

**YOURTEL AMERICA, INC.  
GENERAL TERMS AND CONDITIONS OF SERVICE  
APPLICABLE TO PRODUCTS AND SERVICES OFFERED  
WITHIN THE OPERATING TERRITORY  
OF YOURTEL AMERICA, INC.**

**1. DEFINITIONS**

**"Company"** means YOURTEL AMERICA, INC.

**"Customer"** a. Any person who uses any YOURTEL AMERICA, INC.'s Service; b. any person with actual or apparent authority to represent that person or to use the Services.

**"Local Telephone Company"** A company that furnishes local exchange service.

**"Services"** The service offering(s) provided by YOURTEL AMERICA, INC. and purchased by a Customer.

YOURTEL AMERICA: YOURTEL AMERICA, INC.

**2. APPLICATION OF TERMS AND CONDITIONS OF SERVICES**

2.1 General Application. These Terms and Conditions of Service ("Terms and Conditions"), together with the applicable rates for service ("Rate" or "Rates"), constitute your agreement with YOURTEL AMERICA ("Agreement") for the Services described herein that you, as a Customer, purchase or apply for from YOURTEL AMERICA.

2.2 BY ACTIVATING AN ACCOUNT OR USING THE SERVICES, YOU 1) ACCEPT AND AGREE TO THESE TERMS AND CONDITIONS AND YOURTEL AMERICA'S RATES AND 2) UNDERSTAND THAT YOU ARE ENTERING INTO A CONTRACTUAL AGREEMENT WITH YOURTEL AMERICA TO ACT AS YOUR COMMUNICATIONS REPRESENTATIVE WITH AT&T OR ANY SHARED TELECOMMUNICATIONS PROVIDER AND 4) AUTHORIZE YOURTEL AMERICA TO HANDLE ALL NEGOTIATIONS FOR SERVICE REQUESTS AND THE ISSUANCE OF ORDERS ON THE SERVICE AT THE ADDRESS YOU HAVE PROVIDED AND ON THE PHONE NUMBER ISSUED BY YOURTEL AMERICA UNTIL FURTHER NOTICE [THIS AUTHORIZATION DOES NOT PRECLUDE YOUR ABILITY TO ACT ON YOUR BEHALF TO CHANGE SERVICE PROVIDERS] AND 5) ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THESE TERMS AND CONDITIONS. IF YOU DO NOT AGREE WITH YOURTEL AMERICA'S RATES OR TERMS AND CONDITIONS, DO NOT USE THE SERVICES.

2.3 Changes to Rates, Terms and Conditions. YOURTEL AMERICA reserves the right to change its Rates or Terms and Conditions at any time. All changes to existing service and product offerings will be posted on YOURTEL AMERICA's website at <http://www.yourtelamerica.com> at least 24 hours before they become effective and will become binding on the Customer on the effective date. The rates, terms and conditions of new service or product offerings will be posted on YOURTEL AMERICA's website within 24 hours after such new service or product is available to customers. You may also obtain information on Rates or a copy of the current Terms and Conditions by calling the YOURTEL AMERICA Customer Service number in:

The Greater Kansas City Area, Atchison, Lawrence, Leavenworth, Topeka, Excelsior Springs  
– 816-472-4377

St. Joseph, MO – 816-364-9000

Springfield, MO – 417-866-3222

Lawton, OK – 580-355-9191

Oklahoma City, OK – 405-799-1500

Tulsa, OK – 918-749-9191

or by writing to YOURTEL AMERICA Customer Service at PO Box 270017, Kansas City, MO, 64127. YOUR USE OF THE SERVICES CONSTITUTES YOUR AGREEMENT TO YOURTEL AMERICA'S RATES, TERMS AND CONDITIONS THAT ARE IN EFFECT AT THE TIME YOU USE THE SERVICES.

- 2.4 Scope. This Agreement applies to all YOURTEL AMERICA's Services herein described.
- 2.4 Shortage of Facilities. All services are subject to the availability of suitable facilities. YOURTEL AMERICA reserves the right to limit the length of communications or to discontinue furnishing services when necessary because of a lack of transmission medium capacity or because of any other causes beyond its control.

### **3. BILLING AND SERVICE CHARGES**

- 3.1 Charges. Customer agrees to pay for Services at the current Rates and subject to any applicable restrictions.
- 3.2 YOURTEL AMERICA will be prorating your bill. Proration is a partial month's service based on when your service is expected to start that will bring your service current with your billing cycle. We will collect this amount from you at the time you apply for service. If it does not start on the expected DUE DATE there will be a credit (depending on the cause).
- 3.3 If you choose installment billing, the second half of the processing fee plus an additional charge of \$5.00, is due in ten (10) days from the date you applied for Service. This date will be included on the invoice you will receive at the time you apply for service.
  - 3.3.1 In the state of Missouri ONLY, the Processing Fee and First Month's Prepaid Service Charges can be refunded to you if you cancel service within ten (10) business days after receiving your Missouri Customer Information Bulletin.
- 3.4 You should not be able to receive collect calls. If you do and someone in the household accepts the call, you are responsible for the charges. The same applies to any miscellaneous charges such as call interrupts, etc.
- 3.5 If you use 411, 1+411, 1+area code+555-1212 or 0, you are responsible for and must pay for any charges incurred. If you abuse (the constitution of such abuse to be solely under the jurisdiction of YOURTEL AMERICA) any of these options, or allow the unpaid balance for such calls to reach \$10.00 or above, your ability to access these services will be blocked. Should you have 1+ Long Distance with a provider other than YOURTEL AMERICA your access to that Long Distance will also be blocked. You will need to pay an administrative change charge as well as any amount owed as a result of the use of these options in order to have these unblocked. You indemnify and save harmless YOURTEL AMERICA from any and all claims, losses and damages caused by this restriction of your long distance calling.
- 3.6 Anytime you make a change to your Service, you will be charged \$10.00 plus tax. A change includes removing options from your account.
- 3.7 Payment Terms. Customer agrees to pay for Services at the Rates applicable to at the time the Service(s) is used and according to the terms of this Agreement
- 3.8 Rendering and Payment of Bills
  - 3.8.1 Billing periods are monthly.
  - 3.8.2 Payment for first month's service is payable in advance and payment in advance for each month of service is due in full by the due date.

- 3.8.3 Your billing date is dependent on the billing cycle assigned to your account. Regardless of whether or not the United States Postal Service delivers your statement properly, your payment is due on the assigned due date. You will be given your specific due date for your account at the time you apply for your initial service.
- 3.8.4 All charges for Service are payable only in the United States currency. Payment may be made by cash, check, money order, cashier's check, MoneyGram, Visa, MasterCard, Discover, American Express, PayPal or AutoPay debit from your bank. Payments must be delivered to YOURTEL AMERICA and must be made at one of our retail locations, drive-thru windows or twenty-four (24) hour drop box. Payments for service mailed to YOURTEL AMERICA, or deposited in the drop off box must be in the form of a Money Order, personal check or Certified Check. Credit card payments are accepted by YOURTEL AMERICA either by telephone or any location.
- 3.9 Billing Errors. If you believe that YOURTEL AMERICA has charged you Rates in error, please contact YOURTEL AMERICA Customer Service immediately. If YOURTEL AMERICA has charged you Rates due to its error, your account will be credited for the erroneous charges.
- 3.10 Refunds. If you believe that you have overpaid YOURTEL AMERICA, you must submit a claim to YOURTEL AMERICA within sixty (60) days after the claimed overpayment, along with evidence supporting the claim. If a billing error results in an overbilling or overcharge, YOURTEL AMERICA may refund the amount over billed or overcharged by issuing a credit to your account.
  - 3.10.1 Once we have successfully processed an order and have a DUE DATE refunds can only be issued from our main office by check. Our policy is to process this within thirty (30) business days.
- 3.11 Check Policy: YOURTEL AMERICA reserves the right to charge up to \$30.00 for returned checks. YOURTEL AMERICA may, at its own discretion, re-deposit the check. However, Customer understands that YOURTEL AMERICA may not necessarily re-deposit the check automatically.

#### **4. SUSPENDS AND DISCONNECTS**

- 4.1 Any invoice unpaid on the due date will result in the suspension of Service. A \$10.00 plus tax charge will be applied to your account to restore service regardless of whether or not the order to suspend has completed. Once an order to suspend has been submitted, it can not be stopped.
- 4.2 Your telephone service is also subject to suspension and disconnection for any of the following reasons.
  - 4.2.1 Unauthorized use of telephone utility equipment in such a manner which creates an unsafe condition or creates the possibility of damage or destruction to such equipment.
  - 4.2.2 Refusal after reasonable notice to permit inspection, maintenance or replacement of telephone utility equipment.
  - 4.2.3 Misrepresentation of identity in obtaining telephone utility service.
  - 4.2.4 Incurring charges and /or evidencing an intent not to pay such charges when due, including calls to 900 numbers and long distance calls billed to the number.
- 4.3 You are responsible for Service during any time your Service is suspended. You WILL NOT receive a credit for Service while it is suspended.

- 4.4 It can take up to seventy-two (72) business hours to have your Service restored.
- 4.5 If your Service has been suspended for five (5) calendar days, it is subject to disconnection. Once a disconnect order has processed, you must pay in full the processing charge, unpaid balance and monthly bill in order for the Service to be reconnected.

## **5. NATIONAL DIRECTORY ASSISTANCE**

- 5.1 National Directory Assistance – Where available, National Directory Assistance (“NDA”) is offered by YOURTEL AMERICA to Customers. NDA is a service whereby Customers may request directory assistance information outside their LATA (Local Access and Transport Area) or Home NPA (the geographic numbering plan from which a call originates) for a listed telephone number for residential. Business and government locations throughout the fifty states. NDA can be reached by dialing 411 or 1+411 in some areas. Each NDA request is charged at \$1.99. The NDA charge applies to each call regardless of whether the Directory Assistance Bureau is able to furnish the requested information.
  - 5.1.1 PhoneControl (f/k/a YourControl) Prepaid Service Customers have access to NDA. PhoneControl (f/k/a YourControl) Prepaid Service Customers will be charged at \$0.49 per NDA request.

## **6. INTERNATIONAL/DOMESTIC LONG DISTANCE**

- 6.1 In order to receive YOURTEL AMERICA'S rates for International Long Distance, you must subscribe to a YOURTEL AMERICA domestic, outbound, interstate long distance plan.
- 6.2 All calls one minute or less in duration are billed as a one-minute call. After the initial minute, all calls using our service are billed in six-second increments with partial durations rounded to the next six seconds.
- 6.3 YOURTEL AMERICA'S International Long Distance is for residential non-business voice use only.
- 6.4 Rates exclude taxes, fees, surcharges, universal service, subscriber line and installation charges. International rates apply only when calling from the U.S. to international locations.
- 6.5 Availability, rates, terms and conditions are subject to change.
- 6.6 In many countries, international telephone carriers charge higher prices to terminate calls to a wireless device or special service lines. For this reason, YOURTEL AMERICA may charge a higher rate for these calls. The customer will see only one per-minute price on their bill. This single per-minute price includes this higher cost where applicable.
- 6.7 For a complete list of country rates refer to <http://www.yourtelamerica.com/content/files/international.pdf>. Calling to some countries may not be available.
- 6.8 If you designate YOURTEL AMERICA as your carrier of choice for inter-lata toll, you understand that you can have only one (1) telecommunications provider for your phone number. You further state that you are aware that changes to these designations may involve a charge. Under the terms of this and your service agreement, you hereby authorize YOURTEL AMERICA to handle all negotiations for service requests and the issuance of orders on the telephone service at the address you have provided and on the phone number provided by YOURTEL AMERICA until further notice. This authorization does not preclude your ability to act on your behalf to change service providers.

- 6.9 "Unlimited" is available to residential and small business Customers from presubscribed lines for voice messages only. If the Company determines that this service is being used for non-voice applications (including but not limited to dial-up Internet service or facsimile service) or that the Customer's usage of long distance exceeds reasonable usage customary for the applicable account (1500 minutes/month for residential, 3000 minutes/month for small business, the Company, at its sole discretion and with proper notice, may either disconnect or block the Customer's service or may charge a \$50 monthly recurring data/Internet usage charge in addition to all charges otherwise applicable for customer's residential service, including per-minute charges for long-distance usage.]
- 6.9 YOURTEL AMERICA'S PayAsUGo, PhoneControl and PhoneControl Plus DOMESTIC AND INTERNATIONAL LONG DISTANCE SERVICES are subject to sections 6.1-6.9 above and rates and plans filed in state or interstate tariffs.
- 6.9.1 International rates are higher than domestic rates and differ according to destination called.
- 6.9.2 YOURTEL AMERICA is not responsible for any unauthorized use of the account, stolen or otherwise.
- 6.9.3 No refunds will be given for amounts placed on PayAsUGo cards.
- 6.9.4 PayAsUGo cards with no expiration date will assumed to have an expiration date of one year as required by law.

## **7. YOURTEL WORLD**

- 7.1 In order to receive YOURTEL AMERICA'S YourTel World rates, services and/or discounts, you must subscribe to a YOURTEL AMERICA International Number and abide by the terms of the product. Use of a YOURTEL AMERICA YourTel World International Number is for residential non-business voice use only. Rates exclude taxes, fees, surcharges, universal service, subscriber line and installation charges. International Number, availability, rates, terms and conditions are subject to change. Originating call quality determined by reliability of originating county/city network.

## **8. CUSTOMER RESPONSIBILITIES**

- 8.1 Customer Duties and Responsibilities. You must:
- 8.1.1 ensure compliance with this Agreement by anyone who you authorize to use the Services;
- 8.1.2 cooperate with YOURTEL AMERICA in trouble determination and fault isolation.
- 8.2 Use of Services
- 8.2.1 You may not use the Services for any unlawful purpose, or in such a way as to interfere with the use of Services by others. If you fail to comply with this Section, you release YOURTEL AMERICA from all liabilities or obligations and you must pay YOURTEL AMERICA for all costs or damages that YOURTEL AMERICA incurs as a result.
- 8.2.2 You must not permit or assist others to abuse or fraudulently use Services.
- 8.2.3 If you use the Services in any manner that violates this Section, YOURTEL AMERICA may immediately suspend or terminate your Service without notice.

## **9. RESTRICTION OF SERVICES**

- 9.1 Blocked Access. YOURTEL AMERICA may immediately and without notice or liability block access to its network from particular phone numbers where:
- 9.1.1 YOURTEL AMERICA is experiencing toll fraud, or usage of Services in an amount that is not supported by your credit;
  - 9.1.2 YOURTEL AMERICA is prohibited from furnishing Service by order of a court or other government authority having jurisdiction;
  - 9.1.3 You use, or attempt to use, the Services in a manner that violates any law or regulation;
  - 9.1.4 You provide false information to the Company regarding your identity, address, credit-worthiness, past or current use of communications services, or its planned use of the Company's Service(s);
  - 9.1.5 You use, or attempt to use, the Services with the intent to avoid the payment, either in whole or in part, of the Rates for the service by:
    - 9.1.5.1 Using, or attempting to use, the Service by rearranging, tampering with, or making connections to the Company's service not authorized by this Agreement, or
    - 9.1.5.2 Using tricks, schemes, false or invalid numbers, false credit devices, electronic devices, or
    - 9.1.5.3 Any other fraudulent means or devices.
  - 9.1.6 You place harassing phone calls to YOURTEL AMERICA, including calls in which you use abusive language.

## **10. DISPUTE RESOLUTION**

- 10.1 This Section applies to any dispute between you and YOURTEL AMERICA arising out of or relating to this Agreement, including any dispute you may have regarding the Services, charges for Services, advertising, or any other dispute that either you or YOURTEL AMERICA has that is related to this Agreement, even if the dispute arises after your Service has terminated. All disputes must be resolved as described in this Section. YOU AGREE THAT ANY DISPUTE WILL NOT BE RESOLVED BY A JUDGE OR JURY IN COURT (EXCEPT FOR SMALL CLAIMS COURT, IF APPLICABLE). YOU FURTHER AGREE THAT ANY DISPUTE YOU MAY HAVE AGAINST YOURTEL AMERICA CANNOT BE JOINED WITH THE DISPUTE OF ANY OTHER PERSON OR ENTITY IN A LAWSUIT, ARBITRATION OR ANY OTHER PROCEEDING, OR RESOLVED ON A CLASS-WIDE BASIS.
- 10.2 If you have a dispute with YOURTEL AMERICA, you must first call YOURTEL AMERICA's Customer Service department at the appropriate telephone number listed in Section 2.3 or write to YOURTEL AMERICA Customer Service address listed in Section 2.3 to attempt to resolve your dispute. You must describe your dispute and provide YOURTEL AMERICA with any support documentation. Likewise, if YOURTEL AMERICA has a dispute with you it will notify you by letter sent to your billing address and attempt to resolve it before pursuing arbitration.

- 10.3 If either party is unable to resolve its dispute within 60 days of notifying the other party of the dispute, either party has the right to take the dispute to small claims court if it qualifies under the rules of that court. Alternatively, either party may request arbitration of the dispute through the American Arbitration Association ("AAA"). All disputes related to this Agreement that are not resolved informally or in small claims court, regardless of the legal or equitable theory under which they are brought, must be resolved through final and binding arbitration in accordance with the Federal Arbitration Act, 9 U.S.C. Section 1, et seq. ANY REQUEST FOR ARBITRATION OF A DISPUTE ARISING OUT OF OR RELATED TO THIS AGREEMENT MUST BE MADE WITH THE AAA WITHIN TWO YEARS OF: (a) THE DATE ON WHICH THE FIRST ACTION OR EVENT GIVING RISE TO THE DISPUTE OCCURRED, OR (b) IF THE DISPUTE INVOLVES CLAIMED OVERCHARGES BY YOURTEL AMERICA, THE DATE THAT YOURTEL AMERICA NOTIFIES YOU THAT THE CHARGES ARE VALID, WHICHEVER IS LATER.
- 10.4 The arbitration will be conducted by one arbitrator in accordance with the procedures outlined in this Section. The arbitrator is bound by the terms of this Agreement in conducting the arbitration and making any award, and may not modify or change its terms.
- 10.5 If the dispute involves \$10,000 or less, the arbitration will be conducted according to the AAA's Arbitration Rules for the Resolution of Consumer-Related Disputes in effect as of the date that a dispute is submitted to the AAA, as modified by this Agreement. If the dispute involves more than \$10,000, the arbitration will be conducted according to the AAA's Commercial Arbitration Rules in effect as of the date that a dispute is submitted to the AAA, as modified by this Agreement. You may obtain a copy of the AAA's arbitration rules and procedures from your local AAA office or by visiting their website at [www.adr.org](http://www.adr.org).
- 10.6 You may be represented by an attorney in an arbitration. If the dispute involves less than \$10,000, any in-person arbitration will be held at a location selected by the AAA in the state or area of your primary residence. If the dispute involves \$10,000 or more, any in-person arbitration will be held at a location selected by the AAA in the state or area of your primary residence or in Kansas City, Missouri, at the option of the party filing the demand for arbitration. You and YOURTEL AMERICA agree to keep all aspects of the arbitration confidential, including any testimony, documents, and award, except as may be required by law or to enforce any arbitration award.
- 10.7 Each party must pay its own expenses associated with any arbitration, including its attorney's fees. If you file a request for arbitration, you will have to pay a filing fee in accordance with the AAA fee schedule. Under AAA rules, some costs such as the arbitrator's fees and expenses will be allocated between the parties.
- 10.8 The arbitrator may not award punitive, exemplary, or similar damages, or attorney's fees. The parties agree that an award of such damages or fees will be void if issued. YOU AND YOURTEL AMERICA BOTH EXPRESSLY WAIVE ANY CLAIMS FOR DAMAGES THAT ARE EXCLUDED UNDER THIS AGREEMENT.
- 10.9 Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.
- 10.10 In addition to the procedures described in this Section for resolving a dispute, you may also have the right to file a complaint with an appropriate federal or state regulatory agency.
- 10.11 If any portion of this Dispute Resolution Section is determined to be invalid or unenforceable, the remainder of the Section remains in full force and effect.

## 11.0 LIMITATIONS ON LIABILITY

- 11.1 The Company shall not be liable to a Customer or third party for any direct, indirect, special, incidental, reliance, consequential, exemplary or punitive damages, including, but not limited to, loss of revenue or profits, for any reason whatsoever, including, but not limited to, any act or omission, failure to perform, delay, interruption, failure to provide any service or any failure in or breakdown of facilities associated with the service.
- 11.2 The liability of the Company for errors in billing that result in overpayment by the Customer shall be limited to a credit equal to the dollar amount erroneously billed or, in the event that payment has been made and service has been discontinued, to a refund of the amount erroneously billed.
- 11.3 The Company shall not be liable for any claims for loss or damages involving:
- 11.3.1 Any act or omission of: (a) the Customer; (b) any other entity furnishing service, equipment or facilities for use in conjunction with services or facilities provided by the Company; or (c) common carriers or warehousemen;
  - 11.3.2 Any delay or failure of performance or equipment due to causes beyond the Company's control, including but not limited to, acts of God, fires, floods, earthquakes, hurricanes, or other catastrophes; national emergencies, insurrections, riots, wars or other civil commotions; strikes, lockouts, work stoppages or other labor difficulties; criminal actions taken against the Company; unavailability, failure or malfunction of equipment or facilities provided by the Customer or third parties; and any law, order, regulation or other action of any governing authority or agency thereof;
  - 11.3.3 Any unlawful or unauthorized use of the Company's facilities and services;
  - 11.3.4 Libel, slander, invasion of privacy or infringement of patents, trade secrets, or copyrights arising from or in connection with the transmission of communications by means of Company-provided facilities or services; or by means of the combination of Company-provided facilities or services with Customer-provided facilities or services;
  - 11.3.5 Breach in the privacy or security of communications transmitted over the Company's facilities;
  - 11.3.6 Changes in any of the facilities, operations or procedures of the Company that render any equipment, facilities or services provided by the Customer obsolete, or require modification or alteration of such equipment, facilities or services, or otherwise affect their use or performance, except where reasonable notice is required by the Company and is not provided to the Customer, in which event the Company's liability is limited as set forth in Section 7.1 of this Agreement.
  - 11.3.7 Defacement of or damage to Customers premises resulting from the furnishing of services or equipment on such premises or the installation or removal thereof;
  - 11.3.8 Injury to property or injury or death to persons, including claims for payments made under Workers' Compensation law or under any plan for employee disability or death benefits, arising out of, or caused by, any act or omission of the Customer, or the construction, installation, maintenance, presence, use or removal of the Customer's facilities or equipment connected, or to be connected to the Company's facilities;

- 11.3.9 Any intentional, wrongful act of a Company employee when such act is not within the scope of the employee's responsibilities for the Company and/or is not authorized by the Company;
- 11.3.10 Any representations made by Company employees that do not comport, or that are inconsistent, with the provisions of this Agreement;
- 11.3.11 Any act or omission in connection with the provision of 911, E911, or similar services;
- 11.3.12 Any non-completion of calls due to network busy conditions; or
- 11.3.13 Any calls not actually attempted to be completed during any period that service is unavailable.
- 11.4 The Company shall be indemnified, defended and held harmless by the Customer or end user from and against any and all claims, loss, demands, suits, expense, or other action or any liability whatsoever, including attorney fees, 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 Company or Customer equipment or facilities or service provided by the Company.
- 11.5 The Company does not guarantee nor make any warranty with respect to installations provided by it for use in an explosive atmosphere. The 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, including attorney fees, 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.
- 11.6 The Company assumes no responsibility for the availability or performance of any cable or satellite systems or related facilities under the control of other entities, or for other facilities provided by other entities used for service to the Customer, even if the Company has acted as the Customer's agent in arranging for such facilities or services. Such facilities are provided subject to such degree of protection or nonpreemptibility as may be provided by the other entities.
- 11.7 Any claim of whatever nature against the Company shall be deemed conclusively to have been waived unless presented in writing to the Company within thirty (30) days after the date of the occurrence that gave rise to the claim.
- 11.8 THE COMPANY MAKES 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 HEREIN.

## 12. MISCELLANEOUS

- 12.1 No Waiver of Rights. If either party fails to enforce any right or remedy under this Agreement, that does not waive the right or remedy for any other breach or failure.
- 12.2 No Third Party Beneficiaries. The parties do not extend this Agreement's benefits to any third party, unless expressly stated in this Agreement.
- 12.3 Governing Law. This Agreement and all claims relating to the relationship between the parties are governed by federal law and the laws of the State of Missouri.
- 12.4 Severability. If any provision is held to be illegal, or unenforceable, this Agreement's unaffected provisions will remain in effect.
- 12.5 Headings of No Force or Effect. Headings in this Agreement are for reference only and have no effect on any provisions meaning.
- 12.6 Assignment. You may not assign this Agreement. YOURTEL AMERICA may assign this Agreement.
- 12.7 Notices. Any notices that YOURTEL AMERICA must give you under this Agreement will be made in at least one of the following ways: postcard or letter mailed to the most recent address on your account, bill message, bill insert, e-mail to an address provided by you, recorded announcement, posting on the YOURTEL AMERICA website, call to your billed telephone number and speaking to you or leaving a message, or newspaper ad.
- 12.8 Agreement. In the event of an inconsistency between a term or condition contained herein and a product offering from YOURTEL AMERICA, INC., the order of controlling precedence shall be (1) Applicable filed and effective tariff(s) (2) any Service Agreements and/or applicable and/or supplemental Product Terms and Conditions (3) General Terms and Conditions of Service. All regulated products are governed by filed and effective YOURTEL AMERICA, INC. tariff rules. No prior agreements, understanding, statements, proposals or representation, either oral or written, apply. No written or oral statement, advertisement or service description not expressly contained in this Agreement can be used to alter or supplement its terms.