



## Table of Contents

Acceptable Use Policy .....01

Backup Battery Power Notice .....08

Disconnect Policies – Digital Telephone .....09

Internet Service Agreement .....10

Network Management Policy .....14

Non-Discrimination .....16

Online Privacy Policy .....16

Privacy Policy .....19

Remote Control Policy – Digital TV .....22

Service Agreement .....22

Set Top Box Policy – Digital TV .....37

Terms of Use .....38

## Acceptable Use Policy

United Telephone Mutual Aid Corporation and Turtle Mountain Communications (“Company”) has adopted this Acceptable Use Policy (“AUP”) to outline the acceptable use of Company’s Broadband Internet service (“Broadband Service”). This AUP is in addition to any restrictions contained in the Company service agreement for Internet service (the “Subscriber Agreement”). Please also refer to the Online Privacy Policy, which includes explanations of how Company will enforce this AUP in the context of network management. All capitalized terms used in this AUP that are not defined here have the meanings given to them in the Subscriber Agreement.

You, the Customer, must comply with this AUP. Your failure to do so could result in the suspension or termination of your Broadband Service account. If you do not agree to comply with this AUP, you must immediately stop all use of the Broadband Service and notify Company so that we can close your account.

Company may revise this AUP from time to time, and will have the latest version posted on its Website. Company will use reasonable efforts to make Customers aware of any changes to this AUP, which may include sending email announcements or posting additional information on the Company Website. Revised versions of this AUP are effective immediately upon posting. Accordingly, Customers of the Company Broadband Internet Service should read any Company announcements they receive and regularly visit the Company Website and review this AUP to ensure that their activities conform to the most recent version. For questions regarding or to report violations of this AUP, please contact Perry Oster, President & General Manager, at 800.844.9708. To report illegal content on the Internet, go to [www.ftc.gov](http://www.ftc.gov).

### I. Prohibited Uses and Activities

In general, this AUP prohibits uses and activities involving the Broadband Service that are illegal, infringe the rights of others, or interfere with or diminish the use and enjoyment of the Broadband Service by others.

## **A. Network and Usage Restrictions**

No user of the Broadband Service, Customer Equipment, or the Company Equipment may, individually or in combination with another:

- 1.** restrict, inhibit, or otherwise interfere with the ability of any other person, regardless of intent, purpose, or knowledge, to use or enjoy the Broadband Service (except for safety and security functions such as parental controls, for example), including, without limitation, posting or transmitting any information or software which contains a worm, virus, or other harmful feature, or generating levels of traffic sufficient to impede others' ability to use, send, or retrieve information;
- 2.** restrict, inhibit, interfere with, or otherwise disrupt performance of the Broadband Service or cause a performance degradation, regardless of intent, purpose, or knowledge, to the Broadband Service or any Company (or Company supplier) host, server, backbone network, node, or service, or otherwise cause a performance degradation to any Company (or Company supplied) facilities used to deliver the Broadband Service;
- 3.** resell the Broadband Service or otherwise make available to anyone outside the Premises the ability to use the Broadband Service (for example, through Wi-Fi or other methods of networking), in whole or in part, directly or indirectly. The Broadband Service is for residential and business use only, and you agree not to use the Broadband Service for operation as an Internet service provider. Business use is restricted to use within the Premises where the broadband service is provided the Company;
- 4.** connect the Company Equipment to any computer outside of your Premises;
- 5.** interfere with computer networking or telecommunications service to any user, host, or network, including, without limitation, denial of service attacks, flooding of a network, overloading a service, improperly seizing and abusing operator privileges, and attempts to "crash" a host; and
- 6.** accessing and using the Broadband Service with anything other than a dynamic Internet Protocol ("IP") address that adheres to the dynamic host configuration protocol ("DHCP"). You may not configure the Broadband Service or any related equipment to access or use a static IP address or use any protocol other than DHCP unless expressly permitted to do so by Company.

## **B. Conduct and Information Restrictions**

No user of the Broadband Service, Customer Equipment, or the Company Equipment may, individually or in combination with another:

- 1.** avoid incurring charges for or otherwise being required to pay for usage of the Broadband Service;
- 2.** invade another person's privacy, stalk, harass, or otherwise violate the rights of other persons;
- 3.** undertake or accomplish any unlawful purpose. This includes, but is not limited to, posting, storing, transmitting, or disseminating information, data, or material which is libelous, obscene, unlawful, threatening, or defamatory, or which infringes the intellectual property rights of any person or entity, or which in any way constitutes or encourages conduct that would constitute a criminal offense, or otherwise violate any local, state, federal, or non-U.S. law, order, or regulation;
- 4.** post, store, send, transmit, or disseminate any information or material which a reasonable person could deem to be unlawful;

5. upload, post, publish, transmit, reproduce, create derivative works of, or distribute in any way information, software, or other material obtained through the Broadband Service or otherwise that is protected by copyright or other proprietary right, without obtaining any required permission of the owner;
6. collect, or attempt to collect, personal information about third parties without their consent;
7. transmit unsolicited bulk or commercial messages commonly known as "spam;"
8. send voluminous copies of the same or substantially similar messages, empty messages, or messages which contain no substantive content, or send very large messages or files that disrupt a server, account, blog, newsgroup, chat, or similar service;
9. initiate, perpetuate, or in any way participate in any pyramid or other illegal scheme;
10. participate in the collection of voluminous amounts of email addresses, screen names, or other identifiers of others (without their prior consent), a practice sometimes known as spidering or harvesting, or participate in the use of software (including "spyware") designed to facilitate this activity;
11. collect responses from unsolicited bulk messages;
12. falsify, alter, or remove message headers;
13. falsify references to Company or its network, by name or other identifier, in messages;
14. impersonate any person or entity, engage in sender address falsification, forge anyone else's digital or manual signature, or perform any other similar fraudulent activity (for example, "phishing"); or violate the rules, regulations, terms of service, or policies applicable to any network, server, computer database, service, application, system, or Website that you access or use.

### **C. Technical Restrictions**

No user of the Broadband Service, Customer Equipment, or the Company Equipment may, individually or in combination with another:

1. use the Internet service or facilities for Web-hosting, email hosting, or other unusually high-bandwidth consumption unless you have made special subscription arrangements with Company and the usage does not otherwise violate law or regulation;
2. access any other person's computer or computer system, network, software, or data without his or her knowledge and consent; breach the security of another user or system; or attempt to circumvent the user authentication or security of any host, network, or account. This includes, but is not limited to, accessing data not intended for you, logging into or making use of a server or account you are not expressly authorized to access, or probing the security of other hosts, networks, or accounts without express permission to do so;
3. use or distribute tools or devices designed or used for compromising security or whose use is otherwise unauthorized, such as password guessing programs, decoders, password gatherers, keystroke loggers, analyzers, cracking tools, packet sniffers, encryption circumvention devices, or Trojan Horse programs. Unauthorized port scanning is strictly prohibited;
4. copy, distribute, or sublicense any proprietary software provided in connection with the Broadband Service by Company or any third party, except that you may make one copy of each software program for back-up purposes only;

5. distribute programs that make unauthorized changes to software (cracks);
6. use or run dedicated, stand-alone equipment or servers from the Premises that provide network content or any other services to anyone outside of your Premises' local area network ("Premises LAN"), also commonly referred to as public services or servers. Examples of prohibited equipment and servers include, but are not limited to, email, Web hosting, file sharing, and proxy services and servers;
7. use or run programs from the Premises that provide network content or any other services to anyone outside of your Premises, or;
8. service, alter, modify, or tamper with the Company Equipment or Broadband Service, or permit any other person to do the same who is not authorized by Company.

## II. Customer Conduct and Features of the Broadband Service

### A. Customer Obligations

In addition to being responsible for your own compliance with this AUP, you are also responsible for any use or misuse of the Broadband Service that violates this AUP, even if it was committed by a friend, family member, or guest with access to your Broadband Service account. Therefore, you must take steps to ensure that others do not use your account to gain unauthorized access to the Broadband Service by, for example, strictly maintaining the confidentiality of your Broadband Service login and password. In all cases, you are solely responsible for the security of any device you choose to connect to the Broadband Service, including any data stored or shared on that device. It is also your responsibility to secure the Customer Equipment and any other Premises equipment or programs not provided by Company that connects to the Broadband Service from external threats such as viruses, spam, bot nets, and other methods of intrusion.

### B. Company's Rights

Company reserves the right to refuse to transmit or post, and to remove or block, any information or materials, in whole or in part, that it, in its sole discretion, deems to be in violation of Sections I or II of this AUP, or otherwise harmful to Company's network or Customers using the Broadband Service, regardless of whether this material or its dissemination is lawful so long as it violates this AUP. Neither Company nor any of its affiliates, suppliers, or agents have any obligation to monitor transmissions or postings (including, but not limited to, email, file transfer, blog, newsgroup, and instant message transmissions) made on the Broadband Service. However, Company and its affiliates, suppliers, and agents have the right to monitor these transmissions and postings from time to time for violations of this AUP and to disclose, block, or remove them in accordance with this AUP, the Subscriber Agreement, and applicable law.

### C. Service Restrictions

All of Company's network and system services are provided according to scheduled fees for each type of service. You agree to use such services in accordance with the terms set forth below.

#### 1. Email and Web-Hosting Services

- (i) **Unsolicited Email Prohibited** – You may not use Company-hosted email addresses for the purpose of sending unsolicited email. You may not use or cause to be used Company's equipment, network connectivity, or other resources to originate, deliver, relay, or otherwise transmit unsolicited email messages. You may not engage in any of the foregoing prohibited activities by using the service of any other provider, third-party agent, remailing service, or address forwarding service, in such a way that Company's network addresses or Company-hosted Web or email services are in any way identified as being

associated with the sending of unsolicited email.

- (ii)** Unauthorized use, or forging, of mail header information (e.g. “spoofing”) is prohibited.
- (iii)** Fraudulent Activity Prohibited – You may not use the Company email and Web-hosting services to make fraudulent offers to sell or buy products, items, or services, or to advance any type of financial scam such as “pyramid schemes”, “Ponzi schemes”, or “chain letters.” You may not use techniques to hide or obscure the source of any email or other communications.
- (iv)** Company reserves the right to suspend or delay delivery of email to Customer utilizing the Company email services and/or the virtual domain email if the volume of email being redirected, stored, or delivered on the Customer’s behalf is deemed excessive. Excessive traffic is defined as any amount of email that consumes more than 10MB of disk storage space per individual mailbox, or any volume of email traffic that noticeably degrades performance on the server in question, in the sole discretion of Company. Stored mail exceeding these limits may be transferred to a compressed file at Company’s discretion. Company will attempt to notify the account holder via the account contact information on record; however, Company reserves the right to delete the contents of such email boxes upon thirty (30) days after attempted notification.
- (v)** The Broadband Service may not be used to communicate or distribute email or other forms of communications in violation of Section I of this AUP. As described below in Section III of this AUP, Company uses reasonable network management tools and techniques to protect Customers from receiving spam and from sending spam (often without their knowledge over an infected computer).
- (vi)** Company is not responsible for deleting or forwarding any email sent to the wrong email address by you or by someone else trying to send email to you. Company is also not responsible for forwarding email sent to any account that has been suspended or terminated. This email will be returned to the sender, ignored, deleted, or stored temporarily at Company’s sole discretion.
- (vii)** In the event that Company believes, in its sole discretion, that any subscriber name, account name, or email address (collectively, an “identifier”) on the Broadband Service may be used for, or is being used for, any misleading, fraudulent, or other improper or illegal purpose, Company (i) reserves the right to block access to and prevent the use of any of these identifiers and
- (viii)** may at any time require any Customer to change his or her identifier. In addition, Company may at any time reserve any identifiers on the Broadband Service for Company’s own purposes. In the event that a Broadband Service account is terminated for any reason, all email associated with that account (and any secondary accounts) will be permanently deleted as well.

## 2. Instant, Video, and Audio Messages

Each user is responsible for the contents of his or her instant, video, and audio messages and the consequences of any of these messages. Company assumes no responsibility for the timeliness, mis-delivery, deletion, or failure to store these messages. In the event that a Broadband Service account is terminated for any reason, all instant, video, and audio messages associated with that account (and any secondary accounts) will be permanently deleted as well.

## 3. Personal Web Pages and File Storage

You are solely responsible for any information that you or others publish or store on any personal Web page or in any storage files. You are also responsible for ensuring that all content made available through personal Web pages is appropriate for those who may have access to it. For example, you must take appropriate precautions to prevent minors from receiving or accessing

inappropriate content. Company reserves the right to remove, block, or refuse to post or store any information or materials, in whole or in part, that it, in its sole discretion, deems to be in violation of Section I of this AUP. For purposes of this AUP, "material" refers to all forms of communications including text, graphics (including photographs, illustrations, images, drawings, logos), executable programs and scripts, video recordings, and audio recordings;

4. copy, distribute, or sublicense any proprietary software provided in connection with the Broadband Service by Company or any third party, except that you may make one copy of each software program for back-up purposes only;
5. distribute programs that make unauthorized changes to software (cracks);
6. use or run dedicated, stand-alone equipment or servers from the Premises that provide network content or any other services to anyone outside of your Premises' local area network ("Premises LAN"), also commonly referred to as public services or servers. Examples of prohibited equipment and servers include, but are not limited to, email, Web hosting, file sharing, and proxy services and servers;
7. use or run programs from the Premises that provide network content or any other services to anyone outside of your Premises, or;
8. service, alter, modify, or tamper with the Company Equipment or Broadband Service, or permit any other person to do the same who is not authorized by Company.

### III. Network Management and Limitations on Data Consumption

Company manages its network with the goal of delivering a fast, safe, and uncompromised Broadband Internet experience to all of its Customers. But high-speed bandwidth and network resources are not unlimited. Managing the network is essential for the promotion of the best possible Broadband Internet experience by all of Company's Customers. The Company uses reasonable network management practices that are consistent with industry standards. Company tries to use tools and technologies that are minimally intrusive and, in its independent judgment guided by industry experience, among the best in class. Of course, the Company's network management practices will change and evolve along with the uses of the Internet and the challenges and threats on the Internet.

If Company didn't manage its network, its Customers would be subject to the negative effects of spam, viruses, security attacks, network congestion, and other risks and degradations of service. By engaging in responsible network management, including enforcement of this AUP, Company can deliver the best possible Broadband Internet experience to all of its Customers. Please see Company's Network Management Policy for more information.

#### A. Network Usage and Data Consumption Restrictions

You acknowledge that all of the Company Internet services are intended for periodic, active use of email, user newsgroups, transfers via FTP, Internet chat, Internet games, and browsing of the Internet. You must comply with all current bandwidth, data storage, and other limitations on the Company Internet services that have been established by Company and Company suppliers. You agree not to intentionally use the Company Internet service on a standby or inactive basis in order to maintain a connection. The excessive use or abuse of Company's network resources by one Customer may have a negative impact on all other Customers. Accordingly, in addition to the Prohibited Uses and Activities provided in Section I, you may not use the Company Internet service or take any action, directly or indirectly, that will result in excessive consumption or utilization of the system or network resources, or which may weaken network performance, as determined in Company's sole discretion. Such prohibited actions include, but are not limited to: using the Company Internet Services to host a Web server site which attracts excessive traffic at your location, continuously

uploading or downloading streaming video or audio, Usenet hosting, continuous FTP uploading or downloading, or acting in a manner that negatively affects other users' ability to engage in real-time exchanges and use of the Company Internet Services. The Broadband Service is for residential and business use only. Therefore, Company reserves the right to suspend or terminate Broadband Service accounts where data consumption is not characteristic of a typical residential or business user of the Broad band Service, as determined by Company in its sole discretion.

Common activities that may cause excessive data consumption in violation of this AUP include, but are not limited to, numerous or continuous bulk transfers of files and other high-capacity traffic using (i) file transfer protocol ("FTP"), (ii) peer-to-peer applications, and (iii) newsgroups. You must also ensure that your use of the Broadband Service does not restrict, inhibit, interfere with, or degrade any other person's use of the Broadband Service, nor represent (as determined by Company in its sole discretion) an overly large burden on the network. In addition, you must ensure that your use of the Broadband Service does not limit or interfere with Company's ability to deliver and monitor the Broadband Service or any part of its network.

If you use the Broadband Service in violation of the restrictions referenced above, that is a violation of this AUP. In these cases, Company may, in its sole discretion, suspend or terminate your Broadband Service account. Company may provide versions of the Broadband Service with different speed and data consumption limitations, among other characteristics, subject to applicable Broadband Service plans. Company does not offer wholesale broadband services.

Company's determination of the data consumption for Broadband Service accounts is final.

#### IV. Violation of this Acceptable Use AUP

Company reserves the right to immediately suspend or terminate your Broadband Service account and terminate the Subscriber Agreement if you violate the terms of this AUP or the Subscriber Agreement.

Company does not routinely monitor the activity of individual Broadband Service accounts for violations of this AUP, except for determining aggregate data consumption in connection with the data consumption provisions of this AUP. However, in the Company's efforts to promote good citizenship within the Internet community, it will respond appropriately if it becomes aware of inappropriate use of the Broadband Service. Company has no obligation to monitor the Broadband Service and/or the network. However, Company and its suppliers reserve the right at any time to monitor bandwidth, usage, transmissions, and content in order to, among other things, operate the Broadband Service; identify violations of this AUP; and/or protect the network, the Broadband Service, and Company users.

Company prefers to inform Customers of inappropriate activities and give them a reasonable period of time in which to take corrective action. Company also prefers to have Customers directly resolve any disputes or disagreements they may have with others, whether Customers or not, without Company's intervention. However, if the Broadband Service is used in a way that Company or its suppliers, in their sole discretion, believe violates this AUP, Company or its suppliers may take any responsive actions they deem appropriate under the circumstances with or without notice. These actions include, but are not limited to, temporary or permanent removal of content, cancellation of newsgroup posts, filtering of Internet transmissions, and the immediate suspension or termination of all or any portion of the Broadband Service (including but not limited to newsgroups). Neither Company nor its affiliates, suppliers, or agents will have any liability for any of these responsive actions. These actions are not Company's exclusive remedies, and Company may take any other legal or technical actions it deems appropriate with or without notice.

Company reserves the right to investigate suspected violations of this AUP, including the gathering of information from the user or users involved and the complaining party, if any, and examination of material on Company's servers and network. During an investigation,

Company may suspend the account or accounts involved and/or remove or block material that potentially violates this AUP. You expressly authorize and consent to Company and its suppliers cooperating with (i) law enforcement authorities in the investigation of suspected legal violations, and (ii) system administrators at other Internet service providers or other network or computing facilities in order to enforce this AUP. Upon termination of your Broadband Service account, Company is authorized to delete any files, programs, data, email, and other messages associated with your account (and any secondary accounts).

The failure of Company or its suppliers to enforce this AUP, for whatever reason, shall not be construed as a waiver of any right to do so at any time. You agree that if any portion of this AUP is held invalid or unenforceable, that portion will be construed consistent with applicable law as nearly as possible, and the remaining portions will remain in full force and effect. You agree to indemnify, defend, and hold harmless Company and its affiliates, suppliers, and agents against all claims and expenses (including reasonable attorney fees) resulting from any violation of this AUP. Your indemnification will survive any termination of the Subscriber Agreement.

## V. Redress and Governing Law

### **Governing Law / Resolution of Disputes – Arbitration**

Any dispute or claim between you, the Customer, and Company arising out of or relating to the service provided in connection with this Acceptable Use Policy or the Subscriber Agreement shall be resolved by arbitration (“Arbitration”), unless otherwise specified in Customer’s individual Subscriber Agreement. To the extent that there is a conflict regarding this Arbitration provision, the Customer’s individual Subscriber Agreement supersedes the Terms and Policies of the individual Services.

The arbitrator’s decision shall follow the plain meaning of the relevant documents, and shall be final and binding. The parties agree that no arbitrator has the authority to: (i) award relief in excess of what the Subscriber 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 Company shall be governed by the laws of the state of North Dakota 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 Arbitration provision herein, you and Company agree to submit to the personal and exclusive jurisdiction of the courts located within the state of North Dakota and waive any objection as to venue or inconvenient forum. The failure of Company to exercise or enforce any right or provision of this AUP or the Subscriber Agreement shall not constitute a waiver of such right or provision. If any provision of this AUP or the Subscriber 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 this AUP or the Subscriber 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, this AUP, or the Subscriber Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred.

## VI. Copyright and Digital Millennium Copyright Act Requirements

Company is committed to complying with U.S. copyright and related laws, and requires all Customers and users of the Broadband Service to comply with these laws. Accordingly, you may not store any material or content on, or disseminate any material or content over, the Broadband Service (or any part of the Broadband Service) in any manner that constitutes an infringement of third-party

intellectual property rights, including rights granted by U.S. copyright law. Owners of copyrighted works who believe that their rights under U.S. copyright law have been infringed may take advantage of certain provisions of the Digital Millennium Copyright Act of 1998 (the "DMCA") to report alleged infringements. It is Company's policy, in accordance with the DMCA and other applicable laws, to reserve the right to terminate the Broadband Service provided to any Customer or user who is either found to infringe third-party copyright or other intellectual property rights, including repeat infringers, or whom Company, in its sole discretion, believes is infringing these rights. Company may terminate the Broadband Service at any time, with or without notice, for any affected Customer or user. Please see Company's DMCA policy below for additional information.

### **Digital Millennium Copyright Act**

The Digital Millennium Copyright Act provides limitations for service provider liability relating to copyright material online. United Communications/Turtle Mountain Communications is a service provider in that it provides online services or network access between or among points specified by a user. UC/TMC does not modify the content that is sent or received.

According to its Terms, Conditions and Acceptable Use Policy, UC/TMC requires users "to obtain and provide all required permissions if You use the Service to receive, send, display, distribute or execute works protected by intellectual property laws including copyright and patent laws." Failure to abide by the Terms, Conditions and Acceptable Use Policy may result in suspension of service or permanent disconnection. UC/TMC can limit liability by designating an agent for notification of claimed infringement, by providing contact information to the Copyright Office and through its publicly accessible web site. The appropriate contact information is as follows:

Service Provider Address:

United Communications  
411 7th Avenue  
Langdon, ND 58249

Turtle Mountain Communications  
617 Main Avenue West  
Rolla, ND 58367

Turtle Mountain Communications  
518 11th Street West, Suite 2  
Bottineau, ND 58318

Agent Designated to Receive Notification of Claimed Copyright Infringement: Steve Swanson – IT Supervisor

Telephone Number of Designated Agent: 701.256.5156

Fax Number of Designated Agent: 701.256.5150

Email Address of Designated Agent: dmca@utma.com

## **Backup Battery Power Notice**

United Communications/Turtle Mountain Communications is required to provide you with information regarding the backup power unit, also described as the Uninterrupted Power Supply (UPS) battery backup, which we installed in your home when connecting your services to our fiber network. Please contact us if you have additional questions on how your services operate during a power outage.

### **I. Backup Power for Home Phone Service during Power Outages**

A backup power supply (battery) is required for your digital voice service to be in service in the event of a power outage. A backup battery, such as what United Communications/Turtle Mountain Communications has provided and installed, will allow regular corded land line phones to work during a power outage and to maintain the ability to connect to 911 emergency services. When a power outage occurs, you should ensure that you have one corded single-line touchtone phone connected directly to your in-home wiring telephone jack. If you connect a cordless phone, it will not function without a separate battery backup, and not all cordless phones are so equipped.

## II. What Your Battery Can and Can't Do for You

The backup battery allows you to continue to use your home voice service during a power outage. Without a backup battery, you will not be able to make any calls, including emergency calls to 911. The backup battery does not provide power to any service other than voice. United Communications/Turtle Mountain Communications television and internet services will not function when power is out. Home security systems, medical monitoring devices and other equipment will not run on a home phone backup battery.

## III. Purchase and Replacement Options

Backup battery replacements are available directly from United Communications/Turtle Mountain Communications. If you have any questions on how to request and obtain a replacement unit, as well as instruction on the installation of the replacement unit, please call 701.256.5156/701.228.1101/701.477.1101. If you decide to purchase a backup battery replacement, you can purchase one online. Be sure to purchase a battery model that works the best with our fiber network. United Communications/Turtle Mountain Communications can provide you with information regarding specific backup models and requirements.

## IV. Expected Backup Power Duration

The backup unit we have provided you is expected to last up to 8 hours in the event of a power outage, depending upon battery age, usage, and environment. The estimated life expectancy for the battery is 2 to 4 years, depending on power outage frequency and environment.

## V. Instructions for Proper Care and Use of Your Battery

If you decide to purchase a backup battery, please follow the instructions included with your battery for proper use, storage, and care.

- Batteries should be stored in locations under normal room temperatures.
- You should periodically remove and test your battery to verify both operation of the backup battery and its condition. The backup unit can be tested by unplugging it from the power outlet. If it is working correctly, the Optical Network Terminal (ONT) will remain powered and regular corded land line phones will still work in the house. Make sure to plug the unit back in at the end of testing.
- Backup units will display a battery light when the battery needs to be replaced. Please refer to the backup unit's instruction manual for details on the warning indicator lights and the battery replacement procedure.

United Communications/Turtle Mountain Communications does not supply any warranty on the backup battery unit. The backup unit we have provided you does perform self-tests on the battery and we continue to monitor the life expectancy.

## Disconnect Policies – Digital Telephone

Telephone bills are due upon receipt. If a payment is not received after two months, we will send you a final notice, after which you will have ten days to pay the balance in full. We charge the following reconnection fees: If your telephone service is disconnected for non-payment, you will be charged a \$20 reconnect fee. If your telephone and internet are disconnected for non-payment, you will be charged a \$65 reconnect fee. If your telephone, internet and television are disconnected for non-payment, you will be charged a \$65 reconnect fee. Payment arrangements can be made by contacting any of our offices.

Long Distance Calls: For long distance rates and plans, visit ND Long Distance (<http://www.ndld.com>).

## Internet Service Agreement

United Telephone Mutual Aid and Turtle Mountain Communications ("Company") agrees to provide and User agrees to receive access to Company Internet Services according to the following terms and conditions:

### GENERAL

- 1.** All provisions of this Agreement apply to all accounts billed to the User.
- 2.** The benefits of, or rights conferred by, the Agreement are non-transferable. Use of Company Internet account is expressly limited to the individual whose name appears on the account and dependents of the account holder living at the same address.
- 3.** User may not resell or give away access to Company Internet Services. This includes, but is not limited to, online access, Web storage, email, newsgroups, etc. unless User has a commercial agreement which allows such use.
- 4.** Company reserves the right to disconnect users who have or create excessive usage.
- 5.** A residential Customer with a static IP address is prohibited from using such static IP service for any commercial purposes whatsoever. This restriction shall include sale or free access to Company Internet service in any form or fashion. In the event that residential Customer uses such static IP service for any commercial purposes or other prohibited purpose, Company may, at its option, disconnect such service or charge Customer business rates for such service.
- 6.** User is responsible for all hardware and software necessary to connect to Company. Company IS NOT RESPONSIBLE IN ANY REGARD FOR DAMAGE CAUSED DIRECTLY OR INDIRECTLY TO SUCH HARDWARE OR SOFTWARE.
- 7.** User agrees to use the service in a manner consistent with any and all applicable U.S. and international laws, regulations, treaties or statutes.
- 8.** If User is less than eighteen years of age, Agreement must be signed by a parent or legal guardian, who is responsible for all charges related to the use of User's account(s).
- 9.** User is responsible for all use of User's account(s) and confidentiality of password(s).
- 10.** Company will suspend access or change access to User's accounts immediately upon the notification by User that his or her password has been lost, stolen, or otherwise compromised.
- 11.** Account must be canceled by phone or postal mail. No refunds will be given.

### CHILDRENS PRIVACY

Our websites are not directed at, or intended for use by, children under the age of 13. We do not knowingly allow anyone under 18 to provide any personal information to our website. Children should always get permission from a parent or guardian before sending personal information over the Internet. If you believe your child may have provided us with personal information, you may contact us at 800-844-9708 and we will delete the information. You can find more information about protecting children's privacy by contacting the Federal Trade Commission (FTC) or by viewing its website at <http://www.ftc.gov>.

### BILLING

- 1.** A Dial Up User is responsible for any applicable long-distance telephone charges for connecting directly to Company.

2. User agrees to pay Company all charges relating to the use of User's account(s) according to rates and prices at the time the service is used. Company reserves the right to modify rates and charges at any time.
3. Charges for Company Internet Services shall appear on a monthly bill mailed to User's known billing address. Where possible, the Company Internet Service charge shall appear on User's local telephone bill, under headings labeled Internet Services.
4. User is responsible for charges at the time the service is used.
5. Company reserves the right to charge compounding late fees and/or collection expenses. In cases where Company Internet Services directly bills User, this rate will be the maximum permitted by law. Where charges appear on User's local telephone bill, late fees will be calculated based on the telephone company's delinquent fee schedule.
6. Company reserves the right to suspend access to service for User's account(s) upon an indication of credit problems, including delinquent payments or rejection of charges.

## OWNERSHIP/COPYRIGHT

1. Information available on Company Internet Services is property of Company or its information providers. User shall not redistribute or commercially exploit such information to any third party without the express written permission of its owner(s).
2. Information providers have the right to assert and enforce such copyright provisions directly on their own behalf.
3. User submitting information on Company Internet Services grants Company the non-exclusive permission to distribute the information product worldwide. User retains all rights User may have for such information.
4. Any licensed software provided by Company at no charge to the customer for Internet access and/or navigation will be revoked upon disconnection of Company Internet Services.
5. User acknowledges and agrees to comply in all respects with applicable copyright law.

## USE OF THIS SERVICE IS UNDERTAKEN SOLELY AT YOUR OWN RISK

Information, products and services offered through the Internet are offered by third parties that are not affiliated with Company. Except for information, products or services clearly identified as being supplied by Company, Company does not operate, control or endorse any such information, product or services in any way. Company cannot and does not guarantee or warrant that files available for downloading through the Internet will be free of viruses that manifest contaminating or destructive properties. The Internet contains unedited materials, some of which are sexually explicit or may be offensive to you or are unsuitable for minors (persons under 18 years of age). You agree to supervise usage by any minors when you agree to use this service. You access such materials at your own risk, and Company has no control over and accepts no responsibility whatsoever for such materials.

## MONITORING AND REMOVAL OF CONTENT

Company is under no obligation to monitor the Services. However, Company reserves the right at all times and without notice to remove, restrict access to, or make unavailable any content on its server that it considers, in its sole discretion, obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, and to monitor, review, retain and/or disclose any content or other information in Company's possession about or related to you, your use of the Services or otherwise as Company deems necessary to satisfy any applicable law, regulation, legal process or governmental request.

## LAW ENFORCEMENT INFORMATION

As a provider of Internet and telecommunications services, Company routinely receives legal requests for customer information from

government and law enforcement personnel. We also receive discovery requests in civil litigation. In all such cases, our policy is to cooperate as required by law, but to provide only such information as the law requires. This information is generally sought by subpoena served on Company. Under current law, many criminal subpoenas require that we not disclose or notify you of the request. Due to this fact and the volume of requests Company receives, we cannot assume any duty to notify you of any receipt of any legal requests. Note that the law does permit Company to disclose to law enforcement, voluntarily and without prior notice, customer information, including the contents of any communications, if we reasonably believe that an emergency involving danger of death or serious physical injury requires such disclosure without delay.

## INTERNET SECURITY – TAKING PROPER PRECAUTIONS

Maintaining the security of your own personal computer is an important part of protecting your own privacy and of helping us protect our network and our customers' service. You should use and update regularly your antivirus software, firewall and your operating system to prevent unauthorized access by others and harm from various forms of viruses. Persons with questionable intent may utilize the Internet or email to pose as someone you trust or do business with. You should always be sure who you are dealing with before responding with personal information. To avoid these and other forms of attacks, we encourage you to visit the Federal Trade Commission (FTC) for updates and tips on protecting yourself. Company may take protective action related to your service or contact you directly with information from time to time to help with this effort.

## INSTALLATION

You authorize Company personnel and/or its agent to enter your premises ("Premises") at mutually agreed-upon times in order to install, maintain, inspect, repair and remove the Service. If you are not the owner of the Premises upon which the Service is to be installed, you represent and warrant that you have obtained the consent of the owner of the Premises for Company personnel and/or its agents to enter the Premises for the purposes described above. You shall indemnify and hold Company harmless from and against any claims of the owner of the Premises arising out of the performance of this Agreement. You acknowledge and agree that installation of the Service (including the Licensed Software) may require Company personnel and/or its agents to open your computer. You further acknowledge and agree that installation and/or use of the Service (including the Licensed Software) may result in the modification of your computer's systems files and that Company may periodically update such software. Company neither represents, warrants, nor covenants whatsoever that such modifications will not disrupt the normal operations of your computer. Company shall have no liability whatsoever for any damage resulting from the installation and/or use of the Licensed Software or file modifications. Company is not responsible for returning your computer to its original configuration prior to installation.

## LIMITATIONS OF WARRANTIES AND LIABILITY

THIS SERVICE IS PROVIDED ON AN "AS IS, AS AVAILABLE" BASIS. BY USE OF THIS SERVICE, OR ANY RELATED INFORMATION, SOFTWARE OR PRODUCT, THE USER ACKNOWLEDGES AND AGREES TO THE FOLLOWING:

THAT NO WARRANTY OR REPRESENTATION OF ANY KIND, EXPRESS OR IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), INCLUDING BUT NOT LIMITED TO THOSE OF TITLE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, HAS BEEN MADE BY Company WITH RESPECT TO THIS SERVICE, ITS USE, OR ANY INFORMATION OR SOFTWARE THEREIN;

Company EXPRESSLY DISCLAIMS ALL WARRANTIES OR CONDITIONS OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE;

Company DOES NOT WARRANT OR GUARANTEE THAT ITS SERVICE IS ERROR-FREE OR THAT ITS OPERATION WILL BE SECURE OR UNINTERRUPTED. FURTHER, NO SPECIFIC SPEED IS GUARANTEED, THOUGH Company WILL USE ITS BEST EFFORTS TO PROVIDE

ADVERTISED SPEEDS. Company HEREBY DISCLAIMS ANY AND ALL LIABILITY ON ACCOUNT THEREOF; AND Company IS NOT RESPONSIBLE FOR USER'S PERSONAL INFORMATION RESIDING EITHER ON USER'S PERSONAL SYSTEM OR Company's SYSTEM. Company MAKES NO WARRANTY THAT ALL ERRORS OR FAILURES CAN OR WILL BE CORRECTED. IN THE EVENT A COURT SHOULD HOLD THAT THE LIMITATION OF LIABILITIES OR REMEDIES AVAILABLE AS SET OUT IN THIS AGREEMENT ARE UNENFORCEABLE, YOU AGREE THAT Company's ENTIRE LIABILITY FOR DAMAGES CONCERNING PERFORMANCE OR NONPERFORMANCE, IN ANY WAY RELATED TO USE OF ANY Company INFORMATION, SOFTWARE OR OTHER PRODUCT, BY VIRTUE OF THIS SERVICE, REGARDLESS OF WHETHER THE CLAIM FOR SUCH DAMAGES IS BASED IN CONTRACT OR IN TORT, SHALL NOT EXCEED THE AMOUNT RECEIVED BY Company FROM THE CLAIMANT DURING THE TWELVE (12) MONTHS PRIOR TO SUCH CLAIM.

## INDEMNIFICATION

You agree to indemnify and hold Company, its parents, subsidiaries, members, affiliates, officers and employees, harmless from any claim, demand, or damage, including costs and reasonable attorneys' fees, asserted by Company or any third party due to or arising out of your use of or conduct on the Service. Company will notify you within a reasonable period of time of any third-party claim for which Company seeks indemnification and will afford you the opportunity to participate in the defense of such claim, provided that your participation will not be conducted in a manner prejudicial to Company's interests, as reasonably determined by Company.

## OPERATION

- 1.** Company reserves the right to change without notice the Company Internet Service, including but not limited to access procedure, hours of operation, menu structure, commands, documentation and services offered.
- 2.** Company reserves the right to delete User's account(s) if delinquent for more than three (3) months.
- 3.** Company reserves the right in its sole discretion to delete any information entered onto Company by User. Company and its authorized representatives have the right, but are not obligated to edit public information.
- 4.** User hereby agrees that any material submitted for publication on Company through User's account(s) does not violate or infringe any copyright, trademark, patent, statutory, common law, or proprietary rights of others, or contain anything obscene or libelous.
- 5.** User hereby agrees to refrain from engaging in any and all forms of spamming. (See Company's official spamming policy.)
- 6.** Company, in its sole business judgment, may terminate this Agreement and suspend access to User's account(s) upon breach of the Agreement, including but not limited to refusal or failure to pay for services provided.
- 7.** Company reserves the right to terminate access to service for any principal or associate account(s) due to inactivity or misuse for any reason in Company's sole discretion.
- 8.** Use of distribution lists in electronic mail or other mass electronic mailing is subject to approval by Company membership services.
- 9.** This Agreement shall be governed by the laws of the State of North Dakota. Any Claims or causes of action related to Company must be instituted within one (1) year after the claim or cause of action has arisen.
- 10.** Company may modify these terms and conditions upon notice published online via electronic mail. User's use of Company after such notice shall constitute User's acceptance of the modification to this Agreement implied in fact.

If any one or more paragraphs in this Agreement is found to be unenforceable or invalid, User's and Company's agreement on all other is not affected.

## Network Management Policy

United Telephone and Turtle Mountain Communications (“Company”) provides this Policy in order to disclose its network management practices in accordance with the FCC’s Open Internet Rules. Information about Company’s other policies and practices concerning broadband are available at [www.utma.com](http://www.utma.com) (“Company Website”).

Company manages its network to ensure that all of its customers experience a safe and secure broadband Internet environment that is fast, reliable, and affordable. Company wants its customers to indulge in all that the Internet has to offer, whether it is social networking, streaming videos and music, or communicating through email and videoconferencing.

Company manages its network for a number of reasons, including optimization, as well as congestion- and security-protocol management. Company’s customers generally will not be impacted by the protocols and practices that Company uses to manage its network.

## Company’s Network Management Practices

Company uses various tools and industry-standard techniques to manage its network and deliver fast, secure, and reliable Internet service. Such management tools and practices include the following:

### **I. Managing Congestion**

Company monitors the connections on its network in the aggregate to determine the rate of utilization. If congestion emerges on the network, Company will engage in standard network management practices to relieve congestion. In order to eliminate or reduce instances of congestion, Company adds capacity to its network well before utilization reaches bandwidth capacity. On our core and access networks, Company may increase capacity by adding fiber to the home [FTTH] nodes, transport, Internet aggregation routers, and bandwidth, as needed.

On Company’s network, all customers have access to all legal services, applications, and content online and, in the event of congestion, most Internet activities will be unaffected. Some customers, however, may experience longer download or upload times, or slower surf speeds on the Web if instances of congestion do occur on Company’s network.

Customers using conduct that abuses or threatens the Company network or which violates the company’s Acceptable Use Policy, Internet service Terms and Conditions, or the Internet Service Agreement will be asked to stop any such use immediately. A failure to respond or to cease any such conduct could result in service suspension or termination. Company does filter traffic that violates the AUP, such as originating SMTP traffic.

Company’s network and congestion management practices are ‘application-agnostic’, based on current network conditions, and are not implemented on the basis of customers’ online activities, protocols or applications. Company’s network management practices do not relate to any particular customer’s aggregate monthly data usage.

### **II. Network Security**

Company knows the importance of securing its network and customers from network threats and annoyances. The Company promotes the security of its network and patrons by providing resources to its customers for identifying and reporting such threats as spam, viruses, firewall issues, and phishing schemes. Company also deploys spam filters in order to divert spam from an online customer’s email inbox into a quarantine file, while allowing the customer to control which emails are identified as spam. Customers may access the spam files through email. Spam files are automatically deleted if not accessed within 14 days.

As its normal practice, Company does not block any protocols, content, or traffic for purposes of network management except that

the Company may block or limit such traffic as spam, viruses, malware, or denial of service attacks to protect network integrity and the security of our customers.

Except as may be provided elsewhere herein, Company does not currently engage in any application-specific behaviors, nor does it employ any device attachment rules for its network.

### **III. Monitoring Schedule**

Company checks its usage logs on a daily basis to determine utilization on its network. When utilization reaches 80%, Company adds capacity or reroutes traffic to relieve congestion. Company also checks for abnormal traffic flows, network security breaches, malware, loss, and damage to the network. If a breach is detected or high-volume users are brought to light by complaint, Company provides notification to the customer via email or phone. If a violation of Company's policies has occurred and such violation is not remedied, Company will seek to suspend or terminate that customer's service.

### **IV. Network Management Technology**

Company employs a variety of industry-standard tools, applications, and devices to monitor, secure, and maintain its network, including the following:

- network graphing solutions;
- latency measurement software; and
- bandwidth and performance measurement platforms.

### **V. Service Descriptions**

Company offers broadband service over fixed wireless, ADSL, and FTTH facilities. The following is a list of Company's service tiers:

Residential:

- Speeds Available: 25 Mbps, 50 Mbps, 100 Mbps, 200 Mbps, and 1 Gbps
- Speeds reflect both upload and download.

Business speeds depends on circuit, but for basic business it's the same as residential.

### **VI. Network Performance**

Company makes every effort to support advertised speeds and will dispatch repair technicians to customer sites to perform speed tests as needed to troubleshoot and resolve speed and application performance caused by Company's network. Company measures availability, latency, and aggregate utilization on the network and strives to meet internal service level targets. However, customer's service performance may also be affected by one or more of the following: (1) the particular Websites being accessed; (2) capacity in the public Internet beyond Company's network; (3) customer's computer and equipment (including wireless router); and (4) inside wiring at customer's premises.

Company is in the process of developing additional systems that will allow us to measure these indicators out to test points at each major network aggregation site on the edge of our last mile network. Once these systems are developed, Company will be able to measure system metrics on a network-wide basis and will disclose the results on its Website.

### **VII. Specialized Services**

Company provides Internet-Protocol-Television (IPTV) services to end users. This service, also known as Specialized Service, is separated from the company's best effort Internet services on the network. The Company has specific bandwidth dedicated to its IPTV specialized service and to the best effort broadband service. Since Specialized Services traffic is separated from best effort broadband Internet traffic, our broadband customers will experience no impact on broadband services resulting from Specialized Services traffic.

## VIII. Commercial Terms

In addition to this Network Management Policy, patrons may also find the following on Company's Website:

- Acceptable Use Policy
- Internet Service Agreement
- Non-discrimination Statement
- Online Privacy Policy
- Privacy Policy
- Service Agreement
- Terms of Use

For questions, complaints, or requests for additional information, please contact Company at 800.844.9708 or [customerservice@utma.com](mailto:customerservice@utma.com).

## Non-Discrimination

This institution is an equal opportunity provider and employer.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call 866.632.9992 to request the form. You may also write a letter containing all of the information requested in the form.

Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202.720.2600 (voice and TDD).

Send your completed complaint form or letter to the USDA by mail at:

U.S. Department of Agriculture  
 Director, Office of Adjudication  
 1400 Independence Avenue, S.W.  
 Washington, D.C. 20250-9410  
 Or by fax at 202.690.7442, or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).

## Online Privacy Policy

### Customer Privacy

Like you, we at United Telephone Mutual Aid and Turtle Mountain Communications ("Company") are concerned about customer privacy. We have a long history of maintaining the privacy of information we obtain in the normal course of providing our services. We work hard to serve you through new and exciting products and services. In the process, we remain sensitive to privacy issues.

### The Information We Obtain and How We Use It

The information we obtain from you is generally necessary for us to provide your services and design new services for your future use. For example, we need to know your name, address, and the services you buy from us to properly provide and bill for those services. When you call us, our representatives pull up account records and may refer to your bill, your calling patterns, and other information we have to answer questions you may have or recommend how we can best serve you.

We may also use information in our records to protect our customers, employees or property – for instance, to investigate fraud,

harassment, or other types of unlawful service activities involving Company or other carriers that we do business with. In some cases, it may be necessary to provide this information to the government or third parties who make a lawful demand for it.

We share information within our Company's companies to enable us to better understand our customers' product and service needs, and to learn how to best design, develop, and package products and services to meet those needs. Like any large business, we may structure our company to include a number of smaller companies. Currently, our primary lines of business include local and long-distance services, wireless services, cable services, web hosting, Internet access for businesses and consumers, and on-line services.

### **Accuracy of the Information We Hold**

We want the information we obtain and use about customers to be accurate. If your service information or your personal contact information changes or you see an inaccuracy on your Company bill, let us know so we can correct it.

### **Security and Accountability**

We have information systems that collect and store customer information, in addition to systems that store our own business records. These systems have different types of security as appropriate for the information stored. Company requires employees to keep customer information confidential, and we hold them accountable for their actions.

### **Providing Services to Enhance Your Privacy**

Non-published numbers, Calling Number Delivery and Calling Number Delivery blocking services, Anonymous Call Rejection, and No Solicitation are among the privacy services Company offers to enhance your privacy.

### **Disclosure of Information Outside Company**

As a general rule, Company does not release customer account information to unaffiliated third parties without your permission, unless we have a business relationship with those companies where the disclosure is appropriate. For example, we may hire outside companies as contractors or agents, or we might be engaged in a joint venture or partnership with a company. Upon occasion, Company may decide to stop providing a service or may decide to sell or transfer parts of our business to unaffiliated companies. When this happens, we may provide confidential customer information to these companies so that they can offer you the same or similar services. In all of these situations, we provide information to these other companies only as needed to accomplish our business objectives and the companies are bound by requirements to keep Company customers' information confidential.

There are exceptions to the general rule. For example, we might provide information to regulatory or administrative agencies so that they can accomplish their regulatory tasks (for example, responding to a customer complaint) or to maximize the efficiencies of our own processes (such as getting mailing addresses correct, for example). Other disclosures will be driven by legal requirements imposed on Company. Company complies with "legal process," such as a subpoena or court order or other similar demand, associated with either criminal or civil proceedings.

### **Disclosure of Account Information**

If you tell us in writing to release your account information to someone, we will honor your request and provide that information.

Your account information is released to other carriers when you give us your permission, or when they advise us they have your approval to access the information. This most often occurs with respect to a sale of service they want to make or have made to you. Unless we are advised that permission from you has been granted, we do not release the information.

We may provide account information to collection agencies when customers do not pay their bills. We restrict the use that can be

made of this information to collection activities only for our charges and for the charges we bill for others.

### **Disclosure of Customer Telephone Numbers, Names, and Addresses**

Telephone number, name, and sometimes address information is “released” by Company in different ways. It is sometimes released as “lists” to entities that are entitled by law to receive the information or which have entered into contracts with Company to receive it. The information is sometimes released through the network “transactionally,” such as when your phone number and name are released through a Calling Number Delivery mechanism. Sometimes the information is provided in reports to those persons who are being called by you and want to know more about who is calling them and when. Whether a number is recognized as “published” or not will generally depend on the medium by which the number is captured and released.

For example, a person can ask Company to include them in directories (that is “publish” their number) or not. Persons can ask to not be published in directories but included in Directory Assistance (non-listed numbers). Or persons can ask not to be either in directories or Directory Assistance (non-published). All of these terms refer to a “listing” status.

However, the telephone network does not recognize a number as published/listed or non-listed or non-published. Thus, the network will “pass” that number to interconnecting carriers (local, long-distance, wireless) and to called parties. Only if (a) the network has the capability to block the number and (b) you have invoked a blocking mechanism will the called party (but not the carriers in between) be unable to see the calling number. And where both the calling number and name are “carried” as part of the network call, generally both will be displayed or both will be blocked.

In some cases, such as on some party- or coin-operated lines, as well as calls to pay-per-call (900) or toll-free numbers (such as 800/888/877 numbers), the network does not have the capability to block your underlying phone number even if you invoke Calling Number Delivery blocking. And there may be other services that rely on this type of automatic number identification (ANI) technology, such as cable companies that offer movies keyed to the automatic delivery of your phone number or pizza companies that route your calls to the closest stores based on your number. There are a variety of businesses that subscribe to these types of services. By federal regulation, however, businesses that utilize this technology can only use it to provide you the service in question or one directly related to it. And, because federal law requires phone numbers associated with facsimile transmissions to be released as part of the facsimile, these phone numbers are not blocked either.

Our Company divisions may provide you with information about new products and services or special promotions. However, Company does maintain an internal “Do Not Call” list in line with federal law. If you ask not to be contacted, the business or division that is calling you will put your telephone number on a list. Other Company business divisions will still be able to call you, unless you make it clear that you do not want to be contacted by any Company business unit. Some states have adopted their own “Do Not Call” laws, which are usually managed by a third-party database administrator. Often those laws permit continued contact with persons whose numbers are on the list when there is an existing business relationship, so you might get a call from us even if you are on these kinds of lists.

We honor customer requests to have their names removed from lists that Company might provide to firms desiring to do product promotions. Customers with non-listed and non-published numbers are not included on the lists. For individuals with listed information, if you do not wish to have your name included on such lists, just tell us and we will remove your name at no charge.

To improve the services it can offer you, Company may opt to expand its capabilities for obtaining information about users in the future. Company will update this privacy policy continually to ensure that you are aware of developments in this area.

Should you have any questions or comments relating to this Privacy Policy or Company privacy practices, please contact us.

## Privacy Policy

Welcome to the United Telephone Mutual Aid and Turtle Mountain Communications (“Company”) Online Privacy Policy. We appreciate your business and thank you for taking an interest in our privacy policy.

Company values your business and respects your privacy. This policy summarizes what information we collect from you online and how we use and disclose that information. Company also collects personal information from customers offline. To learn more about our privacy practices, you should also review the Company Privacy Policy.

## Privacy Policy Table of Contents

What information does Company collect about me online?.....	19
How does Company use personal information collected online?.....	19
Does Company share personal information collected online with third parties?.....	20
What does Company do to help safeguard personal information collected online?.....	20
What are cookies and how do I disable them?.....	20
Does Company link to other Websites?.....	21
Does Company use online ad services?.....	21
Does Company collect information about children online?.....	21
Does Company monitor the content of Internet traffic to my account?.....	21
When does Company update its online privacy policy?.....	21
How can I contact Company?.....	22

### What information does Company collect about me online?

We collect personal information when you visit our Websites, when you request products and services, and when you use our online services. For example, we may collect your name, address, telephone number, billing and payment information, and email address.

In addition, when you visit a Company Website, our servers automatically log certain technical information, such as the name of your Internet Service Provider (ISP), your IP address, browser type, and operating system. We use Internet technologies to learn more about how our Websites are used, such as how often certain pages are viewed, and how much time users spend on those pages. This information is not used in a form that identifies you. To learn more about how this information is used, see “What are cookies and how do I disable them?”

### How does Company use personal information collected online?

In general, Company uses personal information collected online to provide products and services and to operate our business; for example, for billing and collection activities. We use personal information collected online to address your questions and concerns, to understand how you use our products and services, to give you information about our products and services, and to improve our services. Company also uses personal information collected online to comply with laws and regulations, to assert or establish our legal rights, and to defend our legal interests.

### Does Company share personal information collected online with third parties?

Company discloses personal information collected online to affiliates and to others, including our business partners and vendors, to provide the products and services you request and to enhance those products and services. We may share personal information collected online with the government or third parties who make a lawful request for it. We may also disclose personal information

collected online to others to assert and defend our legal rights, and as otherwise authorized or required by law.

## What does Company do to help safeguard personal information collected online?

Company has adopted policies and procedures designed to help safeguard personal information collected online from unauthorized access and misuse.

## What are cookies and how do I disable them?

Cookies are files placed on your computer by most Websites, including ours. The files help the Website “remember” you, allowing us to personalize your visit. Your browser stores the cookie information on your hard drive and each time you return to our site, the cookie helps us serve up the offers that are available to you.

### Why Company uses cookies.

Cookies help us provide and collect information about your past activities on our site. The information helps us provide you benefits such as the following:

- Show you only the products that are available in your area
- Help us improve our site and your experience using it
- Make accurate product recommendations
- Remember your username so you don’t have to enter it repeatedly

### Cookies and your information security.

Cookies do not enable us to see information or files on your computer. We also do not use cookies to “spy” on you as you use non-Company Websites. Cookies only allow us to “remember” you while you use our site.

### How to disable cookies.

Before you disable cookies, it’s important to know that cookies improve your experience on our sites. If you disable cookies, you may not be able to use all the features of our sites. Remember that cookies do not allow us to access private information on your computer. They only record information about your visits to our sites. You can disable cookies through your browser. The instructions for all browsers vary, but the steps are generally similar for most. Here are some places you can look to disable or enable cookies:

Most browsers have instructions on how to disable cookies in their “Help” sections. Or you can reference your specific browser’s ..... Internet-based support sections below for cookie-disabling instructions:

- Microsoft® Internet Explorer
- Netscape®
- Mozilla Firefox™
- Macintosh® Safari

**Internet Explorer Example:** Look in the Tools menu, select Internet Options, and then click the Security tab. Click Internet, and then click Custom Level. Scroll down to Cookies, click disable (or enable) for both cookie options, and then click OK.

**Netscape Example:** Select Edit | Preferences... from the main menu. Select Advanced and under Cookies, select Disable cookies and click OK.

**Mozilla Firefox Example:** Open Tasks, choose Privacy & Security, and then Cookie Manager. Choose View Stored Cookies from the submenu to open the Cookie Manager window. Select one or more cookies and click either Remove Cookie or Remove All Cookies.

**Safari Example:** Choose Preferences from the Safari menu and click Security. Select Never, Always, or Only from sites you navigate to, to set your preferences at the level you desire. To see the cookies stored on your computer, click Show Cookies. From here you have the option to remove one or two cookies or all cookies.

Companies that advertise on our Websites may also use their own cookies. These cookies collect their own information independent of Company. You can disable these cookies as described above.

### Does Company link to other Websites?

Yes. Our Websites may contain links to other Websites. We are not responsible for the content or privacy practices of those Websites. For this reason, we encourage you to review the privacy policies of other Websites before providing them personal information.

### Does Company use online ad services?

We advertise on non-Company Websites. When we do this, we collect customer information about visits to our sites generated through those advertisements. This allows us to recognize the origins of visits to our sites and helps us target our Internet advertising. The information collected does not contain any information that identifies you. We share it only among our contracting agents to assess the results of advertising and promotions. It is for Company purposes and not shared for their marketing purposes.

### Does Company collect information about children online?

The Children's Online Privacy Protection Act (COPPA) applies to Websites that direct their services to children under 13 and collect personal information from them, or who have actual knowledge that they are collecting personal information from children under 13. Company does not intentionally collect personal information from children, nor do we market to or target content to children. Before you allow your children to go online without your supervision, we encourage you to establish a set of rules that you can all agree on.

### Does Company monitor the content of Internet traffic to my account?

The Company does not track a customer's use of the Internet or the types of applications used by a customer. However, the Company reserves the right to access broadband traffic from individual accounts for the purposes of general maintenance and management of the network, as well as upon request by law enforcement officials.

### When does Company update its online privacy policy?

From time to time, Company may update this policy and/or our policies to reflect changes in our business, evolving technology, and changes in the law. We will notify you of any material changes by posting a notice on our Website for 30 days prior to making the change.

### How can I contact Company?

For questions about our privacy policies, please email us at [customerservice@utma.com](mailto:customerservice@utma.com) or call 800.844.9638. This is a policy of Company's practices, and is not a contract between Company and our customers for any purpose, including private or governmental litigation or regulatory action.

## Remote Control Policy – Digital TV

If your set top box remote control stops working, we will replace it for no charge. If a remote control stops working due to physical damage, we will replace it for a charge of \$10.

## Service Agreement

The account holder(s) referred to on the accompanying UTMA Work Order or statement (“I,” “me” or “my”) agrees that the Work Order, this Agreement, the Terms of Use referred to below, and any applicable Tariff(s) on file with the state utility commission or comparable state agency in the jurisdiction in which I live, set forth the terms and conditions that govern my receipt of Services from UTMA, which may include, among others, video, high-speed data and voice Services. The term “Services” and all other capitalized terms used in this Agreement are defined in Section 15.

In consideration of UTMA provision of the Services that I have requested, subject to applicable law, I AGREE AS FOLLOWS:

### 1. Important Information About This Agreement

- A.** This Agreement, the Work Order, the Terms of Use and any effective and applicable Tariff(s), each of which UTMA may amend as set forth below, constitute the entire agreement between UTMA and me. This Agreement supersedes all previous written or oral agreements between UTMA and me. I am not entitled to rely on any oral or written statements by UTMA’s representatives relating to the subjects covered by these documents, whether made prior to the date of my Work Order or thereafter, and UTMA will have no liability to me except in respect of its obligations as described in this Agreement and the other documents referred to above. The use of my Services by any person other than me is also subject to the terms of this Agreement, the Terms of Use, and any applicable Tariff(s).
- B.** UTMA has the right to add to, modify, or delete any term of this Agreement, the Terms of Use, the Subscriber Privacy Notice or any applicable Tariff(s) at any time. An online version of this Agreement, the Terms of Use, the Subscriber Privacy Notice and any applicable Tariff(s), as so changed from time to time, will be accessible at (<https://www.utma.com/about.php#policies>) or another online location designated by UTMA, or can be obtained by calling my local UTMA office. The online versions of these documents are always the most current versions.
- C.** UTMA will notify me of any significant change(s) in this Agreement, the Terms of Use, the Subscriber Privacy Notice or any applicable Tariff(s). Any changes will become effective at such time as we update the on-line version of the relevant document, except where applicable law requires a notice period, in which case the change will become effective at the end of the requisite notice period. Upon effectiveness of any change to any of these documents, my continued use of the Services will constitute my consent to such change and my agreement to be bound by the terms of the document as so changed. If I do not agree to any such change, I will immediately stop using the Services and notify UTMA that I am terminating my Services account.
- D.** My acceptance of Services constitutes my acceptance of the terms and conditions contained in this Agreement. In the event that a portion of my Services is terminated, or any aspect of it is changed, any remaining service or replacement service will continue to be governed by this Agreement.

### 2. Payment; Charges

- A.** I agree to pay UTMA for (i) all use of my Services (including, if UTMA is the party billing me for ISP or OLP Service, for my subscription to my choice of ISP or OLP, as applicable), (ii) installation and applicable service charges, (iii) UTMA Equipment, and (iv) all applicable local, state and federal fees and taxes. Charges for the Services that I receive have been provided to me. Other charges are set forth on a separate price list that I have received and/or can be provided on request. I will be billed monthly in advance for recurring monthly charges. Other charges will be billed in the next practicable monthly billing cycle following use, or as otherwise specified in the price list. UTMA may change both the fees and the types of charges (e.g., periodic, time-based,

use-based) for my Services. If I participate in a promotional offer that requires a minimum time commitment and I terminate early, I agree that I am responsible for any early termination fees that were described to me at the commencement of such promotion.

- B.** Charges for installation Services and related equipment available from UTMA for a standard Services installation may be described in UTMA's list of charges and any applicable Tariff(s) and/or can be provided on request. Non-standard installations, if available, may result in additional charges as described in UTMA's list of charges. In addition, I agree to pay charges for repair service calls resulting from my misuse of UTMA Equipment or for failures in equipment not supplied by UTMA.
- C.** If my Services account is past due and UTMA sends a collector to my premises, a field collection fee may be charged. The current field collection fee is on the price list or can be provided on request. I will also be responsible for all other expenses (including reasonable attorneys' fees and costs) incurred by UTMA in collecting any amounts due under this Agreement and not paid by me.
- D.** All charges are payable on the due date specified, or as otherwise indicated, on my bill. I agree that late charges may be assessed if my account is past due. My failure to deliver payment by the due date is a breach of this Agreement. The current late fees are on the price list or can be provided upon request and, if applicable, will not exceed the maximum late fees as set forth by applicable law. UTMA reserves the right to change the late fees.
- E.** I agree that if my Services account with UTMA is past due, UTMA may terminate any of my Services or accounts, including Digital Phone Service, in accordance with applicable law. If I have a credit due to me or a deposit is being held on any account with UTMA, I agree that the credit or deposit may be used to offset amounts past due on any other account I may have with UTMA without notice to me. To reconnect any terminated Services, I may be required, in addition to payment of all outstanding balances on all accounts with UTMA, to pay reconnect charges or other charges (where applicable) and/or security deposits before reconnection.
- F.** UTMA may verify my credit standing with credit reporting agencies and require a deposit based on my credit standing or other applicable criteria. UTMA may require a security deposit, or a bank or credit card or account debit authorization from me as a condition of providing or continuing to provide Services. If UTMA requires a security deposit, the obligations of UTMA regarding such security deposit will be governed by the terms of the deposit receipt provided by UTMA to me at the time the deposit is collected. I agree that UTMA may deduct amounts from my security deposit, bill any bank or credit card submitted by me, or utilize any other means of payment available to UTMA, for any past due amounts payable by me to UTMA, including in respect of damaged or unreturned Equipment.
- G.** If I have elected to be billed by credit card, debit card or ACH transfer, I agree that I will automatically be billed each month for any amounts due under this Agreement. If I make payment by check, I authorize UTMA and its agents to collect this item electronically.
- H.** UTMA may charge fees for all returned checks and account debit, bank card or charge card chargebacks. The current return/chargeback fees are listed in the list of charges on the price list or can be provided on request. UTMA reserves the right to change return/chargeback fees.
- I.** If I subscribe to HSD Service, I acknowledge that, even if UTMA is billing for the HSD Service, my ISP or OLP may require a bank or credit card or account debit authorization or other assurance of payment from me, including for charges for additional or continuing Services outside the HSD Service billed by UTMA that are payable under the ISP Terms. I agree that UTMA or ISP (and, if applicable, OLP) may bill any bank or credit card submitted by me to ISP or OLP, or utilize any other means of payment available

to ISP or OLP for any past due amounts payable by me to UTMA. I also agree that responsibility for billing for my HSD Service subscription may be changed between UTMA and ISP or OLP upon notice to me.

- J.** All use of my Services, whether or not authorized by me, will be deemed my use and I will be responsible in all respects for all such use, including for payment of all charges attributable to my account (e.g., for VOD movies, merchandise ordered via Internet, international long distance charges, etc.). UTMA is entitled to assume that any communications made through my Services or from the location at which I receive the Services are my communications or have been authorized by me, and I authorize you to provide any Services to the person making such communications. My Services may contain or make available information, content, merchandise, products and Services provided by third parties and for which there may be charges payable to third parties (which may include my choice of ISP or OLP and/or entities affiliated with UTMA). I agree that all such charges incurred by me or attributed to my account will be my sole and exclusive responsibility and agree to pay the same when due, and shall indemnify and hold harmless the UTMA Parties for all liability for such charges. I agree that UTMA is not responsible or liable for the quality of any content, merchandise, products or Services (or the price thereof) made available to me via the Services, for the representations or warranties made by the seller or manufacturer of any such item, or for damage to or injury, if any, resulting from the use of such item.
- K.** I acknowledge that currently, and from time to time, there is uncertainty about the regulatory classification of some of the Services UTMA provides and, consequently, uncertainty about what fees, taxes and surcharges are due from UTMA and/or its customers. Accordingly, I agree that UTMA has the right to determine, in its sole discretion, what fees, taxes and surcharges are due and to collect and remit them to the relevant governmental authorities, and/or to pay and pass them through to me. I further agree to waive any claims I may have regarding UTMA's collection or remittance of such fees, taxes and surcharges. I further understand that I may obtain a list of the fees, taxes and surcharges that my local UTMA office currently collects or passes through by writing to UTMA at the following address and requesting same: United Communications and Turtle Mountain Communications, 411 7th Avenue, Langdon, ND 58249, Attention: Subscriber Tax Inquiries.
- L.** I agree that it is my responsibility to report UTMA billing errors within 30 days from receipt of the bill so that service levels and all payments can be verified. If not reported within 30 days, the errors are waived.
- M.** I agree that UTMA has no obligation to notify me of, or change my rate to reflect, offers it may make to consumers that contain different prices for Services (or packages of Services) that are the same as, or similar to, the Services I receive.

### **3. Installation; Equipment and Cabling**

- A.** If I am not the owner of the house, apartment or other premises upon which UTMA Equipment and Software are to be installed, I warrant that I have obtained the consent of the owner of the premises for UTMA personnel and/or its agents to enter the premises for the purposes described in Section 3(d). I agree to indemnify and hold the UTMA Parties harmless from and against any claims of the owner of the premises arising out of the performance of this Agreement (including costs and reasonable attorneys' fees).
- B.** I authorize UTMA to make any preparations to the premises necessary for the installation, maintenance, or removal of equipment. UTMA shall not be liable for any effects of normal Services installation and workmanship, such as holes in walls, etc., which may remain after installation or removal of the UTMA Equipment, except for damage caused by negligence on the part of UTMA.
- C.** The UTMA Equipment is and at all times shall remain the sole and exclusive personal property of UTMA, and I agree that I do not become an owner of any UTMA Equipment by virtue of the payments provided for in this Agreement or the Tariff(s) or the attachment of any portion of the UTMA Equipment to my residence or otherwise. Upon termination of any Services, subject to

any applicable laws or regulations, UTMA may, but shall not be obligated to, retrieve any associated UTMA Equipment not returned by me as required under Section 3(f) below. UTMA will not be deemed to have “abandoned” the UTMA Equipment if it does not retrieve such equipment.

- D.** I agree to provide UTMA and its authorized agents access to my premises during regular business hours upon reasonable notice during the term of this Agreement and after its termination to install, connect, inspect, maintain, repair, replace, alter or disconnect or remove the UTMA Equipment, to install Software, to conduct service theft audits, or to check for signal leakage. I agree that UTMA may have reasonable access to easements and UTMA Equipment located on my grounds.
- E.** UTMA shall have the right to upgrade, modify and enhance UTMA Equipment and Software from time to time through “downloads” from UTMA’s network or otherwise. Without limiting the foregoing, UTMA may, at any time, employ such means to limit or increase the throughput available through individual cable modems whether or not provided by UTMA.
- F.** If the Services are terminated, I agree that I have no right to possess or use the UTMA Equipment related to the terminated Services. As required under Section 10(b), I agree that I must arrange for the return of UTMA Equipment to UTMA, in the same condition as when received (excepting ordinary wear and tear), upon termination of the Services. If I do not promptly return the UTMA Equipment or schedule with UTMA for its disconnection and removal, UTMA may enter any premises where the UTMA Equipment may be located for the purpose of disconnecting and retrieving the UTMA Equipment. I will pay any expense incurred by UTMA in any retrieval of the unreturned UTMA Equipment. UTMA may charge me a continuing monthly fee until any outstanding UTMA Equipment is returned, collected by UTMA or fully paid for by me in accordance with Section 3(g). The current fee is listed in the list of charges on the price list or can be provided on request.
- G.** I agree to pay UTMA liquidated damages in the amount demanded by UTMA, but not to exceed that specified in the then-current price list, for the replacement cost of the UTMA Equipment without any deduction for depreciation, wear and tear or physical condition of such UTMA Equipment if (i) I tamper with, or permit others to tamper with, UTMA Equipment, (ii) the UTMA Equipment is destroyed, lost, or stolen, whether or not due to circumstances beyond my reasonable control, and even if I exercised due care to prevent such destruction, loss, or theft, or (iii) the UTMA Equipment is damaged (excluding equipment malfunction through no fault of my own) while in my possession, whether or not due to circumstances beyond my reasonable control, and even if I exercised due care to prevent such damage. I agree that these liquidated damages are reasonable in light of the problem of theft of cable Services; the existence of a “black market” in UTMA Equipment; the ability of third parties to steal Services with unlawfully obtained UTMA Equipment, causing loss of revenues for installation and service fees; and the difficulty in determining the actual damages that arise from the unauthorized tampering with, loss, destruction, or theft of UTMA Equipment. I agree to return any damaged UTMA Equipment to UTMA.
- H.** I agree that UTMA may place equipment and cables on my premises to facilitate the provision of Services to me and to other locations in my area. The license granted under this Section 3(h) will survive the termination of this Agreement until the date that is one year from the date on which I first notify UTMA in writing that I am revoking such license.

#### **4. Use of Services; UTMA Equipment and Software**

- A.** I agree that UTMA has the right to add to, modify, or delete any aspect, feature or requirement of the Services (including content, price, equipment and system requirements). I further agree that my ISP (and, if applicable, OLP) has the right to add to, modify, or

delete any aspect, feature or requirement of the HSD Service (including content, price and system requirements). If UTMA changes its equipment requirements with respect to any Services, I acknowledge that I may not be able to receive such Services utilizing my then-current equipment. Upon any such change, my continued use of Services will constitute my consent to such change and my agreement to continue to receive the relevant Services, as so changed, pursuant to this Agreement, the Terms of Use and the Tariff(s). If I participate in a promotional offer for any Service(s) that covers a specified period of time, I agree that I am assured only that I will be charged the promotional price for such Service(s) during the time specified. I agree that UTMA shall have the right to add to, modify, or delete any aspect, feature or requirement of the relevant Service(s), other than the price I am charged, during such promotional period.

- B.** I agree that the Services I have requested are residential Services, offered for reasonable personal, non-commercial use only. I will not resell or redistribute (whether for a fee or otherwise) the Services, or any portion thereof, or charge others to use the Services, or any portion thereof. Among other things:
- (i)** If I receive Video Service, I agree not to use the Services for the redistribution or retransmission of programming or for any enterprise purpose whether or not the enterprise is directed toward making a profit. I agree that, among other things, my use of the Services to transmit or distribute the Video Service, or any portion thereof, to (or to provide or permit access by) persons outside the location identified in the Work Order (even if to a limited group of people or to other residences that I own or have the right to use), will constitute an enterprise purpose. I acknowledge that programs and other materials that I receive as part of the Video Service remain part of the Video Service even if I record or capture all or a portion of any such program or material in a data file or on a hard drive, DVR or similar device.
  - (ii)** If I receive Digital Phone Service, I agree not to use the Services for telemarketing, call center, medical transcription or facsimile broadcasting Services or for any enterprise purpose whether or not the enterprise is directed toward making a profit. I agree that, among other things, my use of the Services to make available my Digital Phone Service, or any portion thereof, to (or to provide or permit access by) persons outside the location identified in the Work Order (even if to a limited group of people or to other residences that I own or have the right to use), will constitute an enterprise purpose.
  - (iii)** If I receive HSD Service, I agree not to use the HSD Service for operation as an Internet service provider, for the hosting of websites (other than as expressly permitted as part of the HSD Service) or for any enterprise purpose whether or not the enterprise is directed toward making a profit. I agree that, among other things, my use of any form of transmitter or wide area network that enables persons or entities outside the location identified in the Work Order to use my Services, whether or not a fee is sought, will constitute an enterprise purpose. Furthermore, if I use a wireless network within my residence, I will limit wireless access to the HSD Service (by establishing and using a secure password or similar means) to the members of my household.
- C.** Theft or willful damage, alteration, or destruction of UTMA Equipment, or unauthorized reception, theft or diversion of Services, or assisting such theft, diversion, or unauthorized reception is a breach of this Agreement and potentially punishable under law (including by way of statutory damages, fine and/or imprisonment). Nothing in this Agreement, including, Section 3(g) above, shall prevent UTMA from enforcing any rights it has with respect to theft or unauthorized tampering of Services or UTMA Equipment under applicable law.
- D.** I will not, nor will I allow others to, open, alter, misuse, tamper with or remove the UTMA Equipment as and where installed by UTMA or use it contrary to this Agreement, the Terms of Use, or the Tariff(s). I will not, nor will I allow others to, remove any

markings or labels from the UTMA Equipment indicating UTMA ownership or serial or identity numbers. I will safeguard the UTMA Equipment from loss or damage of any kind, including accidents, breakage or house fire, and will not permit anyone other than an authorized representative of UTMA to perform any work on the UTMA Equipment.

- E.** I agree that to the extent any Software is licensed (or sublicensed) to me by UTMA, such Software is provided for the limited purpose of facilitating my use of the Services as described in this Agreement. I will not engage in, or permit, any additional copying, or any translation, reverse engineering or reverse compiling, disassembly or modification of or preparation of any derivative works based on the Software, all of which are prohibited. I will return or destroy all Software provided by UTMA and any related written materials promptly upon termination of the associated Services to me for any reason. Software licensed to me by my ISP or OLP, for instance my ISP's or OLP's client or browser software, is licensed under the ISP Terms or OLP Terms, as applicable, and is not the responsibility of UTMA.
- F.** I agree that I will use the Services for lawful purposes only, and in accordance with this Agreement, the Terms of Use and the Tariff(s).
- G.** I agree to be responsible for protecting the confidentiality of my screen names, passwords, personal identification numbers (PINs), parental control passwords or codes, and any other security measures made available, recommended or required by Time Warner Cable. To the extent this information is acquired by any other person (through no fault of UTMA), UTMA may assume that I have authorized such person's use of the information. I also acknowledge that UTMA's Services may from time to time include interactive features, the use of which may result in the transmission to, and use by, UTMA or certain third parties of information that may constitute personally identifiable information (as such term is used in the Federal Communications Act of 1934) about me and for which UTMA may be required, under the Federal Communications Act of 1934, to obtain my consent. I agree that UTMA may seek such consents (or indications of my election to "opt in" to certain UTMA programs) electronically, including through the use of a "click through" screen, and that UTMA is entitled to assume that any such consent or opt-in election communicated through my Services or from the location at which I receive the Services is my consent or opt-in election or has been authorized by me.
- H.** I agree that UTMA has no liability for the completeness, accuracy or truth of the programs or information it transmits.
- I.** Data Storage Services. I agree that any online or physical data storage services provided to me by UTMA are used at my sole risk and that UTMA will have no liability in the event my data is corrupted or lost as a result of or while using such services. I agree that when I return UTMA Equipment to UTMA, I am responsible for ensuring that all of my data is removed from such UTMA Equipment and acknowledge that UTMA has no responsibility for any such data that I do not remove.

## **5. Special Provisions Regarding Digital Phone Service**

- A.** I acknowledge that the voice-enabled cable modem used to provide the Digital Phone Service is electrically powered and that the Digital Phone Service, including the ability to access 911 Services and home security and medical monitoring Services, may not operate in the event of an electrical power outage or if my broadband cable connection is disrupted or not operating. I acknowledge that, in the event of a power outage in my home, any battery included in my voice-enabled cable modem may enable back-up service for a limited period of time or not at all, depending on the circumstances, and that inclusion of the battery does not ensure that Digital Phone Service will be available in all circumstances. I also acknowledge that, in the event of

a loss of power that disrupts my local UTMA cable system, the battery in my voice-enabled cable modem will not provide back-up service and the Digital Phone Service will not be available.

- B.** I agree that UTMA will not be responsible for any losses or damages arising as a result of the unavailability of the Digital Phone Service, including the inability to reach 911 or other emergency Services, or the inability to contact my home security system or remote medical monitoring service provider. I acknowledge that UTMA does not guarantee that the Digital Phone Service will operate with my home security and/or medical monitoring systems, and that I must contact my home security or medical monitoring provider in order to test my system's operation with the Digital Phone Service. I agree that I am responsible for the cost of any such testing or any fees for configuring my home security or medical monitoring system to work with the Digital Phone Service.
- C.** The location and address associated with my Digital Phone Service will be the address identified on the Work Order. I acknowledge that, under Section 4(d) of this Agreement, I am not permitted to move UTMA Equipment from the location and address in which it has been installed. Furthermore, if I move my voice-enabled cable modem to an address different than that identified on the Work Order, calls from such modem to 911 will appear to 911 emergency service operators to be coming from the address identified on the Work Order and not the new address.
- D.** I agree to provide UTMA and its authorized agents with access to my telephone inside wiring at the Network Interface Device or at some other minimum point of entry in order to provide the Digital Phone Service over my existing in-home wiring.
- E.** I agree that in the event of a material error or omission affecting my directory listing information, regardless of form or fault by UTMA, including the erroneous inclusion in published directory listings of any information that I intend not to have published, my sole remedy shall be a service credit in an amount set by UTMA's then-current standard policies or an amount prescribed by applicable regulatory requirements, whichever is greater. UTMA shall have no other liability for errors, omissions or mistaken inclusions in directory listings.

## **6. Special Provisions Regarding HSD Service**

- A.** Description of HSD Service.
  - (i)** I acknowledge that each tier or level of the HSD Service has limits on the Maximum Throughput Rate at which I may send and receive data at any time, as set forth in the price list or Terms of Use, and that the Maximum Throughput Rate may be achieved in bursts, but generally will not be sustained on a consistent basis due to the nature of the Internet, the protocols used to transmit data to and from the Internet, and UTMA's facilities. I also understand that the actual Throughput Rate I may experience at any time will vary based on numerous factors, such as the condition of wiring at my location, computer configurations, Internet and UTMA network congestion, the time of day at which I use the HSD Service, and the website servers I access, among other factors. Additionally, Throughput Rate may be affected by Network Management Tools, the prioritization of UTMA commercial subscriber traffic and network control information, and necessary bandwidth overhead used for protocol and network information.
  - (ii)** I agree that UTMA or ISP may change the Maximum Throughput Rate of any tier by amending the price list or Terms of Use. My continued use of the HSD Service following such a change will constitute my acceptance of any new Maximum Throughput Rate. If the level or tier of HSD Service to which I subscribe has a specified limit on the amount of bytes that I can use in a given billing cycle, I also agree that UTMA may use technical means, including but not limited to suspending or

reducing the speed of my HSD Service, to ensure compliance with these limits, and that UTMA or ISP may move me to a higher tier of HSD Service (which may result in higher monthly charges) or impose other charges and fees if my use exceeds these limits.

**(iii)** I agree that UTMA may use Network Management Tools as it determines appropriate and/or that it may use technical means, including but not limited to suspending or reducing the Throughput Rate of my HSD Service, to ensure compliance with its Terms of Use and to ensure that its service operates efficiently. I further agree that UTMA and ISP have the right to monitor my bandwidth usage patterns to facilitate the provision of the HSD Service and to ensure my compliance with the Terms of Use and to efficiently manage their networks and their provision of services. UTMA or ISP may take such steps as each may determine appropriate in the event my usage of the HSD Service does not comply with the Terms of Use. I acknowledge that HSD Service does not include other services managed by UTMA and delivered over UTMA's shared infrastructure, including Video Service and Digital Phone Service.

**B.** I may rent a cable modem from UTMA or may purchase a DOCSIS-compliant, UTMA-approved cable modem from a third party provider. UTMA reserves the right to provide service only to users with UTMA-approved DOCSIS-compliant modems. Modems not UTMA-approved may not function as intended and may not receive UTMA advertised services.

**C.** Republication.

**(i)** I acknowledge that material posted or transmitted through the HSD Service may be copied, republished or distributed by third parties, and that the UTMA Parties will not be responsible for any harm resulting from such actions.

**(ii)** I grant to UTMA, and I represent, warrant and covenant that I have all necessary rights to so grant, the non-exclusive, worldwide, royalty-free, perpetual, irrevocable, right and license to use, reproduce, modify, adapt, publish, translate, distribute, perform and display in any media all material posted on the public areas of the HSD Service via my account and/or to incorporate the same in other works, but only for purposes consistent with operation and promotion of the HSD Service.

**(iii)** I agree that unsolicited email, or "spam," is a nuisance and that UTMA and my ISP (and, if applicable, my OLP) are entitled to establish limits on the volume of email that I send. Such volume limits may be set by reference to a number of emails per day, week, month or year.

**D.** Continuity of Service. In order to provide continuity of service to me, if my choice of ISP is no longer available over my local UTMA cable system, I agree that UTMA may provide me with an alternative ISP. In such event, UTMA will notify me of the date as of which I will begin receiving service from the alternative ISP, the provision of which shall also be governed by this Agreement, and UTMA will provide to me a price list for such alternative ISP service. I will have the right at any time to terminate the alternative ISP or to change my subscription to any other ISP then offered by UTMA.

**E.** Unfiltered Internet Access. I acknowledge that the ISP Service provides a connection to the Internet that may be unfiltered, and that the UTMA Parties neither control nor assume responsibility for any content on the Internet or content that is posted by a subscriber. Although UTMA or my ISP or OLP may make available certain parental control features, I acknowledge that such parental control features may not be entirely effective or foolproof and that, notwithstanding such features, I or members of my household may be exposed to unfiltered content.

**F.** Use of ISP and OLP Service. I agree that UTMA and/or my ISP and/or OLP has the right, but not the obligation, to edit, refuse to post or transmit, request removal of, or remove or block any material transmitted through, submitted to or posted on the HSD

Service, if it determines in its discretion that the material violates the terms of this Agreement, any UTMA consumption limits or any other Terms of Use. Such material might include personal home pages and links to other sites. In addition, I agree that, under such circumstances, UTMA may suspend my account, take other action to prevent me from utilizing certain account privileges (e.g., home pages) or cancel my account without prior notification. I also agree that UTMA and/or ISP and/or OLP may suspend or cancel my account for using all or part of the HSD Service in a manner that violates this Agreement or the Terms of Use.

- G.** Responsibility for HSD Service. Each of UTMA and my ISP (and, if applicable, my OLP) has responsibilities for the HSD Service. I acknowledge that each of my ISP and OLP may have one or more separate agreements, policies or other terms covering my rights and obligations with regard to the HSD Service ("ISP Terms" or "OLP Terms," as applicable) that are also binding on me. This Agreement does not cover any ISP or OLP features or Services that are not dependent upon distribution over UTMA's cable systems (for example, dial up access or my use of ISP or OLP software that enables access to ISP or OLP features or Services through non-UTMA access means) or that may otherwise be provided to me by ISP or OLP separately from the HSD Service under the ISP Terms or OLP Terms, as applicable. In the event of termination of the HSD Service, I must also contact my ISP (and, if applicable, my OLP) to ensure that these other features or Services (such as dial-up access) are properly continued or discontinued.
- H.** Computer Requirements. I agree that each Computer will need to meet certain minimum hardware and software requirements that will be specified for the HSD Service, and that such requirements may be changed from time to time by UTMA or my ISP or OLP.

## **7. Support; Service and Repairs**

- A.** My Services include the right to request reasonable service and maintenance calls to check and correct problems with the Services. UTMA will, at its own expense, repair damage to or, at UTMA's option, replace UTMA Equipment, and otherwise attempt to correct interruptions of the Services, due to reasonable UTMA Equipment wear and tear, or technical malfunction of the system or network operated by UTMA. The Subscriber Materials contain details on contacting UTMA for this support.
- B.** Unless I have obtained a UTMA service protection plan (if available in my area), I agree that I am responsible for all wiring, equipment and related software installed in my residence that is not UTMA Equipment or UTMA-licensed Software and UTMA will have no obligation to install, connect, support, maintain, repair or replace any Computer, television, telephone or telephone answering device, audiovisual recording or playback device (e.g., VCR, DVR, DVD), audio equipment, any software, or any cable modem, cabling or other equipment (other than UTMA Equipment or UTMA-licensed Software). UTMA will not support, repair, replace, or maintain any Network Interface Card, regardless of whether provided and installed by UTMA.
- C.** I agree that UTMA has no responsibility for the operation of any equipment, software or service other than the Services, the UTMA Equipment and the UTMA-licensed Software. For instance, I acknowledge that certain commercially available televisions, converter boxes and recording devices, which may be identified by their manufacturers as "cable ready" or "digital cable ready," may not be able to receive or utilize all available Services without the addition of a UTMA converter box or other UTMA Equipment for which a fee may be charged. I further acknowledge that, even if UTMA furnishes other UTMA Equipment to me that is compatible with my equipment, my equipment may not receive all Services available to customers using a UTMA converter box. If I receive HSD Service, UTMA has no responsibility to support, maintain or repair any equipment, software or service that I elect to use in connection with the HSD Service, whether provided by my ISP, my OLP or a third party. For assistance with technical problems arising from such equipment, software or Services, I should refer to the Subscriber Materials for information regarding the technical support provided by my ISP or OLP or to the support area of the ISP or OLP or to the relevant third party's material.

- D. If UTMA determines that non-UTMA cabling or equipment connecting my residence to UTMA Equipment installed on the side of or adjacent to my residence (i.e., at a ground block) is the cause of a service problem, I agree that UTMA may charge me to resolve such service problem. If available from UTMA in my area, I may subscribe to a UTMA service protection plan that covers service related calls within my residence. If any other support Services are available from UTMA, such Services will be at additional charges as described in UTMA's price list.

## **8. Service Interruptions; Force Majeure**

- A. I agree that UTMA has no liability for delays in or interruption to my Services except that, if for reasons within UTMA's reasonable control, for more than twenty-four (24) consecutive hours, (i) service on all cable channels is interrupted, (ii) there is a complete failure of the HSD Service or (iii) there is a complete failure of the Digital Phone Service, UTMA will give me a prorated credit for the period of such interruption or failure if I request one within 30 days of the interruption or failure. Notwithstanding the above, UTMA will issue credits for VOD, pay-per-view and pay-per-play events for service problems where a credit request is made within 30 days of the interruption or failure. In no event shall UTMA be required to credit me an amount in excess of applicable service fees. UTMA will make any such credit on the next practicable bill for my Services. State and local law or regulation may impose other outage credit requirements with respect to some or all of my Services. In such event, the relevant law or regulation will control.
- B. I acknowledge that UTMA may conduct maintenance from time to time that may result in interruptions of my Services.
- C. The UTMA Parties shall have no liability, except as set forth in Section 8(a), for interruption of the Services due to circumstances beyond its reasonable control, including acts of God, flood, natural disaster, vandalism, terrorism, regulation or governmental acts, fire, civil disturbance, electrical power outage, computer viruses or worms, strike or weather.
- D. UTMA is only obligated to provide the above-referenced credits for loss of Services if UTMA is billing me for the relevant Service at the time of the outage. If a third party, including my ISP or OLP, is billing me, I will look solely to such third party for a credit with respect to that Service.

## **9. Review and Enforcement**

- A. UTMA may suspend or terminate all or a portion of my Services without prior notification if UTMA determines in its discretion that I have violated this Agreement, any of the Terms of Use or any Tariff(s), even if the violation was a one-time event. If all or a portion of my Services are suspended for more than 24 hours, I will not be charged for the relevant Services during the suspension. If my account is terminated, I will be refunded any pre-paid fees minus any amounts due UTMA.
- B. If I receive HSD Service, I acknowledge that UTMA has the right, but not the obligation, to review content on public areas of the HSD Service, including chat rooms, bulletin boards and forums, in order to determine compliance with this Agreement and the Terms of Use.
- C. I agree that UTMA shall have the right to take any action that UTMA deems appropriate to protect the Services, UTMA's facilities or UTMA Equipment.

## **10. Termination of Service**

- A. Either UTMA or I, each in our sole discretion, may terminate all or any portion of my Services at any time for any or no reason, in

its sole discretion, in accordance with applicable law.

- B.** If I am moving or wish to terminate all or any portion of my Services for any reason, I will notify UTMA by phone or by mail as instructed in the Subscriber Materials in order to set up a disconnect appointment and provide UTMA with access to my premises to disconnect the relevant Services and recover the UTMA Equipment specified on the Work Order on a DATE PRIOR TO the last day of residency. This also applies if I am receiving a period of free or discounted Services. In other words, at the end of the free or discounted period, UTMA is entitled to begin billing me for the usual charges associated with the relevant Services unless I take the appropriate steps to terminate the Services as described in this paragraph.
- C.** I cannot terminate my Services by writing "Canceled" (or any other messages) on my bill or check, or by making a disconnect appointment that does not result in UTMA's physical recovery of the UTMA Equipment. In addition, I agree that any restrictive endorsements (such as "paid in full"), releases or other statements on or accompanying checks or other payments accepted by UTMA shall have no legal effect.
- D.** I acknowledge that notice given by me to UTMA of termination of any Services may not be sufficient to terminate billing by any third party for additional or continuing Services, for example, billing by my ISP or OLP for continuing "dial up" access. I agree that I am solely responsible for contacting any such third party in addition to UTMA to ensure that all such Services are terminated in accordance with the third party's terms of service, if applicable.

#### **11. Disclaimer of Warranty; Limitation of Liability**

- A.** I AGREE THAT THE SERVICES ARE PROVIDED BY UTMA ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF TITLE OR NONINFRINGEMENT OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OTHER THAN THOSE WARRANTIES THAT ARE IMPLIED BY, AND INCAPABLE OF EXCLUSION, RESTRICTION OR MODIFICATION UNDER, THE LAWS APPLICABLE TO THIS AGREEMENT. UTMA MAKES NO WARRANTY THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE, SECURE, OR FREE OF VIRUSES, WORMS, DISABLING CODE OR CONDITIONS, OR THE LIKE, OR THAT THE UTMA EQUIPMENT WILL OPERATE AS INTENDED. IN PARTICULAR, I AGREE THAT MY USE OF THE HSD SERVICE (INCLUDING THE CONTENT, INFORMATION, SERVICES, EQUIPMENT AND SOFTWARE, THE PURCHASE OF MERCHANDISE AND SERVICES, THE TRANSMISSION OF INFORMATION AND OTHER COMMUNICATIONS BY AND TO ME AND THE DOWNLOADING OF COMPUTER FILES) IS AT MY SOLE RISK AND THAT UTMA DOES NOT WARRANT THAT THE HSD SERVICE OR EQUIPMENT PROVIDED BY UTMA WILL PERFORM AT A PARTICULAR SPEED, BANDWIDTH OR THROUGH PUT RATE. I FURTHER AGREE THAT UTMA IS NOT RESPONSIBLE FOR THE RECORDING OF OR FAILURE TO RECORD ANY PROGRAM OR PORTION THEREOF, OR FOR THE CONTENT OF ANY PROGRAM OR CONTENT ON MY DVR. WITHOUT LIMITING THE FOREGOING:
- B.** ANY AND ALL PRODUCTS AND SERVICES PROVIDED BY UTMA AND/OR ISP AND/OR OLP AND/OR ANY LONG DISTANCE PROVIDER AND/OR OTHER THIRD PARTY TO ME THAT ARE NOT PART OF THE SERVICES AS DEFINED HEREIN ARE OUTSIDE THE SCOPE OF THIS AGREEMENT AND THE UTMA PARTIES HAVE NO RESPONSIBILITY OR LIABILITY FOR ANY SUCH PRODUCTS OR SERVICES; AND (ii) NONE OF THE UTMA PARTIES MAKES ANY WARRANTIES AS TO THE SECURITY OF MY COMMUNICATIONS VIA UTMA'S FACILITIES OR THE SERVICES (WHETHER SUCH COMMUNICATIONS ARE DIRECTED WITHIN THE SERVICES, OR OUTSIDE THE SERVICE TO OR THROUGH THE INTERNET), OR THAT THIRD PARTIES WILL NOT GAIN UNAUTHORIZED ACCESS TO OR MONITOR MY EQUIPMENT OR COMMUNICATIONS. I AGREE THAT NONE OF THE UTMA PARTIES WILL BE LIABLE FOR ANY SUCH UNAUTHORIZED ACCESS. I HAVE THE SOLE RESPONSIBILITY TO SECURE MY EQUIPMENT AND COMMUNICATIONS.

- (i) I ACKNOWLEDGE THAT UTMA'S OR MY INSTALLATION, USE, INSPECTION, MAINTENANCE, REPAIR, REPLACEMENT OR REMOVAL OF THE SERVICES, UTMA EQUIPMENT AND SOFTWARE MAY RESULT IN DAMAGE TO MY COMPUTER(S), TELEPHONES AND TELEPHONE ANSWERING DEVICES, TELEVISIONS, RECORDING AND PLAYBACK DEVICES, AUDIO EQUIPMENT, OR ANY CABLE MODEM, CABLING OR OTHER EQUIPMENT OR HARDWARE, INCLUDING SOFTWARE AND DATA FILES STORED THEREON. I SHALL BE SOLELY RESPONSIBLE FOR BACKING UP ALL EXISTING COMPUTER OR OTHER SOFTWARE OR DATA FILES PRIOR TO THE PERFORMANCE OF ANY OF THE FOREGOING ACTIVITIES. NONE OF THE UTMA PARTIES, OR THEIR VENDORS, LICENSEES OR PROGRAMMERS, SHALL HAVE ANY LIABILITY, AND EACH EXPRESSLY DISCLAIMS ANY RESPONSIBILITY WHATSOEVER, FOR ANY DAMAGE TO OR LOSS OR DESTRUCTION OF ANY EQUIPMENT, SOFTWARE, HARDWARE, DATA OR FILES.
- C. EXCEPT FOR THE REFUND OR CREDIT AS EXPRESSLY PROVIDED IN SECTIONS 9(a) AND 8(a) RESPECTIVELY, IN NO EVENT (INCLUDING NEGLIGENCE) WILL ANY UTMA PARTY OR ANY PERSON OR ENTITY INVOLVED IN CREATING, PRODUCING OR DISTRIBUTING THE SERVICES (INCLUDING THE CONTENT INCLUDED THEREIN OR THE SERVICES ACCESSED THEREBY) OR EQUIPMENT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OF OR INABILITY TO USE THE SERVICES, INCLUDING THE USE OF OR INABILITY TO USE EMERGENCY 911 SERVICES; FOR ANY ERRORS, OMISSIONS, MISTAKEN INCLUSIONS OR PUBLICATION OF ANY DIRECTORY LISTING INFORMATION, REGARDLESS OF FORM; FOR ANY ACTION TAKEN BY UTMA TO PROTECT THE SERVICES; OR THE BREACH BY UTMA OF ANY WARRANTY.
  - D. I AGREE THAT THE PROVISIONS OF THIS SECTION 11 SHALL APPLY TO ALL CONTENT OR SERVICES INCLUDED IN, OR ACCESSIBLE THROUGH, THE SERVICES, AND ARE FOR THE BENEFIT OF, AND MAY BE ENFORCED BY, ALL OF THE UTMA PARTIES.

## 12. Privacy

- A. My privacy interests, including my ability to limit disclosure of certain information to third parties, may be addressed by, among other laws, the Federal Communications Act of 1934, as amended, and the Electronic Communications Privacy Act. Personally identifiable information that may be collected, used or disclosed in accordance with applicable laws is described in the Subscriber Privacy Notice delivered to me by UTMA on its own behalf and on behalf of its Affiliated ISPs. I acknowledge receipt of the Subscriber Privacy Notice, which is deemed to form a part of this Agreement, and expressly consent to the collection, use and disclosure of personally identifiable and other information as described in the Subscriber Privacy Notice, as it may be amended from time to time.
- B. I agree that, in addition to actions and disclosures specifically authorized by law or statute or authorized elsewhere in this Agreement, UTMA and its Affiliated ISPs shall each have the right (except where prohibited by law notwithstanding my consent), but not the obligation, to disclose any information to protect their respective rights, property and/or operations, or where circumstances suggest that individual or public safety is in peril. I consent to such actions or disclosures.
- C. If I am a Digital Phone customer, I consent to UTMA's disclosure of my name, address and/or telephone number to the general public in connection with Caller ID functions, telephone directories and 411 services. If I wish to have UTMA remove this information from one or more of these Services, I understand that I may direct UTMA to do so, subject to any applicable fees. I also consent to UTMA's disclosure of my name, address and/or telephone number in response to 911 and similar public safety requests and to the telephone companies serving those end users to whom I make calls so that the calls can be completed.

## 13. Consent to Phone and Email Contact

- A. I consent to UTMA calling the phone numbers I supply to it for any purpose, including the marketing of its current and future

Services. I agree that these phone calls may be made using any method, including an automatic dialing system or an artificial or recorded voice. Upon my request, the phone numbers I have previously provided will be removed from UTMA's phone marketing list. I can make this request by calling or writing my local UTMA office and asking to be placed on UTMA's Do Not Call List.

- B.** I acknowledge that being included in any state or federal "do not call" registry will not be sufficient to remove me from UTMA's phone marketing list.
- C.** I consent to UTMA emailing me, at any email address, including that of a wireless or mobile device, that I provide to UTMA (or that UTMA issues to me in connection with the Service), for any purpose, including the marketing of UTMA's current and future Services. If my wireless or mobile provider charges me for receipt of such messages, I acknowledge and agree that I am responsible for paying such charges. I may revoke this authorization insofar as it relates to marketing messages at any time by calling or writing my local UTMA office.

#### **14. Arbitration**

EXCEPT FOR CLAIMS FOR INJUNCTIVE RELIEF, AS DESCRIBED BELOW, ANY PAST, PRESENT, OR FUTURE CONTROVERSY OR CLAIM ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL BE RESOLVED BY BINDING ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION UNDER ITS COMMERCIAL ARBITRATION RULES, INCLUDING, IF APPLICABLE, THE SUPPLEMENTARY PROCEDURES FOR THE RESOLUTION OF CONSUMER RELATED DISPUTES. CONSOLIDATED OR CLASS ACTION ARBITRATIONS SHALL NOT BE PERMITTED. THE ARBITRATOR OF ANY DISPUTE OR CLAIM BROUGHT UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT HAVE THE POWER TO AWARD INJUNCTIVE RELIEF; INJUNCTIVE RELIEF MAY BE SOUGHT SOLELY IN AN APPROPRIATE COURT OF LAW. NO CLAIM SUBJECT TO ARBITRATION UNDER THIS AGREEMENT MAY BE COMBINED WITH A CLAIM SUBJECT TO RESOLUTION BEFORE A COURT OF LAW. THE ARBITRABILITY OF DISPUTES SHALL BE DETERMINED BY THE ARBITRATOR. JUDGMENT UPON AN AWARD MAY BE ENTERED IN ANY COURT HAVING COMPETENT JURISDICTION. IF ANY PORTION OF THIS SECTION IS HELD TO BE UNENFORCEABLE, THE REMAINDER SHALL CONTINUE TO BE ENFORCEABLE, EXCEPT THAT IF THE PROHIBITION AGAINST CONSOLIDATED OR CLASS ACTION ARBITRATIONS SET FORTH ABOVE IS FOUND TO BE UNENFORCEABLE, THEN THE ENTIRETY OF THIS ARBITRATION CLAUSE SHALL BE NULL AND VOID.

#### **15. Definitions**

- A.** "Affiliated ISP" means Road Runner and any other ISP in which any UTMA Party holds an ownership interest.
- B.** "Agreement" means this Services Subscription Agreement, as it may be amended from time to time by UTMA.
- C.** "Computer" means the personal computer(s) located at my residence that will be used to access the HSD Service, as specified on the accompanying Work Order.
- D.** "Digital Phone Service" means the UTMA phone service that provides users with the ability to send and receive local and/or long distance calls and to access additional related features and functions through UTMA's cable systems.
- E.** "DVR" means a set-top box or other device enabled with a digital video recorder that is provided to me by UTMA.
- F.** "HSD Service" and "High Speed Data Service" mean the online content, features, functions and Services (which may include Internet access) of the ISP or OLP selected by me, as provided over UTMA's cable systems.
- G.** "including" or "include" shall mean inclusion, without limitation.

- H.** "ISP" means the Internet service provider selected by me from among those offered now or in the future by UTMA for the HSD Service. My ISP is the entity that provides my Internet connectivity.
- I.** "Maximum Throughput Rate" means the highest Throughput Rate provided by the level or tier of HSD Service to which I subscribe.
- J.** "Me," "My," and "I" mean the account holder identified on the Work Order who is authorized by UTMA to access and use the Services.
- K.** "Network Management Tools" means tools and techniques that may be used by UTMA as it determines appropriate in order to efficiently manage its network, ensure a quality user experience for its subscribers and ensure compliance with the Acceptable Use Policy. Examples of Network Management Tools can be found in the Acceptable Use Policy, [http://help.UTMAable.com/html/UTMA\\_misp\\_aup.html](http://help.UTMAable.com/html/UTMA_misp_aup.html).
- L.** "OLP" or "On-line Provider" means a provider of on-line content, features, functions and Services that are used in conjunction with my ISP Service (and whose service may be purchased with an ISP Service as part of a combined offering) but that does not itself provide Internet connectivity.
- M.** "Services" means any and all Services provided to me by UTMA, which may include Video Service, High Speed Data Service, Digital Phone Service and equipment based Services such as digital video recorder Services.
- N.** "Software" means the computer software, if any, licensed by ISP or OLP to me to access the HSD Service, or licensed by UTMA to me to facilitate installation or use of my ISP's or OLP's service or any other Services. Software also refers to any executable code that may be included in, downloaded to, or utilized by, any UTMA Equipment.
- O.** "Subscriber Materials" means the handbooks, manuals and other guide materials provided by UTMA or any third party (including my ISP or OLP) regarding use of the Services.
- P.** "Subscriber Privacy Notice" means the Subscriber Privacy Notice described in Section 12(a), as it may be amended from time to time by UTMA.
- Q.** "Tariff(s)" means the materials describing the terms upon which UTMA offers Digital Phone Service, which have been filed at the Public Service Commission or comparable state agency serving the jurisdiction in which I live.
- R.** "Terms of Use" shall mean all rules, terms and conditions set forth in this Agreement or otherwise established now or hereafter by UTMA regarding permissible or impermissible uses of or activities related to, the HSD Service.
- S.** "Throughput Rate" refers to the amount of data that can be transferred between my location and the UTMA facilities serving my location over a given period of time. Throughput Rates described in all UTMA materials, including marketing materials, price lists and Terms of Use refer to Maximum Throughput Rates.
- T.** "UTMA" means the local Time Warner Cable-affiliated cable operator that is providing the Services over its cable system, or any cable operator to whom UTMA assigns this Agreement.
- U.** "UTMA Equipment" means any equipment provided by UTMA to me including, but not limited to, wire, cable, cable conduit, splitters, junction boxes, converter boxes (also known as "set top" boxes), decoders, CableCARD™, terminals, cable modems,

voice-enabled cable modems, remote control units, and any other equipment or materials provided to me by UTMA for use in connection with the receipt of Services. UTMA Equipment does not include any Network Interface Card ("NIC") installed in my Computer.

- V.** "UTMA Parties" means UTMA and its corporate parents, affiliates and subsidiaries and their respective directors, officers, employees and agents.
- W.** "Video Service" means video and/or audio programming Services such as basic, standard, digital and premium Services, Services provided on a per-channel or per-program basis, pay-per-play, pay-per-view or VOD.
- X.** "VOD" means video on demand.
- Y.** "Work Order" means the Time Warner Cable work order provided to me on or after January 1, 2006 in connection with the installation or commencement of my Service(s).

## **16. Indemnification**

I agree to defend, indemnify and hold harmless the UTMA Parties from and against any and all claims and expenses, including reasonable attorneys' fees, arising out of or related in any way to my use of the Services or otherwise arising out of the use of my account or any equipment or facilities in connection therewith, or my use of any other UTMA products or Services or any ISP's or OLP's products or Services.

## **17. Term**

This Agreement will remain in effect until terminated by either party or superseded by a revised Subscription Agreement.

## **18. Interpretation; Severability**

Except as explicitly stated in Section 14, in the event that any portion of this Agreement is held to be invalid or unenforceable, the invalid or unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties as set forth herein, and the remainder of this Agreement shall remain in full force and effect.

## **19. Consent to Electronic Notice**

I agree that unless otherwise specified, all notices required or contemplated hereunder will be provided by UTMA by such means as UTMA shall determine in its discretion. Without limiting the foregoing, I agree that UTMA may provide any notices required or contemplated hereunder or by applicable law, including notice of changes to this Agreement, the Terms of Use, the Tariff(s) or the Privacy Notice, by electronic means (for example, email or online posting). An online version of this Agreement, the Terms of Use, the Subscriber Privacy Notice and any applicable Tariff(s), as so changed from time to time, will be accessible at <https://www.utma.com/about.php#policies> or another online location designated by UTMA, or can be obtained by calling my local UTMA office.

## **20. Waiver**

I agree that failure by UTMA to enforce any of its rights hereunder shall not constitute a waiver of any such rights. No waiver by either party of any breach or default shall be deemed to be a waiver of any preceding or subsequent breach or default.

## 21. Assignment

I understand that my Services are being provided only to the location identified on my Work Order and that I am not allowed to transfer all or any portion of the Services, or UTMA's Equipment, to any other person, entity or location, including a new residence. I agree that I may not assign or transfer this Agreement. UTMA may transfer or assign any portion or all of this Agreement at any time without notice to me, and I waive any such notice which may be required.

## 22. Effect of Applicable Law; Reservation of Rights

This Agreement, the Work Order and the Terms of Use are subject to all applicable federal, state or local laws and regulations, including any applicable franchise agreement, in effect in the relevant jurisdiction(s) in which I receive my Services. If any provision of this Agreement, the Work Order or the Terms of Use contravene or are in conflict with any such law or regulation, or if I am entitled to more favorable rights under any such law or regulation than are set forth in any provision in this Agreement, the Work Order or the Terms of Use, then the terms of such law or regulation, or the rights to which I am entitled under such law or regulation, shall take priority over the relevant provision of this Agreement, the Work Order or the Terms of Use. If the relevant law or regulation applies to some but not all of my Service(s), then such law or regulation will take priority over the relevant provision of this Agreement, the Work Order or the Terms of Use only for purposes of those Service(s) to which the law or regulation applies. Except as explicitly stated in this Agreement, nothing contained in this Agreement shall constitute a waiver by me or UTMA of any rights under applicable laws or regulations pertaining to the installation, operation, maintenance or removal of the Services, facilities or equipment.

## 23. Parental Control Device

I acknowledge that I have been advised of the availability of UTMA's parental control device which can filter or block certain programming. Additional information about the device is available at the UTMA contact number in the Subscriber Materials.

## 24. Conflicting Terms

In the event of a conflict in the terms and conditions between this Residential Services Subscriber Agreement and the accompanying Work Order, then the terms and conditions of this Agreement shall control.

## Set Top Box Policy – Digital TV

All set top boxes are the property of United Communications and Turtle Mountain Communications. If service is disconnected, all set top boxes must be returned to us within 30 days of disconnection. If set top boxes are not returned within the 30 days, you will be billed \$450 per DVR box and \$165 for all other boxes. If a set top box is physically damaged, we will replace it one time only. If another box is damaged due to physical abuse and needs to be replaced, you will be responsible to buy the damaged box at a price of: DVR box \$450, all others \$165.

## Terms of Use

Please read this Visitor Agreement and Terms of Use (the "Agreement"). By using this service, you agree to abide by its terms. The Web is an evolving medium. We may change the terms of this Agreement from time to time to address new issues or situations. By continuing to use the service after we post notice of any such changes, you agree to accept the new terms.

Utma.com is provided to you free of charge, "as is." By registering with utma.com or using the site, you agree that, to the extent set forth in the utma.com Privacy Policy and subject to the limitations set forth therein, we may disclose any information you provide or that we obtain concerning your use of the utma.com site and any services it offers.

You may only use utma.com for legal purposes. You may not use utma.com or its services to publish, post, distribute or disseminate any defamatory, obscene or other unlawful material or information, including another's proprietary information, without express authorization from the rights holder. You may not use utma.com to collect or harvest personal information, including Internet addresses, about other utma.com users.

Utma.com uses its best efforts to maintain the site, but is not responsible for any defects that exist in utma.com or any resulting lost profits or other consequential damages. Utma.com does not purport to be error free and does not warrant that it is suitable for the particular purpose that you have in mind when using it. UTMA may in its sole discretion and at any time modify or discontinue utma.com; and limit, terminate or suspend your use of or access to utma.com.

If you find any material on the site that you believe to be inaccurate, we encourage you to bring it to our attention. Please forward a copy of the material, the page address and an explanation of your objection to the material via email. By posting messages, uploading files, inputting data, or engaging in any other form of communications through this service, you are granting UTMA and its affiliated entities a royalty-free, perpetual, non-exclusive, unrestricted, worldwide license to:

Use, copy, sublicense, adapt, transmit, retransmit, distribute and/or publicly perform or display any such communication; Sublicense to third parties the unrestricted right to exercise any of the foregoing rights granted with respect to the communication.

The foregoing grants shall include the right to exploit any proprietary rights in such communication, including but not limited to rights under copyright, trademark, service mark, patent laws or the law of ideas under any relevant jurisdiction.

By submitting material to utma.com, you are representing that you are the owner of the material or are making your submission with the express consent of the owner. Submitting material that is the property of another without the express consent of its owner, is not only a violation of this Agreement, but may also subject you to legal liability for infringement of copyright, trademark or other intellectual property rights.

## No Soliciting

You agree not to use the utma.com site to advertise or solicit anyone to buy or sell products or services or to make donations of any kind without UTMA's express written consent.

## Disclaimer of Warranties and Liability

Please read this disclaimer carefully before using utma.com.

In the event that UTMA or its affiliated entities have provided links and pointers to Internet sites maintained by third parties, unless expressly stated otherwise, no inference or assumption should be made and no representation may be implied that either UTMA or its affiliated entities operates or controls in any way any information, products or services on these third party sites.

YOU AGREE THAT YOUR USE OF THIS SERVICE IS AT YOUR SOLE RISK. BECAUSE OF THE NUMBER OF POSSIBLE SOURCES OF INFORMATION AVAILABLE THROUGH THE SERVICE, AND THE INHERENT HAZARDS AND UNCERTAINTIES OF ELECTRONIC DISTRIBUTION, THERE MAY BE DELAYS, OMISSIONS, INACCURACIES OR OTHER PROBLEMS WITH SUCH INFORMATION. IF YOU RELY ON THIS SERVICE OR ANY MATERIAL AVAILABLE THROUGH THIS SERVICE, YOU DO SO AT YOUR OWN RISK.

THE MATERIALS ON THIS SITE ARE PROVIDED TO YOU "AS IS" AND WITHOUT ANY WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED. SPECIFICALLY, UTMA AND ITS AFFILIATES, AGENTS AND LICENSORS CANNOT AND DO NOT WARRANT THE ACCURACY, COMPLETENESS, TIMELINESS, NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE INFORMATION

AVAILABLE ON OR THROUGH THE SITE. NOR DO THEY GUARANTEE THAT THE SITE WILL BE ERROR-FREE OR CONTINUOUSLY AVAILABLE OR THAT THE SITE, INCLUDING BULLETIN BOARDS OR THE SERVER THAT MAKES IT AVAILABLE WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. UTMA DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE MATERIALS ON THIS SITE OR IN THIRD-PARTY SITES OR YOUR RELIANCE THEREUPON IN TERMS OF THEIR CORRECTNESS, ACCURACY, TIMELINESS, RELIABILITY OR OTHERWISE. YOU, AND NOT UTMA, ASSUME THE ENTIRE COST OF ALL NECESSARY MAINTENANCE, REPAIR OR CORRECTION.

UNDER NO CIRCUMSTANCES SHALL UTMA OR ITS AFFILIATES, AGENTS OR LICENSORS BE LIABLE TO YOU OR ANYONE ELSE FOR ANY DAMAGES OTHER THAN DIRECT DAMAGES. THIS PROVISION INCLUDES, WITHOUT LIMITATION, ANY LIABILITY FOR CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR SIMILAR DAMAGES, EVEN IF WE ARE ADVISED BEFOREHAND OF THE POSSIBILITY OF SUCH DAMAGES. YOU AGREE THAT THE LIABILITY OF UTMA AND ITS AFFILIATES, AGENTS AND LICENSORS, IF ANY, ARISING OUT OF ANY KIND OF LEGAL CLAIM IN ANY WAY CONNECTED TO THE SERVICE SHALL NOT EXCEED THE AMOUNT YOU PAID TO THE SERVICE OR THE USE OF THE SERVICE.

## Termination

This Agreement is effective until terminated by UTMA, at any time without notice. In the event of termination, you are no longer authorized to access the chat rooms, bulletin boards or other public areas of the site, and the restrictions imposed on you with respect to material downloaded from the site, the disclaimers and limitations of liability set forth in this Agreement shall survive.

## Indemnification

You agree to indemnify and hold harmless UTMA, its parents, affiliates, licensees and their respective directors, officers, employees and agents from and against all liabilities, claims damages and expenses, including attorneys' fees, arising out of your use of the Site, or your violation or alleged violation of the terms of this Agreement.

## Other

This Agreement shall be governed by and construed in accordance with the laws of the State of North Dakota without giving effect to any principles of conflicts of law. If any provision of this Agreement is deemed unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from this Agreement and shall not affect the validity and enforceability of any remaining provisions.