



TEWACommunications
@ San Ildefonso

SERVICE AGREEMENT FOR TEWA COMMUNICATIONS @ SAN ILDEFONSO CUSTOMERS

This Service Agreement (Agreement) is made and entered into between Tewa Communications @ San Ildefonso (“TewaCom”) and _____ (“Customer” or “You”) for Broadband Internet Services procured in the State of New Mexico. Customer agrees and understands that TewaCom is the exclusive and authorized Service Provider for the Customer. TewaCom and Customer are collectively referred to herein as “Parties.”

RECITALS

1. TewaCom is in the business of providing Wireless Internet Services (“Services”) as identified and agreed to by and between the parties and set forth on the TewaCom Service Order document (“Service Order”).
2. In providing such Services to the Customer, TewaCom provides the Equipment necessary for the provision of Services by TewaCom to the Customer.
3. Customer wants to obtain the Services and Equipment provided by TewaCom described in the Service Order.

TERMS AND CONDITIONS

In consideration of the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree and covenant as follows:

1. **Premises:** The Services and Equipment shall be supplied and used at the Customer’s location at _____ (“Premises”) and no other place without the express written consent of the Parties.
2. **Service Description:**
 - 2.1 TewaCom will provide communications Services and Equipment to Customer as described and identified in a Service Order signed by Customer, and in accordance with these terms and conditions and any applicable Service Addendum. TewaCom reserves the right, in its sole discretion, to reject any Service Order.
 - 2.2 TewaCom will provide Services to Customer using TewaCom owned and managed facilities in conjunction with facilities of TewaCom’s partners. TewaCom reserves the right to substitute, change or rearrange any Equipment used to deliver Services that does not affect the quality, cost or type of Services.
 - 2.3 Unless otherwise provided herein, Customer is responsible to provide other equipment compatible with the Services and TewaCom’s network and facilities. Customer will bear the cost of any additional equipment or protective apparatus (e.g. surge protectors) reasonably required to be installed because of the use of TewaCom’s network or facilities by Customer or Customer’s authorized users (“End Users”). Any wiring required to extend a communications termination and /or demarcation at the Customers or End Users Premises is not the responsibility of TewaCom, and TewaCom is not responsible for the costs thereof past the Point of Demarcation (i.e., Antenna Ethernet port) or TewaCom owned router port after installation.
 - 2.4 TewaCom will manage its network in TewaCom’s sole discretion. Customer will provide all reasonable information and authorizations required by TewaCom for purpose of installing Services and Equipment,



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performing routing, network grooming, maintenance, upgrade and addressing emergencies. Customer will cooperate in good faith and follow through in coordination efforts required in a timely manner.

- 2.5** TewaCom agrees to provide access to the Internet to the Customer in accordance with this Agreement. Additionally, the Customer subscribes to a specific uplink and downlink bandwidth or data rate as described in the Service Order. It shall be understood that the subscribed rate is a best-effort rate and is not guaranteed at all times.
- 2.6** TewaCom will provide Services to you subject to the terms and conditions of this Agreement, the Service Order, any Service Addenda, and any applicable tariffs.
- 2.7** You represent that you are at least 18 years of age, appreciate and understand the words and terms of this Agreement and verify and acknowledge that Services and Equipment are being installed with your permission in your home, business or designed location.
- 2.8** TewaCom may revise, modify or discontinue any or all aspects of Services and Equipment, including but not limited to Services and Equipment prices, any applicable tariffs and any terms and conditions in this Agreement.
You will install, and have sole responsibility for the operation and maintenance of any hardware or software not provided by TewaCom. TewaCom is not responsible for the information transmitted or received on any hardware or software provided by you.
- 2.9** You will ensure that any hardware or software provided by you is compatible with the Services and Equipment. If your hardware or software impairs your use of Services, you will continue to pay TewaCom for Services. If TewaCom notifies you that the hardware or software provided by you impairs or is likely to impair Services, you agree to eliminate the impairment. TewaCom may suspend Services until the impairment is corrected. At your request, TewaCom may troubleshoot difficulties caused by hardware or software provided by you, at TewaCom's then current standard list prices.
- 2.10** TewaCom is not liable if any changes in the Service caused by any hardware or software provided by you to become obsolete require alteration or affect performance of the hardware or software.
- 2.11** To prepare for Services you will at your expense, prepare your site(s) to comply with TewaCom's installation and maintenance specifications; pay TewaCom any applicable charges to relocate any installed Services; provide TewaCom and its suppliers reasonable access to Premises to perform any required acts; and be responsible for cabling that connects equipment not provided by TewaCom Services.
- 2.12** If you change your address, you will notify TewaCom of your new address before the move and you will remain liable for all of its obligations under this Agreement. You agree to pay the standard TewaCom transfer fee plus any additional payments required for installation of Equipment at Customer's new location. Such transfer fee and additional payments shall be specified in a Service Order.
- 2.13** TewaCom reserves the right to charge additional fees for on-site technical support.

3. Termination of Agreement:

- 3.1** Customer Initiated. Customer may terminate this Agreement at any time prior to the expiration of its term by providing TewaCom written notice thirty (30) days prior to the termination date. Customer will be responsible for an early termination fee equal to 100% of the remaining monthly charges that would have been paid by



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the Customer. The monthly charges are described in the Service Order. If Customer moves outside of the TewaCom service area, the Customer will have the early termination fee waived, provided that Customer the returns all Equipment in working order.

- 3.2** TewaCom Initiated. TewaCom may terminate this Agreement, without liability, at any time if the Customer breaches any provision of this Agreement and fails to cure such breach within 10 days of written notice. A breach of this Agreement includes but is not limited to, failure to pay any charges for Services. TewaCom may reactivate Services at its sole discretion if the Customer remedies the breach(s) and pays a reconnect fee of \$20.00.
- 3.3** It is agreed that TewaCom's damages in the event of early termination will be difficult or impossible to ascertain. These provisions are intended, therefore, to establish damages in the event of termination and are not intended as a penalty.

3. Installation:

- 3.1** You authorize TewaCom or its authorized contractors to install equipment, software, wiring and other equipment at the Premises.
- 3.2** To provide Services, TewaCom is required to complete the installation of equipment at your Premises. The standard Installation includes but is not limited to the installation of the antenna, router and the routing cable, as applicable by the path deemed acceptable by TewaCom or its authorized contractor to your device. Any custom installation work that you request, including placing cable under carpet, through cabinets, through interior walls or inside molding, will require an additional charge that must be paid at the time the installation work is to be performed. TewaCom will not be liable for any alterations to Premise that result from the installation or removal of equipment, including but not limited to, any holes in walls, cable wiring or antenna mounting brackets. For Services, TewaCom will also configure the device IP settings. You must provide and maintain the devices including computer(s) necessary to receive Services, with a working Ethernet port.
- 3.3** You warrant that you own the Premise, to which the Services will be provided, or you have obtained the valid consent of the owner for any necessary changes to Premises or with Premises wiring that arise out of the installation, maintenance, repair and removal of Equipment. In addition, Customer has reviewed any restrictive covenants or homeowners restrictions to confirm that the Customer may place an antenna on Premises. If it is later determined that the installation of the RF equipment violates any Restrictions or that Customer failed to obtain appropriate permission, TewaCom may terminate this Agreement and discontinue Services. Customer agrees to hold harmless TewaCom for any damages or losses caused by your (i) failure to comply with the Restrictions or (ii) failure to secure appropriate permission. TewaCom may in its discretion, require evidence that Customer has obtained appropriate permission.

4. Equipment:

- 4.1** TewaCom Equipment will remain the sole and exclusive property of TewaCom or TewaCom's assignee, and nothing contained herein will give or convey to Customer any right, title, or interest whatsoever in such TewaCom Equipment, which will at all times be and remain personal property notwithstanding that it may be or become attached to or embedded in realty. Customer will not tamper with, remove or conceal any



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TewaCom identifying plates, tags or labels. Customer hereby grants to TewaCom the right to recover TewaCom provided Equipment from Customer's premises upon termination of the Agreement.

- 4.2** Customer will not adjust, align, move or attempt to repair TewaCom's provided Equipment.
- 4.3** Customer grants TewaCom or its appointed contractors an irrevocable license to enter into or onto your Premises during normal business hours, Monday thru Friday, in order to install, repair, or remove TewaCom provided Equipment. This license will be effective whether or not you are present during the service call. This license will survive termination or cancelation of this Agreement and will run with the land and inure to the parties' successors and assigns.
- 4.4** Any and all TewaCom provided Equipment not returned by Customer will result in Customer liability for all costs of said Equipment. Equipment that is not returned within sixty (60) days may result in all available legal actions as allowed by law.

5. Support:

- 5.1** TewaCom will support all equipment up to Point of Termination including antenna and/or TewaCom leased router, interconnecting cable, and power supply. Support for all other connecting equipment is the responsibility of the Customer unless otherwise stated in the customer Service Order. Point of Termination is where the Ethernet cable originates from the outside Demarcation Point (i.e. Antenna Ethernet port.)
- 5.2** The time of an outage is started when the customer opens a trouble ticket with TewaCom support at 877-455-4151 during normal business hours. When support receives a call, Support will use a various set of software tools to verify that Services are down. The outage stops when the Service is functioning properly and the trouble ticket is closed. A support representative shall attempt to reply to a trouble ticket within a seventy two (72) hour time period.
- 5.3** Support hours are limited to business hours Monday thru Friday unless otherwise specified in the Service Order.
- 5.4** TewaCom assumes no responsibility for the operation, maintenance, or repairs of your computers, computer peripherals, or existing wiring unless specified on the Service Order.
- 5.5** TewaCom will not support file and print sharing or other local area network functionality unless otherwise stated on the Service Order.

6. Payment Terms:

- 6.1** You agree to pay for Services and all other charges described in this Agreement, including the Service Order, and to comply with all of the other terms and conditions of this Agreement. You will pay TewaCom invoices by the invoice due date. You will pay any applicable sales, use, excise and like taxes, if applicable, and as stated separately on each invoice.
- 6.2** If you fail to pay any amounts owing to TewaCom within 30 days of the invoice due date, TewaCom will have the right to disconnect your Services and charge you a late fee. Upon disconnection, you agree to pay all amounts owing to TewaCom, including interest charges on the unpaid amount ("Late Fee"). Interest shall bear on the unpaid amount at a rate of 1.5% per month. You also agree to pay all costs associated in collecting the unpaid debt owed to TewaCom, including reasonable attorney fees. A reconnect fee of \$20.00 will apply for resuming Services after disconnection, and shall be paid upon satisfaction of all late fees and other related charges



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6.3 No credit is due or refund supplied for cancelation of services before the end of the month or before the end of the contract.

6.4 Customer will be liable for payment of all fees regarding insufficient funds, bounced checks or other bank fees relating to problems in payment processing up to the maximum applicable charges as allowed by law.

7. Acceptable Use Policy:

7.1 When you use Services for internet access, you may NOT:

- 7.1.1 restrict or inhibit user from the Internet;
- 7.1.2 post or transmit any unlawful, threatening, abusive, libelous, defamatory, vulgar, obscene, indecent, pornographic, profane, hateful, bigoted, otherwise objectionable information of any kind, including without limitation any transmission constituting or encouraging, conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any local, state, national or international law, including without limitation U.S. export control laws and regulations;
- 7.1.3 post or transmit any information or software that contains a virus or other harmful component;
- 7.1.4 post, publish, transmit, reproduce, distribute or in any way exploit any information, software or other material obtained through Services for commercial purposes;
- 7.1.5 upload, post, publish, transmit, reproduce or distribute in any way, information, software or other material, or other proprietary right or derivative works without obtaining permission of the copyright owner or right holder;
- 7.1.6 upload, post, publish, reproduce, transmit or distribute in any way any component of the Services or derivative works, as Services are copyrighted as a collective work under U.S. copyright laws;
- 7.1.7 remove or alter copyright management information including, without limitation, name or identification information of the author or owner, copyright note or terms and conditions for use of a work;
- 7.1.8 avoid, bypass, remove, deactivate or circumvent by any means, any process or system such as a copyright protection system that are intended to protect the rights of a copyright owner;
- 7.1.9 send unsolicited email that causes complaints from recipients of the unsolicited email;
- 7.1.10 send large quantities of unwanted or unsolicited email to individual email accounts;
- 7.1.11 make any unauthorized attempt to gain access to any account or computer resource not belonging to that user;
- 7.1.12 obtain or attempt to obtain Services by any means or device with intent to avoid payment;
- 7.1.13 knowingly engage or attempt in unauthorized access, alteration, destruction of any information of any TewaCom customer or end-users by any means or device;
- 7.1.14 knowingly engage in any activities that will cause a denial of Service to any TewaCom customers or end-users;
- 7.1.15 use TewaCom's products and Services to interfere with the use of TewaCom's network by other customers or end-users;
- 7.1.16 violate the law or aid another in any unlawful activities;
- 7.1.17 resell your Service or any other TewaCom service to any third parties without prior express written consent;



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7.2 You agree that you will not permit or assist others to abuse or fraudulently use Services, including but not limited to, unauthorized or attempted access or alteration or destruction of another TewaCom customer's information or using Services that cause interference with another customer's or authorized user's use of TewaCom network. Illegal and unauthorized attachments to its facilities are costly to TewaCom and may create interference and a degradation of Services to other customers. TewaCom will be obligated to seek legal redress and assist in criminal prosecution in matters involving illegal and unauthorized connections and attachments and injury to its wiring or facilities.

7.3 You agree to stop any malicious traffic that causes other customers loss of service at sole discretion of TewaCom.

8. Indemnification:

8.1 Customer will indemnify and hold TewaCom harmless from and against any and all loss, liability, claim, demand, damage and expense (including attorney fees) related to or arising out of your use of the Services (i) in violation of applicable laws, regulations, or this Agreement, including without limitation, infringement of copyrights or other proprietary rights, or (ii) in any manner that harms any person or results in the personal injury or death of any person or in damage to or loss of any tangible or intangible (including data) property. The provisions of this Section shall survive the Termination of Services and any Service Order(s) issued hereunder.

9. Warranties and Limitation of Liability:

9.1 Service Interruptions. The Services may be interrupted from time to time for a variety of reasons, and TewaCom does not represent or warrant that the Services or the Equipment will be available or perform in a manner that meets your needs. TewaCom will not be liable for any inconvenience, loss, liability or damage resulting from any preemption, loss, blackout or interruption of the Service, directly or indirectly caused by or resulting from, any circumstances, constituting Force Majeure as defined in this Agreement.

9.2 Limitation of Liability. TEWACOM'S LIABILITY AND THE EXCLUSIVE REMEDY OF CUSTOMER FOR DAMAGES ASSOCIATED WITH THE INSTALLATION, PROVISION, TERMINATION, MAINTENANCE, REPAIR OR RESTORATION OF SERVICES WILL BE SOLELY LIMITED TO AN AMOUNT NO GREATER THAN THE AMOUNT PAID BY CUSTOMER TO TEWACOM DURING THE CONTRACT TERM. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, RELIANCE, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE WHATSOEVER, INCLUDING BUT NOT LIMITED TO, ANY LOST PROFITS, LOST REVENUE, LOST SAVINGS, OR HARM TO BUSINESS. EACH PARTY HEREBY RELEASES THE OTHER PARTY, ITS SUBSIDIARIES AND AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, MANAGERS, EMPLOYEES AND AGENTS FROM ANY SUCH CLAIM. THE PROVISIONS OF THIS SECTION WILL SURVIVE THE TERMINATION OF THIS AGREEMENT, THE SERVICES AND ANY SALES ORDER(S) ISSUED HEREUNDER.

10. Force Majeure:

10.1 In the event that either party's performance is delayed, prevented, obstructed, or inhibited because of any act of God, fire, casualty, delay or disruption in transportation, flood, war, strike, lockout, epidemic, destruction or shutdown of facilities, shortage or curtailment, riot, insurrection, governmental acts or directives, any full or partial failure of any communications or computer network or any cause beyond such party's reasonable control, the party's performance will be excused and the time for the performance will be



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extended for the period of the delay or inability to perform resulting from such occurrence. The occurrence of such an event will not constitute grounds for a declaration of default by either party hereunder.

11. Information:

- 11.1** Except for information, products or services clearly identified as being supplied by TewaCom, TewaCom does not operate or control any information, products or services on the Internet.
- 11.2** The Internet contains unedited materials that may be offensive or objectionable to you. You access such materials at your own risk. TewaCom has no control over and accepts no responsibility for these materials.
- 11.3** YOU UNDERSTAND THAT YOU MAY BE HELD LIABLE BOTH UNDER CIVIL AND CRIMINAL LAW FOR INFRINGEMENTS OF THE INTELLECTUAL PROPERTY RIGHTS OF OTHERS. YOU MAY BE HELD LIABLE FOR ALL ACTUAL DAMAGES AND PROFITS, ATTORNEY'S FEES, COSTS OR THE COURT MAY AWARD STATUTORY DAMAGES UNDER THE COPYRIGHT ACT. CRIMINAL LIABILITY CAN ALSO INCLUDE FINES AND IMPRISONMENT.
- 11.4** TewaCom may deny you access to all or part of the Services without notice if you engage in any conduct or activities that TewaCom in its sole discretion believes violates any of this Agreement's terms and conditions. If TewaCom denies you access to Services because of a violation you will have no right (1) to access through TewaCom any materials stored on the internet, or (2) to access third party services, merchandise or information on the Internet through TewaCom and TewaCom will have no responsibility to notify any third party providers of services, merchandise or information nor any responsibility to any consequences resulting from lack of notification.
- 11.5** TewaCom has no obligation to monitor Services. You agree that TewaCom has the right to monitor Services electronically from time to time, and you consent to TewaCom access, use and disclosure of any information as necessary to satisfy any law, regulation or any other governmental request, to operate Services properly, to improve Services, or to protect itself or its customers. TewaCom reserves the right to refuse or to remove any information or materials, in whole or in part, that in its sole discretion are unacceptable, undesirable, or in violation of this Agreement.

12. 30 Day Money Back Guarantee:

- 12.1** If within the first 30 days of completion of the Service Order, the customer is not satisfied with the TewaCom service, TewaCom will void any contract with the customer. Installation fee is nonrefundable.

13. Term:

- 13.1** Services shall be provided for a Contract Term specified in the Service Order. The start date for each Service shall be the date of the Installation Day. Service shall continue for the Contract Term specified in the Service Order, unless otherwise terminated sooner as provided in this Agreement. At the end of your Contract Term, you may select a new Contract Term pursuant to a new Service Order. If you do not select a new Contract Term and do not otherwise cancel your Services, your account will automatically convert to a month-to-month plan at a monthly fee that may be higher than your current rate. You may cancel the Agreement, without incurring the Termination Fee, if you provide written notification to TewaCom of your intent at least 30 days prior to the end of the current Contract Term.

14. Entire Agreement:



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14.1 This Agreement, including the Service Order, is the complete agreement between the parties hereto concerning the subject matter of this agreement and replaces any contemporaneous or prior oral or written communications between the Parties. There are no conditions, understandings, agreements, representations, or warranties, express or implied, which are not specified herein. Any changes or amendments to this Agreement shall only be effective and binding if in writing and signed by the parties hereto. In the event of a conflict between any of the provisions of this Agreement and those in the Service Order, the provisions of the Service Order shall control.

15. Severability:

15.1 In the event any of the terms of this Agreement become void or are declared illegal by an arbitrator, such term(s) shall be null and void and shall be deemed deleted from this Agreement. All remaining terms of this Agreement shall remain in full force and effect.

16. Disputes:

16.1 Mediation: It is agreed that if a dispute arises concerning the matters set forth in this Agreement and the dispute cannot be resolved by the parties, the party making the claim of non-compliance shall deliver to the other party a written notice thereof, specifying, in detail the nature of the actions or failures to act that are alleged to be contrary to the terms of this Agreement. If after fifteen (15) days following the receipt of the notice of claim the matter remains unresolved, the parties shall submit the dispute to a professional mediator. The mediation shall be conducted under the voluntary Commercial Mediation Rules of the American Arbitration Association. The parties shall bear their own costs and shall share the costs of the mediator.

16.2 Arbitration: In the event that mediation does not result in resolution of the dispute, the party making the claim of non-compliance can, by written notice to the other party, invoke arbitration as to the dispute. Arbitration shall be conducted in New Mexico under the Commercial Arbitration Rules of the American Arbitration Association, excluding Rule 48(c) effective September 1, 2007, and the parties further agree that the arbitrator(s) shall be attorney(s) who are licensed in good standing of the State Bar of New Mexico, and shall have experience in Indian Affairs. The decision of the arbitrator(s) shall be final. All parties shall bear their own costs of arbitration and attorneys fees.



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EXECUTION

The parties hereby execute and authorize this Agreement as of the latest date show below:

Tewa Communications @ San Ildefonso

Customer

Signature

Signature

Printed Name/Title

Printed Name/Title

Date

Date

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