

# Mountain Communications LLC, d/b/a Procom

## Procom Standard Terms and Conditions

### 1. General

#### 1.1 Application of Procom Standard Terms and Conditions

- 1.1.1 This document is incorporated by reference into the Master Service Agreement executed by Mountain Communications, LLC, d/b/a Procom and its Customer. This document (the “Standard Terms”) contains additional conditions, rates, regulations and other terms that are applicable to all goods and Services provided under the Master Service Agreement (the “Agreement”) and the Company’s tariffs on file with the Federal Communications Commission or state regulatory agencies.
- 1.1.2 The Standard Terms include, without limitation, regulations and rates applicable to the provision of interstate long distance services provided by Procom from its points of presence in the United States to interstate points as specified herein. The Standard Terms govern the Company’s interstate long distance services that originate and terminate within the contiguous United States, Alaska, Hawaii, the US Virgin Islands and Puerto Rico. Specific services and rates are described elsewhere in this Agreement.
- 1.1.3 The Standard Terms apply also to other Services of the Company that are not subject to the Company’s tariffs on file with the Federal Communications Commission or state regulatory agencies. The Standard Terms apply to Services furnished under the Company’s tariffs on file with the Federal Communications Commission or state regulatory agencies only to the extent not inconsistent with those tariffs as applicable to the Service. Service is furnished to customers and is subject to the availability of facilities.
- 1.1.4 The Company’s Services are available to business and residential customers.

#### 1.2 Definitions

“Agreement” means the Master Service Agreement into which this Standard Terms has been incorporated. Other terms defined in the Agreement shall be used as defined in this Standard Terms unless defined otherwise herein.

“Calling Card” is a card issued by the Company containing such account numbers assigned to its Customer or authorized user which enables the charges for calls made to be properly billed on a per-arranged basis. The Customer or authorized user dials all of the digits necessary to route and bill a call placed from a location other than his/her normal place of business. Service is accessed via a toll free access code dialing sequence.

“Company” refers to Mountain Communications, LLC, d/b/a Procom (“Procom”), a Delaware limited liability company.

“Commission” means the Federal Communications Commission.

“Completed Call” is a call that the Company’s network has determined has been answered by a person, answering machine, fax machine, computer modem device, or any other answering device.

“Lata” means local access transport area.

“Station” means a telephone, instrument or computer consisting of a connected transmitter, receiver, and associated apparatus to permit sending or receiving telephone messages via packet switched or circuit switched telecommunications networks.

“Time period” means the interval of hours that distinguish day, evening, night, and weekend rate periods as indicated below.

Rate Periods	From	To, but not including	Days
Weekdays	8:00 a.m.	5:00 p.m.	Monday - Friday
Evenings	5:00 p.m.	11:00 p.m.	Monday - Friday
	5:00 p.m.	11:00 p.m.	Sunday
Night/Weekends	11:00 p.m.	8:00 a.m.	Monday - Sunday
	8:00 a.m.	5:00 p.m.	Saturday - Sunday
	5:00 p.m.	11:00 p.m.	Saturday

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### 2. Rules and Regulations

#### 2.1 Undertaking of the Company

The Company provides directory assistance, calling cards, direct dial, toll free, cable, internet, and operator assisted long distance, equipment rental, and technical assistance services and other Services to business and residential customers.

#### 2.2 Obligations of the Customer

##### 2.2.1 The Customer shall be responsible for:

- A. The payment of all applicable charges pursuant to the Agreement.
- B. Reimbursing the Company for damage to, or loss of, the Company's facilities or equipment caused by the acts or omissions of the Customer; or the Customer's noncompliance with the Agreement; or by fire or theft or other casualty on the Customer's premises unless caused by the negligence or willful misconduct of the employees or agents of the Company.
- C. Providing at no charge, as specified from time to time by the Company, any needed space and power to operate the Company's facilities and equipment installed on the Customer's premises and providing battery power or other uninterruptible power sources if required by the Customer.
- D. Complying with all laws and regulations regarding the working conditions on the premises at which the Company's employees and agents shall be installing or maintaining the Company's facilities and equipment. The Customer may be required to install and maintain the Company's facilities and equipment within a hazardous area if, in the Company's opinion, injury or damage to the Company's employees or property might result from installation or maintenance by the Company. The Customer shall be responsible for identifying, monitoring, removing and disposing of any hazardous material prior to any construction or installation work.
- E. Complying with all laws and regulations applicable to, and obtaining all consents, approvals, licenses and permits as may be required with respect to, the location of the Company's facilities and equipment in, on or around any Customer premises for the purpose of installing, inspecting, maintaining, repairing, or removing the facilities or equipment of the Company.
- F. Making Company facilities and equipment available periodically for installation, inspection and maintenance purposes at times agreeable to both the Company and the Customer. No allowance for interruptions in Service will be made for the period which Service is interrupted for such purposes.
- G. Making available on-site technical personnel qualified to assist the Company in its installation, testing and maintenance obligations, and providing the Company with information pertaining to Customer's premises and equipment, including specifications, technical publications, drawings and blueprints.
- H. Providing back-up power, if desired, to any devices or network elements used to access the Services of the Company. Customer understands and agrees that, if access to the Services of the Company (including, but not limited to emergency 9-1-1 calling services) is required in the case of commercial power outages, that Customer is solely responsible for providing back-up power to Stations, local area network equipment, Company equipment, and IP network equipment and other equipment on its premises to the extent these may be used to access Services of the Company. Customer also understands and agrees that if third party networks are used to connect Customer and Company, then Customer shall rely on such third parties and expressly not on Company, its affiliates, subsidiaries, parent companies, agents, network service providers, partners, or employees for any assurance of access to Services.

- 2.2.2 With respect to any Service or facility provided by the Company, the Customer shall indemnify, defend and hold harmless the Company from all claims, actions, damages, liabilities, costs and expenses for:

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- A. Any loss, destruction or damage to property of the Company or any third party, or injury to persons, including, but not limited to, employees or invitees of either the Company or the Customer, to the extent caused by or resulting from the negligent or intentional act or omission of the Customer, its employees, agents, representatives, contractors or invitees; or
- B. Any claim, loss, damage, expense or liability for infringement of any copyright, patent, trade secret, or any proprietary or intellectual property right of any third party, arising from any act or omission by the Customer, its employees, agents, representatives, contractors or invitees.

2.2.3 The Customer is responsible for ensuring that Customer-provided equipment connected to Company equipment and facilities is compatible with such equipment and facilities. The connection, operation, testing, or maintenance of such equipment shall be such as not cause any damage to the Company-provided equipment and facilities or injury to Company's employees or other persons. Any additional protective equipment required to prevent such damage or injury shall be provided by the Company at the Customer's expense.

2.2.4 The Company's services may be connected to the services or facilities or other communications carriers only when authorized by, and in accordance with, the terms and conditions of the tariffs or contracts which are applicable to such connections.

2.2.5 Upon reasonable notification to the Customer, and at a reasonable time, the Company may make such tests and inspections as may be necessary to determine that the Customer is complying with the requirements set forth in the Agreement for the installation, operation, and maintenance of Customer-provided facilities and equipment that is connected to Company-owned facilities and equipment. No allowance for interruptions in Service will be made for the period during which Service is interrupted for such purposes.

### 2.2.6 Indemnification

Customer shall indemnify and hold the Company, its principals, officers, directors, agents and employees harmless from and against any loss, cost, damage or expense (including, but not limited to, reasonable attorneys fees and court costs) arising out of or resulting from: (a) the acts or omissions of Customer or Customer's principals, officers, directors and employees; (b) claims of libel, slander, infringement of intellectual property rights, or any other injury to a person or property in connection with the data, information or content transmitted by Customer or Customer's officers, directors, or employees over the Company's Services.

## 2.3 Liability of the Company

2.3.1 In view of the fact that the Customer has exclusive control over the use of Service and facilities furnished by the Company, and because certain errors incident to the Services and to the use of such facilities of the Company are unavoidable, Services and facilities are furnished by the Company subject to the terms, conditions and limitations herein specified:

### 2.3.2 Service Irregularities

- A. The liability of the Company for damages arising out of mistakes, omissions, interruptions, delays, errors or defects in transmission, or failures or defects in facilities furnished by the Company, occurring in the course of furnishing Service or other facilities and not caused by the negligence of the Customer, shall in no event exceed an amount equivalent to the proportionate charge to the Customer for the Service or facilities affected during the period such mistake, omission, interruption, delay, error or defect in transmission, or failure in defect in facilities continues after notice and demand to the Company.
- B. The Company shall not be liable for any act or omission of any connecting carrier, underlying carrier or local exchange company; for acts or omission of any other providers or connections, facilities, or service; or for any act or omission of the Customer, its employees, agents, representatives, contractors or invitees or failure of equipment, facilities or connection provided by the Customer.

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### 2.3.3 Excused Performance

The Company shall not be liable for any delay or failure of performance of any part of the Agreement to the extent that such failure or delay is caused by the Customer or an event of Force Majeure, including but not limited to, fire, earthquake, flood, water, the elements, explosion, war, strike, embargo, governmental regulations, acts of civil or military authority, Acts of God, acts or omissions of vendors and suppliers, shortages of equipment or supplies, utility curtailments, power failures, or other causes beyond the Company's reasonable control. For the duration of the excused performance, the duties of the Company shall be abated and shall resume without liability thereafter.

### 2.3.4 Defacement of Premises

The Company is not liable for any defacement of or damage to, the Customer's premises resulting from the furnishing of Service or the attachment of equipment and facilities furnished by the Company on such premises or by the installation or removal thereof, when such defacement is not the result of negligence of the Company. For the purpose of this paragraph, no agents or employees of the other participating carriers shall be deemed to be agents or employees of the Company except where directly contracted by the Company.

### 2.3.5 Facilities and Equipment in Explosive Atmosphere, Hazardous or Inaccessible Locations

The Company does not guarantee nor make any warranty with respect to installations provided by it for use in an explosive atmosphere. Company shall be indemnified, defended and held harmless by the Customer from and against any and all claims, loss, demands, suits, or other action, or any liability whatsoever, whether suffered, made, instituted or asserted by the Customer or by any other party, for any personal injury to or death of any person or persons, and for any loss, damage or destruction of any property, including environmental contamination, whether owned by the Customer or by any other party, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, presence, condition, location, use or removal of any equipment or facilities or the Service and not due to the gross negligence or willful misconduct of the Company.

### 2.3.6 Service at Outdoor Locations

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

### 2.3.7 **THE COMPANY MAKE NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH WITHIN.**

### 2.3.8 Limitation of Liability

- A. Nothing in the Agreement shall be construed to limit the Company's liability in cases of gross negligence or willful misconduct.
- B. Section 2.9 sets forth the Customer's entire remedy in the event of a Service Interruption, and in no event shall Company be liable for any direct, incidental, indirect, special, punitive, exemplary, or consequential damages (including lost revenue or profit) of any kind whatsoever, regardless of cause or fore-see-ability thereof.
- C. The Company's entire liability for any damages arising from errors, mistakes, omissions, interruptions or delays of the Company, its agents, employees, or contractors, except for damages to tangible property, personal injury or wrongful death, shall not exceed an amount paid by the Customer for Services connected with the damages.

## 2.4 Application for Service

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### 2.4.1 Contract Period:

- A. Except as otherwise provided or agreed, the minimum contract period is one month for all Services furnished and contract periods shall be automatically renewed for successive terms equal in duration to the initial term at each expiration unless and until either party provides notices of non-renewal to the other after which point the Agreement will not automatically renew at its next expiration.
- B. The Company may require a minimum contract period longer than the standard minimum term in connection with special, non-standard types of arrangements of equipment, or for unusual construction, necessary to meet special demands for Service.
- C. The contract period may be longer than the minimum term if agreed to in writing by the parties. The term may be set forth in the Agreement.

### 2.4.2 Cancellation of Service

- A. Where the applicable cancels an order for Service prior to the start of installation or special construction of facilities, no charge shall apply, except to the extent the Company incurs a service order or similar charge from a supplying carrier or contractor, if any, prior to the cancellation.
- B. Where the installation of facilities has been started prior to cancellation, the Customer shall be responsible for all expenses by the Company.

## 2.5 Payment for Service

- 2.5.1 Service will be billed on a monthly basis and is due and payable on or before the 15<sup>th</sup> day following the billing invoice date. Service will continue to be provided until cancelled by the Customer or discontinued by the Company as set forth herein.
- 2.5.2 The Customer is responsible for payment of all charges for Service furnished to the Customer. Charges based on actual usage during a month will be billed monthly in the month following the month in which the Service was used. All fixed monthly and nonrecurring charges for Services ordered will be billed monthly in advance.
- 2.5.3 Any applicable federal, state and local use, excise, sales or privilege taxes, regulated fees and charges or similar liabilities chargeable to or against the Company as a result of the provision of the Company's Services hereunder to Customer, shall be charged to and payable by Customer in addition to the rates indicated in the Agreement.

## 2.6 Customer Deposits

- 2.6.1 The Company reserves the right to require all Customers to establish credit worthiness to a reasonable satisfaction of the Company. Upon application for Service, the Customer shall be deemed to have authorized the Company to obtain such routine credit information and verification as the Company shall require in accordance with its existing credit policies.
- 2.6.2 Prior to Service activation or any permitted assignment, the Company reserves the right to require any Customer whose creditworthiness has not been established to the reasonable satisfaction of the Company to make a deposit to guarantee payment of charges.
  - A. The total amount of any security deposit, if required by the Company shall be a cash amount.
  - B. The fact that a deposit is made does not relieve the Customer from making advance payments or from complying with the Company's regulations for the payment of bills in accordance with the terms herein and does not constitute a waiver or modification of the regulations of the Company providing for the discontinuance of Service for nonpayment of any sums due the Company for Service rendered.
  - C. A deposit will be returned by the Company under the following circumstances:

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1. When an application for Service has been canceled prior to Service activation, the deposit will be applied to any existing charges incurred in accordance with the provisions as set forth herein.
  2. The Company agrees to refund the excess portion of the deposit, if any, within thirty (30) days following settlement of Customer's account. No interest will be applied to any deposit for any Service disconnected before thirty (30) days.
  3. Upon discontinuance of Service, the Company will refund Customer's deposit, together with interest accrued at a rate in accordance with provisions as set forth in applicable state tariffs to the extent that it exceeds any unpaid charges for installation and Service to the Customer. The adjustment of the Customer's deposit in no way relieves the Customer from complying with all terms and provisions set forth herein or from tendering payments when due.
- D. Deposits can be applied against any amounts due for Service or services governed by tariffs, this Agreement or any other agreement between the Company and the Customer.

### 2.7 Late Payment Charges

- 2.7.1 The Company will consider delinquent and apply late charges on bills not paid within 15 days of the billing invoice date in the case of all Customers.
- 2.7.2 Late payment fees will be computed at a rate not to exceed 1.8% for each whole and fractional month for amount(s) past due.

### 2.8 Billing Disputes

- 2.8.1 If a Customer in good faith disputes any charges or the appropriateness of a charge billed by the Company, Customer shall notify the Company of the disputed charge in writing within thirty (30) days of the date of the Customer's receipt of an invoice and provide documentation reasonably requested by the Company to resolve the dispute.
- 2.8.2 The Customer and the Company shall exercise reasonable, good faith efforts to resolve the disputed charges. Failure to contest a charge within thirty (30) days of the date of the Customer's receipt of an invoice shall constitute a waiver by Customer of any right to contest such charge.
- 2.8.3 The Customer bears all costs and expenses associated with theft, fraudulent, or unauthorized use of the Company's Service. In the event any disputed charges is resolved in favor of the Customer, an appropriate amount shall be credited directly to the Customer's account.

### 2.9 Allowances for Interruptions in Service

#### 2.9.1 Service Level Agreement

- A. Company network services are guaranteed to be available 100% of the time. Service availability is the capability to forward IP packets between the network demarcation point at the Customer's premise and any point of termination within the Company's network without any interruptions longer than 15 consecutive minutes.
- B. Latency Guarantee  

Company guarantees that average one-way network transit delay of data packets from the network demarcation point at the Customer's premise to any point of termination with the Company's network will not exceed 80ms over the calendar month.
- C. Procom guarantees that monthly average packet loss will not exceed 1%. The average is calculated from our network demarcation point at the Customer's premise to any point of termination within the Company's network.
- D. Remedies

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In any day in which Procom does not meet its Service Availability Guarantee, the Customer will receive a credit equal to 1/30<sup>th</sup> of the monthly rate on affected services. Credit for multiple interruptions in any twenty-four (24) hour period will not exceed 1/30<sup>th</sup> of the monthly rate. In any month in which Procom does not meet its Latency or Packet Loss Guarantee, the Customer will receive credit equal to 1/30<sup>th</sup> of the monthly rate on affected services. Customer must notify Company of an interruption within seven (7) days to receive credit.

### 2.9.2 Limitations on Allowances

No credit allowance will be made for any interruption of Service:

- A. due to the negligence of, or noncompliance with the provisions of the Agreement executed between the Company and the Customer, by any person or entity other than the Company, including but not limited to the Customer or other common carriers connected to the Service of the Company;
- B. due to the failure of power, equipment, systems, or services not provided by the Company;
- C. due to circumstances or causes beyond the control of the Company;
- D. during any period which the Company is not given full and free access to its facilities and equipment for the purposes of investigation and correcting interruptions;
- E. during any period when the Customer has released Service to the Company for maintenance purposes or for implementation of a Customer order for a change in Service arrangements;
- F. that occurs or continues due to the Customer's failure to authorize replacement of any element of special construction; and
- G. that was not reported to the Company within seven (7) days of the date that the Service was affected.

### 2.10 Returned Check Charge

The charge for a returned check is \$25.

### 2.11 Special Customer Arrangements

In cases where a Customer requests special or unique arrangements which may include but are not limited to engineering, conditioning, installation, construction, facilities, assembly, purchase or lease of facilities and/or other special services not offered under this Agreement, the Company, at its sole discretion and option, may provide the requested services. Appropriate recurring charges and/or nonrecurring charges and other terms and conditions will be developed for the Customer for the provisioning of such arrangements.

### 2.12 Termination of Service:

#### 2.12.1 Denial of Service Without Notice

The Company may discontinue Service (or refuse to provide additional Service) without notice for any of the following reasons:

- A. Adverse Effect on Service. Customer uses equipment in such a manner as to adversely affect the Company's equipment or the Company's Service to others.
- B. Tampering with Company Property. Customer tampers with equipment furnished and owned by the Company.
- C. Unauthorized Use of Service. Customer makes unauthorized use of Service by any method which causes hazardous signals over the Company's network.

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- D. Illegal use of Service. Customer makes use of Service or equipment in a manner that violates the law.
- E. Noncompliance. Customer violates or is in noncompliance with the Agreement and/or filed tariffs, as applicable, or fails to fulfill contractual obligations for Service or facilities.
- F. False Information. Customer provides inaccurate, false and/or otherwise misleading information in its application for Service.

#### 2.12.2 Denial of Service With Notice

The Company may discontinue Service (or refuse to provide additional Service) as provided in the following circumstances.

- A. For non-payment of a bill for Service, provided that the Company has made reasonable attempt to effect collection and has given the Customer written notice of its intent to deny Service if settlement of his account is not made and provided the Customer has at least five (5) days after sending notice, excluding Sundays and holidays in which to make settlement before its Service is denied.
- B. In cases of bankruptcy, receivership, abandonment of Service, or abnormal toll usage not covered adequately by a security deposit, fewer than five (5) days notice may be given.
- C. Except in cases where a prior promise to pay has not been kept or bankruptcy, receivership, abandoned Service, or abnormal toll usage is involved, the Company may not deny Service on the day preceding any day on which it is not prepared to accept payment of the amount due to reconnect Service.
- D. Failure to Comply with Service Conditions. For failure of the Customer to furnish the service, equipment, permits, certificates, or rights-of-way, specified by the Company as a condition to obtaining Service, or if the equipment or permissions are withdrawn or terminated.
- E. Failure to Pay Increased Deposit Required. For failure of the Customer to pay an increased security deposit when warranted by the Company to protect its revenue.
- F. Discontinuance of Service and termination of operations by Company in the service area where the Customer is located.

#### 2.12.3 Termination of Service by Customer Act or Request

- A. If Service is terminated pursuant to Sections 2.12.1 or 2.12.2 herein, or if the Customer requests cancellation of Service after installation but prior to expiration of a minimum Service commitment period, for any reason other than a material breach of contract by the Company, Customer agrees to pay the Company the following sums, which shall be due and payable as of the effective date of cancellation or termination: (a) all unpaid non-recurring charges for the Services that are cancelled or terminated; (b) all unpaid recurring and usage charges for Service provided before the date of cancellation or termination; (c) any early termination charges paid by the Company to third parties on Customer's behalf; and (d) any waived installation charges, discounts or credits. This paragraph sets forth reasonable liquidated damages for losses that would otherwise be difficult or impossible to ascertain. Such liquidated damages are not a penalty.
- B. If Service is cancelled before installation, paragraph 2.4.2 shall apply.

#### 2.13 Unlawful Use of Service

Service shall not be used for any purpose in violation of law or for any use as to which the Customer has obtained all required governmental approvals, authorizations, licenses, consents, and permits. Customers are prohibited from using, and by their acceptance of Service agree not to use, the Services furnished by the Company for any unlawful purpose or for any purpose prohibited under the provisions of any regulatory order.

#### 2.14 Interference with or Impairment of Service



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Service shall not be used in any manner that interferes with other persons in the use of their Service, prevents other persons from using their Service, or otherwise impairs the quality of Service to other Customers. The Company may require a Customer to immediately shut down its transmission of signals if said transmission is causing interference to others or impairing the service of others.

#### 2.15 Incomplete Calls

There shall be no charge for incomplete calls. No charge will be levied for unanswered calls.

#### 2.16 Overcharge/Undercharge

When a Customer has been overcharged, the amount shall be refunded or credited to the Customer. In case of undercharging, the Company may bill retroactively the Customer for charges owed by the Customer pursuant to the Agreement.

#### 2.17 Transfer and Assignment

Customer may not transfer, assign or delegate any right or obligation with respect to the Services, and any attempted transfer, assignment or delegation shall be void and no effect unless the Company has given express written consent, which shall not be unreasonably withheld or unduly delayed. The Company's rights and obligations herein may be assigned or delegated without restriction.

#### 2.18 No Title and Return of Equipment

In connection with certain Services furnished hereunder, the Company may install and maintain a network gateway device or other equipment on the Customer's premises ("Equipment"). Such Equipment shall at all times remain the property of the Company, and any installation on the Customer's premises shall not serve to create any title, interest or ownership by the Customer of such Equipment. Upon termination of the Service, Customer shall return Equipment within ten (10) days of termination, postage paid, to Company and, upon Company request, will provide the Company with reasonable access to Customer's premises for purposes of removing any Equipment. If Customer fails to return the Company's Equipment on time, or if the Equipment is returned in a condition that is worse than could be expected through normal use and wear, then, in such event, Customer will be liable for the then current replacement cost of the Equipment.

#### 2.19 Miscellaneous Provisions

- A. The Agreement between the parties shall be governed by and construed in accordance with the laws of West Virginia, without regard to its choice of laws provisions, and the venue of any legal action by either party shall be in Preston County, West Virginia. That State of West Virginia shall have personal jurisdiction over the parties for all matters arising from or related to the Agreement between Customer and the Company.
- B. Failure by either party to insist upon strict compliance by the other with any term or condition of the Agreement between them shall not be construed as waiver of any subsequent breach.
- C. Each provision of the Agreement between Customer and the Company is severable from the whole, and if any one provision is declared invalid or unenforceable, the other provisions shall remain in full force and effect.
- D. This Agreement may be modified only by written instrument, executed by both parties' authorized representatives. For purposes of this paragraph, authorized representatives of Company shall one include employees of Company with a title of Director, Vice President, President, or Managing Member.

#### 2.20 Acceptable Use Policy

##### A. Introduction

This document sets forth the principles, guidelines and requirements of the Acceptable Use Policy of Procom and any of its direct and indirect subsidiaries governing the use by the customer ("Customer") of the Company's services and products ("Services and Products"). The Acceptable Use Policy has been created to promote the integrity, security, reliability and privacy of Company's Web Site Management Facility, network,

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and Customer data contained within. Company retains the right to modify the Acceptable Use Policy at any time and any such modification shall be automatically effective as to all customers when adopted by the Company.

Questions or comments regarding the Acceptable Use Policy should be forwarded to the Company via telephone: 866-776-2662.

### B. Compliance with Law

Customer shall not post, transmit, re-transmit or store material on or through any of Services or Products which, in sole judgment of the Company (i) is in violation of any local, state, federal or non-United States law or regulation, (ii) threatening, obscene, indecent, defamatory or that otherwise could adversely affect any individual, group or entity (collectively, "Persons") or (iii) violates the rights of any person, including rights protected by copyright, trade secret, patent or other intellectual property or similar laws or regulations including, but not limited to, the installation or distribution of "pirated" or other software products that are not appropriately licensed for use by Customer. Customer shall be responsible for determining what laws or regulations are applicable to its use of the Services and Products.

### C. Prohibited Uses of Services and Products

In addition to the other requirements of the Acceptable Use Policy, the Customer may only use the Services and Products in a manner that, in the Company's sole judgment, is consistent with the purposes of such Services and Products. If the Customer is unsure of whether any contemplated use or action is permitted, please contact the Company as provided above. By way of example, and not limitation, uses described below of the Services and Products are expressly prohibited.

#### 1. General

- Resale of Services and Products, without prior written consent of the Company.
- Deceptive on-line marketing policies.
- Violations of the rights of any Person protected by copyright, trade secret, patent or other intellectual property or similar laws or regulations, including, but not limited to, the installation or distribution or "pirated" or other software products that are not appropriately licensed for use by Customer.
- Actions that restrict or inhibit any Person, whether a customer of the Company or otherwise, in its use or enjoyment of any of the Company's Services or Products.

#### 2. System and Network

- Introduction of malicious programs into the network. (e.g., viruses and worms).
- Effecting security breaches or disruptions on Internet communication. Security breaches include, but are not limited to, accessing data of which Customer is not an intended recipient or logging into a server or account that the Customer is not expressly authorized to access. For purposes of this Section 3.2.2., "disruption" includes, but is not limited to, port scans, flood pings, packet spoofing and forged routing information.
- Executing any form of network monitoring which will intercept data not intended for the Customer's server.
- Circumventing user authentication or security of host, network or account.
- Interfering with or denying service to any user other than the Customer's host (for example, denial of service attack).
- Using any program/script/command, or sending messages of any kind, designed to interfere with, or to disable, a user's terminal session, via any means, locally or via the Internet.
- Failing to comply with the Company's procedure relating to the activities of customers on the Company's premises.

#### 3. Mail

- Sending unsolicited mail messages, including the sending of "junk mail" or other advertising material to individuals who did not specifically request such material, who were not previous

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customers of the Customer or with whom the Customer does not have an existing business relationship (“E-mail spam”).

- Harassment, whether through language, frequency or size of messages.
- Unauthorized use, or forging, of mail header information.
- Solicitations of mail for any other E-mail address other than that of the poster’s account or service with the intent to harass or to collect replies.
- Creating or forwarding “chain letters” or other “pyramid schemes” of any type.
- Use of unsolicited E-mail originating from within the Company’s network or networks of other Internet Service Providers on behalf of, or to advertise, any service hosted by the Company, or connected via the Company’s network.

### 4. Usenet Newsgroups

- Posting the same or similar messages to large numbers of Usenet newsgroup (“Newsgroup spams”)
- Posting of excessive numbers or identical or similar E-mails to any number of Usenet newsgroups from the Company’s network or networks of other Internet Service Providers on behalf of, or to advertise, any service hosted by the Company, or connected via the Company’s network.
- Posting chain letters of any type.
- Posting encoded binary files to newsgroups not specifically names for that purpose.
- Cancellation or superseding of posts other than your own.
- Forging of header information.
- Solicitation of mail for any other E-mail address other than that of the poster’s account or service, with intent to harass or collect replies.
- Use of unsolicited E-mail originating from within the Company’s network or networks of other Internet Service Providers on behalf of, or to advertise, any service hosted by the Company, or connected via the Company’s network.

### D. Abused Resources

Upon notification of the existence of an abused resource, for example, and without limitation, an open news server, an unsecured mail relay or a smurf amplifier, Customer shall immediately take all necessary steps to avoid any further abuse of such resource. Any abuse of an open resource that occurs after Customer has received such notification shall be considered a violation of the Acceptable Use Policy and enforced as such.

### E. Enforcement

Company may immediately suspend and/or terminate the Customer’s service for violation of any provision of the Acceptable Use Policy upon verbal or written notice, which notice may be provided by voicemail or E-mail. However, the Company attempts to work with the Customer to cure violations of the Acceptable Use Policy and to ensure that there is not re-occurrence of violations to suspension and/or termination.

### 2.21 Customer Satisfaction Guarantee

If Customer for any reason within the first sixty (60) days is not satisfied with any Procom service, Company will terminate the contract with no cancellation fees, Company will rebate any activation fess paid to Company, and Company will reimburse Customer’s reasonable installation costs to switch back to their immediately previous provider(s), provided that the services are the same type and provided at the same location as originally provided by Customer’s previous provider. Customer will be responsible for any monthly service fees and additional usage fess for Services rendered up to the termination date. To be eligible for reimbursement, Customer’s account must be current and not have any outstanding balances owed to the Company. To claim reimbursement, Customer must within sixty (60) days of service deactivation send Company a Customer Satisfaction Guarantee Form, a copy of the previous service provider’s invoice detailing non-recurring installation/activation charges associated with restoring Customer’s previous service level and Customer must send Company a copy of a previous invoice from said service provider demonstrating Customer’s prior service level. Once all Customer Satisfaction Guarantee conditions listed above have been satisfied and all outstanding amounts due from Customer have been paid in full, Company will issue Customer a reimbursement check. No credits will be issued for any of the proposed reimbursed amounts.

### 3. Description of Services

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### 3.1 General

The Company provides interexchange telecommunications Services, including direct-dialed and operator assisted local and long distance message telecommunications Services, toll-free inbound interexchange Services, calling card and directory assistance Services, information Services, enhanced Services, computer-to-phone data transport Services, other computer Services, equipment and Equipment rental and sale and other Services. Certain Services are rated based on the call duration. Services are available twenty-four (24) hours a day, seven (7) days a week.

### 3.2 Charges Based on Duration of Use

Where charges for a Service are specified based on the duration of use, such as the duration of a telephone call, the following rules apply:

- 3.2.1 Calls are measured in duration increments identified for each Service. All calls that are fractions of a measurement increment are rounded up to the next whole unit.
- 3.2.2 Timing on completed calls begins when the called party answers the call. Answering is determined by hardware answer supervision in all cases where this signaling is provided by the terminating local carrier and any intermediate carrier(s).
- 3.2.3 Timing terminates on all calls when the calling party hangs up or the Company's network receives an on-hook signal from the terminating carrier.
- 3.2.4 Calls originating in one time period and terminating in another will be billed in proportion to the rates in effect during different segments of the call.
- 3.2.5 All times refer to local times of Customer location where applicable.
- 3.2.6 Unless otherwise indicated, mileage bands and distance are not applicable to the rates for Services.
- 3.2.7 Unless otherwise indicated, rates do not vary depending upon day or the time of day (e.g. Day, Evening, and Night/Weekend).
- 3.2.8 Each voice or data toll call is rated and billed in whole cents according to the following conventions:
  - A. Any billable call or Service price-rated with a fraction of a cent less than \$0.005, will be rounded down to the nearest whole cent. Any rated Service with a fraction of a cent \$0.005 or greater will be rounded up to the nearest whole cent.
  - B. Exceptions. Special rounding arrangements may be made only through contractual arrangements.

## 4. Rates and Charges

### 4.1 General

Rates and charges in this section are set forth for various services offered by the Company. All terms of this Agreement apply to each plan unless specifically excluded or superseded. Terms and conditions of said Agreement are subject to change at the sole discretion of the Company.

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### 4.2 Interstate Long Distance Rates

4.2.1	Directory Assistance	<u>Per Call</u>
	Directory Assistance Charge	\$0.95
4.2.2	Commercial Switched Outbound (1+) (Within the contiguous United States)	

Rate Per Minute	Billing Minimum	Billing Increments
\$0.042	Six seconds	Six seconds
\$0.049	Six seconds	Six seconds
\$0.059	Six seconds	Six seconds
\$0.065	Six seconds	Six seconds

4.2.3	Toll Free Inbound (800/888/877/866) (Within the contiguous United States)
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Rate Per Minute	Billing Minimum	Billing Increments
\$0.042	Six seconds	Six seconds
\$0.049	Six seconds	Six seconds
\$0.059	Six seconds	Six seconds
\$0.065	Six seconds	Six seconds

### 4.2.4 Primary Interexchange Carrier Charge (PICC)

Line Type	Rate Per Line/Per Month			
	Maryland	Pennsylvania	Virginia	West Virginia
Primary Residence Line	-	-	-	-
Individual Non-Primary Line	-	-	-	-
Single Line Business	-	-	-	-
Multi-Line Business	\$3.60	\$3.60	\$3.60	\$3.60
Centrex First Business Line	\$1.25	\$1.25	\$1.25	\$1.25
Centrex Each Additional Business Line	\$0.75	\$0.75	\$0.75	\$0.75

4.2.5	Surcharges	<u>Per Call</u>
	Payphone Surcharge (Toll-free)	\$0.58

### 4.3 International Long Distance Rates

Unless otherwise specified, the following rates are per minute of use time by the Company in seconds. Calls are billed in initial thirty (30) second increments and additional six (6) second increments unless otherwise specified. These rates apply to international long distance message telecommunications Services furnished by the Company.

#### 4.3.1 Commercial Switched Outbound

COUNTRY NAME	RATE	COUNTRY NAME	RATE	COUNTRY NAME	RATE
US-ALASKA	0.1450	CZECH REPU	0.0926	KENYA	0.2860
US-HAWAII	0.1850	DENMARK	0.0429	KIRIBATI	0.6552
AFGHANISTA	0.9978	DIEGO GARCIA	1.0457	KOREA	0.0618

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ALBANIA	0.2519	DJIBOUTI	0.4892	KOREA (NORTH)	0.8728
ALGERIA	0.2885	DOMINICA	0.3852	KUWAIT	0.2097
AMERICAN S	0.1690	DOMINICAN	0.1398	KYRGYZSTAN	0.3112
ANDORRA	0.0992	EASTER ISL	1.5912	LAOS	0.3238
ANGOLA	0.3397	ECUADOR	0.3104	LATVIA	0.1825
ANGUILLA	0.3364	EGYPT	0.3673	LEBANON	0.2828
ANTARCTICA	0.7644	EL SALVADO	0.2421	LESOTHO	0.1707
		EQUATORIAL			
ANTIGUA	0.3819	GUINEA	0.4193	LIBERIA	0.3007
ARGENTINA	0.1317	ERITREA	0.8450	LIBYA	0.2633
ARMEN/GEOR	0.3917	ESTONIA	0.0642	LIECHTENSTEIN	1.3302
ARMENIA	0.3754	ETHIOPIA	0.7404	LITHUANIA	0.2243
ARUBA	0.2649	FAROE ISLANDS	0.3612	LUXEMBOURG	0.0862
ASCENSION	0.8645	FALKLAND I	0.6120	MACAO	0.2642
AUSTRALIA	0.0683	FIJI ISLANDS	0.5054	MACEDONIA	0.3705
AUSTRIA	0.0699	FINLAND	0.0748	MADAGASCAR	0.3551
AZERBAIJAN	0.2600	FRANCE	0.0667	MALAWI	0.1650
BAHAMAS	0.2113	FRENCH ANT	0.2219	MALAYSIA	0.0943
BAHRAIN	0.3290	FRENCH GUIANA	0.3039	MALDIVES	0.6435
		FRENCH			
BANGLADESH	0.4846	POLYNESIA	0.3803	MALI	0.3884
BARBADOS	0.3527	GABONESE REP	0.3023	MALTA	0.1146
BELARUS	0.3567	GAMBIA	0.3510	MARISAT	0.2846
BELGIUM	0.0667	GEORGIA	0.1902	MARISAT-AE	0.2846
BELIZE	0.3575	GERMANY	0.0625	MARISAT-AW	0.2846
BENIN	0.3380	GHANA	0.2129	MARISAT-IO	0.2846
BERMUDA	0.1788	GIBRALTAR	0.2004	MARISAT-PO	0.2846
				MARSHALL	
BHUTAN	0.2277	GMSS	0.1903	ISLANDS	0.4711
BOLIVIA	0.3169	GREECE	0.1122	MARTINIQUE	0.2219
BOSNIA-					
HERZEGOVINA	0.2234	GREENLAND	0.5517	MAURITANIA	0.2731
BOTSWANA	0.1853	GUADELOUPE	0.1851	MAURITIUS	0.4290
BRAZIL	0.1398	GUANTANAMO	1.5912	MAYOTTE IS	0.5937
BRITISH VI	0.2763	GUATEMALA	0.2600	MEXICO	0.1650
				MEXICO	
BRUNEI DARUSSALAM	0.3187	GUINEA	0.1983	CELLULAR	0.3613
BULGARIA	0.1804	GUINEA-BISSAU	0.5956	MICRONESIA	0.8775
BURKINA FASO	0.3738	GUYANA	0.5928	MIDWAY ISL	0.2762
BURUNDI	0.2389	HAITI	0.3023	MOLDOVA	0.1950
CAMBODIA	0.9495	HONDURAS	0.4802	MONACO	0.1674
CAMEROON	0.3908	HONG KONG	0.0748	MONGOLIA	0.3494
CANADA	0.0800	HUNGARY	0.1154	MONTERREY CELL	0.2695
CAPE VERDE	0.5367	ICELAND	0.1040	MONTSERRAT	0.3365
CAYMAN ISL	0.2600	INDIA	0.5517	MOROCCO	0.3660
CENTRAL AFRICAN					
REP	0.3657	INDONESIA	0.1674	MOZAMBIQUE	0.3055
CHAD	0.6353	INMARSAT	0.2846	MYANMAR	0.4806
CHILE	0.0813	INMARSAT SNAC	8.1568	NAMIBIA	0.1853
CHINA	0.1168	INT MOBILE	0.1903	NAURU	0.8282
CHRISTMAS	0.6787	INT ISCS	0.4745	NEPAL	0.3088
COCOS ISLA	0.6787	IRAN	0.1918	NETHER/ANT	0.2096
COLOMBIA	0.1674	IRAQ	0.7905	NETHERLAND	0.0495
COMOROS	0.5875	IRELAND	0.0683	NEVIS	0.3251

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CONGO	0.3348	ISRAEL	0.0878	NEW CALEDO	0.6171
COOK ISLAN	1.0024	ITALY	0.0634	NEW ZEALAN	0.0732
COSTA RICA	0.1593	IVORY COAS	0.2415	NICARAGUA	0.3380
COTE D'IVOIRE	0.2415	JAMAICA	0.3226	NIGER	0.3055
CROATIA	0.1554	JAPAN	0.1008	NIGERIA	0.3490
CUBA	1.4132	JORDAN	0.3234	NIUE	1.8132
CYPRUS	0.1485	KAZAKHSTAN	0.2757	NORFOLK IS	0.5974
<b>COUNTRY NAME</b>	<b>RATE</b>	<b>COUNTRY NAME</b>	<b>RATE</b>		
NORWAY	0.0618	TURKMENIST	0.3088		
OMAN	0.4453	TURKS & CA	0.3722		
PAKISTAN	0.5054	TUVALU	1.0051		
PALAU	0.4134	UGANDA	0.2048		
PALISTINE	0.2350	UKRAINE	0.2617		
PANAMA	0.2312	UNITED ARA	0.2459		
PAPUA NEW GUINEA	0.2519	UNITED KINGDOM	0.0569		
PARAGUAY	0.3453	URUGUAY	0.3657		
PERU	0.2145	UZBEKISTAN	0.2714		
PHILIPPINE	0.1885	VANUATU	3.5799		
POLAND	0.1235	VATICAN CITY	0.0639		
PORTUGAL	0.0813	VENEZUELA	0.2373		
PUERTO RICO	0.1450	VIETNAM	0.7342		
QATAR	0.4957	WAKE ISLAN	0.4745		
REUNION	0.2262	WALLIS & F	0.9118		
ROMANIA	0.1930	WESTERN SA	0.4212		
RUSSIA	0.1447	YEMEN ARAB	0.6622		
RWANDA	0.2357	YEMEN DEM	0.4762		
SAINT HELENA	0.6900	YUGOSLAVIA	0.3510		
SAMOA	0.4212	ZAMBIA	0.2048		
SAN MARINO	0.1400	ZANZIBAR	1.4441		
SAO TOME & PRINCIPE	0.8869	ZIMBABWE	0.1658		
SAUDI ARABIA	0.3470				
SENEGAL	0.3640				
SERBIA & MONTENEGRO	0.3510				
SEYCHELLES	0.5252				
SIERRA LEO	0.3767				
SINGAPORE	0.0618				
SLOVAKIA	0.1642				
SLOVENIA	0.1333				
SOLOMON IS	0.7852				
SOMALIA	0.6355				
SOUTH AFRI	0.1479				
SPAIN	0.3283				
SRI LANKA	0.3472				
ST KITTS	0.3787				
ST LUCIA	0.3221				
ST PIERRE	0.2382				
ST THOMAS	0.1450				
ST VINCENT	0.3276				
SUDAN	0.3542				
SURINAME	0.5083				
SWAZILAND	0.2080				
SWEDEN	0.0618				

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SWITZERLAND	0.0699
SYRIA	0.4957
TAIWAN	0.0780
TAJKISTAN	0.2871
TANZANIA	0.2974
THAILAND	0.2332
TINIAN	0.1450
TOGOLESE	0.3737
TOKELAU IS	1.0579
TONGA	0.7183
TRINIDAD &	0.2357
TUNISIA	0.3559
TURKEY	0.3185
TURKEY(CYP	0.3413