to the laws of the State of Mississippi, specifically the Broadband Enabling Act, that Provider shall have a right to access the property of Customer by use of any existing easements and rights of way belonging to its parent organization Tombigbee Electric Power Association, on and through Customer’s property for a commercial communications, broadband and smart-grid system as well as any periodic necessary maintenance or service upgrades thereto. If any additional property is needed beyond existing easements or rights of way, Customer specifically gives Provider a perpetual irrevocable license and/or additional easement, as well as permission to cross Customer’s property, including into the structures thereon for the purpose of providing the Service contemplated hereunder.
6. Customer hereby grants to Provider a perpetual irrevocable and permanent license on and through Customer’s property to construct, install, maintain, inspect, upgrade, extend, expand, remove and/or replace fiber lines, equipment, material and any related infrastructure. Furthermore, if requested, as the owner of the premises at which the Services are provided, Customer will grant Provider a perpetual easement, without charge, on and through your premises for the aforementioned purposes. Customer also hereby grants to Provider full right of ingress and egress to, from and over the property in question for doing anything necessary or useful for the enjoyment of the easement/license hereby granted. If Customer is not the owner of the premises, Customer warrants that Customer has authority to grant such rights to Provider or that Customer has obtained the consent from the owner of the premises for Provider to construct, install, maintain, inspect, upgrade, extend, expand, remove and/or replace fiber lines, equipment, material and any related infrastructure for the aforementioned purposes.
7. Customer represents and warrants that they are at least 18 years of age and are legally authorized to enter into this Agreement. Customer warrants that Customer is legally empowered to authorize Provider to enter upon the premises for the purposes set forth in this Agreement, including, but not limited to: (a) placing fiber optic transmission lines near or adjacent to the current locations of other utilities on the property, and if necessary, to install an above ground pedestal on the premises; (b) attaching wiring and equipment to a structure; and (c) installing, maintaining, repairing, or disconnecting Service.

8. The Customer authorizes the Provider to make an investigation of their credit history if needed to establish or maintain the Service.
9. Customer agrees that Provider may from time to time make attempts to contact Customer via both automated and live calls, along with text messages, to any phone number given to Provider. Standard rates may apply.
10. The Customer understands that the Service requires electricity at the Customer's service location, and if an electrical outage occurs, the Service, which could include telephone, will not function during such electric outage. In the event of a power outage, Customer's VoIP phone service, if applicable, will not work and Customer should secure an alternate means of 911 and emergency services for those instances.
11. Provider's Service is provided on an "as is" and "as available" basis without warranties of any kind, either expressed or implied, or for any warranty for "fitness for any particular purpose." Provider does not warrant that the Service will be uninterrupted or error free. Provider assumes no liability for interruption of Service due to circumstances beyond its control, including without limitation, acts of God, natural disaster, fire, civil disturbance, strike or weather. Provider will strive to restore service as soon as practical and within seventy-two (72) hours after the report a service interruption or other problem if the cause was not beyond its control.
12. Customer agrees and understands Provider may utilize the wireless component of the Router or ONT device to extend coverage of the network for internal or external use on a separate network independent of the Customer's network or services which will not impede or restrict access to Customer's subscribed services.
13. The Customer agrees to not use the Service or fiber optic network in any illegal manner as defined by local, state, and federal laws and regulations. Examples of illegal or inappropriate use shall include without limitation:
  - Forging email headers or using another computer, without authorization, to send email messages or to retransmit email messages for the purpose of misleading recipients as to the origin thereof;
  - Using the Service or email to harass or intimidate others;
  - Advertising, transmitting, or otherwise making available any software, program, product, or service that is designed to violate or facilitate a violation of any law, including but not limited to the facilitation of the means to spam, infringe on copyrights, and pirate software;
  - Transmitting any defamatory, libelous, fraudulent, deceptive, indecent, offensive or obscene materials;
  - Using the Service to deliver spyware, or secretly or deceptively obtain the personal information of third parties (e.g., phishing);
  - Intentionally spreading computer viruses or malware;
  - Exporting software or technical information in violation of U.S. export control laws;
  - Gaining unauthorized access to private networks;
  - Engaging in the transmission of pirated software;
  - Unauthorized copying, distribution or display of copyrighted material;
  - Conducting or participating in illegal gambling;
  - Soliciting for illegal pyramid schemes through email or USENET posting;
  - Violating rules, regulation, and policies applicable to any network, server, computer database, website, or ISP that Customer accesses through the Service;
  - Threatening, harassing, abusing or intimidating others;
  - Engaging in activity, illegal or not, that Provider determines in its sole discretion to be harmful to its subscribers, operations, or networks;
  - Making fraudulent offers of products, items or services; or
  - Creating or attempting to utilize a domain name that is defamatory, fraudulent, indecent, offensive, deceptive, threatening, abusive, harassing, or which damages the name or reputation of Provider.
  - Violating the CAN-SPAM Act of 2003, or of any state or federal law regulating email, is a violation hereof and Provider reserves the right to seek damages and other available relief



against Customer or any third parties as applicable. Violations are determined by Provider in its sole discretion.

- Customer may have access through the Service to search engines, subscription Web services, chat areas, bulletin boards, Web pages, USENET, social networking sites or other services that promulgate rules, guidelines or agreements to govern their use. Failure to adhere to any such rules, guidelines, or agreements may be a violation hereof.
- Any party seeking to report a violation of these provisions may contact Tombigbee Fiber, LLC via phone at 1-877-342-3728 or email at support@tombigbeefiber.com.

14. Customer agrees, acknowledges and understands that Provider does not and is not responsible for the monitoring or protections or firewalls for the actions of Customer or some third-party as referenced above. Provider cannot be responsible for the actions of Customer or third-parties undertaking such illegal or inappropriate actions.
15. Customer is responsible for any content Customer offers or receives through the Service.
16. It is Customer's responsibility to ensure the security of Customer's network and the equipment that connects to the Service. Customer is required to take all necessary steps to secure and manage the use of the Service in such a way to assure that network abuse and/or fraudulent activity is prevented. Failing to secure Customer's system against abuse or fraudulent activity is a violation of these Terms and Conditions. Customer is responsible for configuring and securing Customer's network and the Service to prevent unauthorized access to Customer systems and Provider's fiber network. Customer is also responsible for any fraudulent activity that may occur due to Customer's failure to secure Customer's network and the Service. Customer will be responsible if unknown third-parties due to actions or inactions of Customer utilize the Service at any time for the purpose of illegally distributing licensed software, engaging in abusive behavior or engaging in any type of fraudulent conduct. Customer may not, through action or inaction (e.g. failure to secure Customer network), allow others to use Customer's network for illegal, fraudulent or inappropriate uses, or any other disruptive provoking, or abusive behavior that is prohibited hereby.
17. Customer agrees that the Service is location or property specific and that it shall not be shared with others not residing at or occupying said location/property. The Service shall only be provided to Customer at the address where the installation is performed. Customer may not transfer Customer's rights or obligation to the Service to any successor tenant or occupant or to any other address without Provider's prior written approval. Customer may not "share" the Service with other locations or properties.
18. Provider complies with the Online Copyright Infringement Liability Limitation Act of 1998, 17 USC 512 ("Act"). As required by the Act, Provider has a policy that reserves the right to terminate Service to Customers who repeatedly infringe copyrights. If Provider receives a determination that any Customer has infringed another's copyright through the use of Provider's Service, system or network, Provider reserves the right to terminate Service to that Customer after receiving notice of any further copyright infringement by that Customer. Provider accommodates and does not interfere with standard technical measures to identify and protect copyrighted works, subject to the limitations of the Act: Notices and counter-notices related to claimed copyright infringement should be directed to the following designated agent:

Mail: Tombigbee Fiber, LLC  
Net Abuse  
P.O. Box 89  
Tupelo, MS 38802

Email: [copyright@tombigbeefiber.com](mailto:copyright@tombigbeefiber.com)

19. If Customer does not agree to all these Terms and Conditions or the limitations of use provisions herein, including any future revisions, Customer shall not use the Service and must cancel Service immediately. Application, use or continued use shall constitute agreement with the then published Terms and Conditions.
20. Customer agrees that Customer shall be responsible for and shall defend, indemnify, and hold harmless Provider and its parent company, and both of their employees, affiliates, suppliers, agents, and contractors



and shall reimburse them for any damages, losses or expenses (including without limitation, reasonable attorney's fees and costs) incurred by them in connection with any claims, suits, judgments and causes of action arising out of (i) Customer's use of the Service or equipment; (ii) violation or infringement of contractual rights, privacy, confidentiality, copyright, patent, trademark, trade secret, or other intellectual property and proprietary rights arising from your use of the Service or any unauthorized apparatus or system; and (iii) any breach of any provision of these Terms and Conditions.

21. **In the event a dispute shall arise between the Provider and the Customer, the parties hereby agree that the dispute shall be settled by arbitration administered by the American Arbitration Association or similar organization selected by Provider in accordance with its Commercial Dispute Resolution Procedures and the Supplementary Procedures for Consumer Related Disputes.** The arbitrator's decision shall be final and legally binding and judgment may be entered thereon. Each party shall be responsible for its share of the arbitration fees in accordance with the applicable Rules of Arbitration. In the event a party fails to proceed with arbitration, unsuccessfully challenges the arbitrator's award, or fails to comply with the arbitrator's award, the other party is entitled to costs of suit, including a reasonable attorney's fee for having to compel arbitration or defend or enforce the award. **Parties further agree that each may bring claims against the other only in their individual capacities and not as a plaintiff or class member in any purported class or representative proceeding, including any arbitration proceedings.**

*By agreeing to this **SERVICE APPLICATION/AGREEMENT and GENERAL TERMS AND CONDITIONS**, the Customer is confirming THAT THE CUSTOMER HAS READ AND AGREED TO THE SAME, and reaffirming that the Customer is the owner of the property where the service is requested or has the permission from the property owner to have the Service installed. THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.*



## SUPPLEMENTAL TERMS AND CONDITIONS APPLICABLE TO VOIP PHONE SERVICE

The following Supplemental Terms and Conditions shall be applicable in the event the Services requested by Customer include VoIP Phone Service ("Voice Services").

- RATES AND CHARGES.** The rates and charges for the Voice Services are set forth in the Agreement, together with any and all of Company taxes, fees and surcharges, as applicable and as amended from time to time. With respect to any Voice Services provided by Company to Customer for which a rate is not specified in the Rate Schedule, Company's standard retail rates shall apply. Company shall provide Customer with a current rate schedule for its standard retail rates at time of service activation, from time to time, and at the request of Customer.
- TAXES AND SURCHARGES.** In addition to the rates and charges for the Voice Services, Customer shall be responsible for payment of all local, state and federal taxes, fees and surcharges, however designated, imposed on or based upon the provision, sale, or use of the Voice Services and any Equipment, excluding taxes based on Company's net income. Customer shall be responsible for the payment of all surcharges in effect from time to time, including but not limited to USF, 911 surcharges, and federal and state regulatory surcharges, as required or permitted by applicable law or regulation and/or as specified on the Company's website.
- VOIP USAGE BILLING.** Billing for any usage associated with Voice Services, including but not limited to Directory Assistance, Toll Free Service Charges, International Calling, will occur in arrears (for prior month's usage-based Services).
- CUSTOMER RESPONSIBILITIES.** Customer shall be responsible for providing the following to support Voice Services: (i) broadband Internet connectivity; (ii) all equipment, software, facilities and/or Internet Protocol ("IP") connectivity necessary to reach and interoperate with the Voice Services and the Company; and (iii) all other equipment, software and other facilities to be installed, including without limitation, routers, IP enabled phones and/or analog telephony adapters.
- UNAUTHORIZED USE OF VOICE SERVICES.** Company shall have the right (but not the obligation) to take protective action against Customer in order to protect Company's network from any unauthorized use, which protective action may include, without limitation, the temporary blocking of Customer's voice traffic until the applicable problem is resolved in Company's reasonable discretion. The Voice Services do not support and Company will not accept 976/900 and such other call types in which charges are placed on an end-user's bill and Company might be expected to act as a collection agent. Use of predictive dialers for more than five percent (5%) of all calls made is prohibited without Company's prior written consent.
- VOICE 911/E 911 SERVICE LIMITATIONS AND LIMITATION OF LIABILITY.** Customer understands and acknowledges that access to Voice Services may be lost or may not function properly, including the ability to call for 911/E911 service, under certain circumstances, including but not limited to, the following: (i) Company's network or facilities are not operating; (ii) broadband connection is lost; (iii) Customer is experiencing a power outage; (iv) electrical power to the optical network terminal (ONT) is interrupted; (v) Customer failure to provide a proper service address or moving the service to a different address. Customer understands and acknowledges that in order for 911/E911 calls to be properly directed, Company must have the current service address and if Service is moved to a different address without Company's approval, 911/E911 calls may be directed to the wrong emergency authority, may transmit the incorrect location address for responding, or the Voice Services (including 911/E911) may fail altogether. Customer is required to notify Company of any change of address of the ONT for 911/E911 calling service to work properly. Customer agrees that, to the maximum extent allowed by law, Company shall have no liability for any damages caused, directly or indirectly, by Customer's inability to access the Voice Services, including 911/E911 services. Customer agrees to defend, indemnify, and hold harmless Company, its officers, directors, employees, affiliates and agents and any others who furnish services in connection with this Agreement or the Service, from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without



limitation, reasonable attorney fees) by, or on behalf of, Customer or any third party or user of account relating to the absence, failure, or outage of the Voice Services, including 911 dialing and/or inability of Customer or any third person or party or user of the Voice Services to be able to dial 911 or to access emergency service personnel.

7. **CPNI.** Under federal law, Customer has the right, and Company has a duty, to protect the confidentiality of information about the amount, type, and destination of Customer's Voice Services usage (CPNI). Customer hereby consents to the sharing of Customer's CPNI or other personal information with Company and its affiliates, agents and contractors, solely for the purpose of developing or bringing to Customer's attention any products and services, or in the event of any merger, sale of some or all of the Company's assets, as well as in any insolvency, bankruptcy or receivership proceeding in which CPNI or other personal information would be transferred as one of the business assets of the Company. This consent survives the termination of Customer's Service and is valid until revoked by Customer. To remove this consent at any time, Customer must notify Company in writing at PO Box 89, Tupelo, MS 38802 - Attn: Customer Service and provide the following information: (1) Customer name, (2) Service billing address, (3) telephone number including area code, and (4) service account number. Removing consent will not affect the Customer's current Services.