



210 N. Park Ave.  
Winter Park, FL  
32789

P.O. Drawer 200  
Winter Park, FL  
32790-0200

Tel: 407-740-8575  
Fax: 407-740-0613  
tmi@tminc.com

August 10, 2005  
**Overnight Delivery**

Ms. Pamela Bonrud  
Executive Director  
South Dakota Public Utilities Commission  
Capitol Building, 1st Floor  
500 East Capitol Ave.  
Pierre, SD 57501-5070

**RECEIVED**

AUG 11 2005

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

**RE: Registration of Ernest Communications, Inc. to Provide Interexchange Services  
within South Dakota**

Dear Ms Bonrud:

Enclosed for filing are the original and ten (10) copies of the registration of Ernest Communications, Inc. ("Ernest") for authority to provide interexchange services within South Dakota. Also enclosed is our check in the amount of \$250.00 to cover the filing fee.

Please acknowledge receipt of this filing by date stamping the extra copy of this cover letter and returning it to me in the self-addressed stamped envelope. Any questions you may have regarding this filing may be directed to me at (407) 740-3006 or via email at croesel@tminc.com.

Thank you for your assistance.

Sincerely,

Carey Roesel  
Consultant to Ernest Communications, Inc.

CR/gs  
Enclosure

cc: Suzanne Walters - Ernest  
file: Ernest - SD IXC  
tms: sdi0500

BEFORE THE  
SOUTH DAKOTA PUBLIC SERVICE COMMISSION

REGISTRATION OF  
ERNEST COMMUNICATIONS, INC.

TC05-155

RECEIVED

AUG 11 2005

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Pursuant to Rule 20:10:24:02 of the Commission's Telecommunications Services Rules, Ernest Communications, Inc. ("Ernest") submits the following registration information:

**1. The name, address and telephone number of the applicant:**

Ernest Communications, Inc.  
5275 Triangle Parkway, Suite 150  
Norcross, Georgia 30092  
Phone: 770-242-9069  
Fax: 770-448-4115  
Toll-Free: 800-456-8353

**2. The name under which the Applicant will provide these services if different than in subdivision (1) of this section:**

Same as subdivision (1).

**3. If the applicant is a corporation:**

- (a) The state in which it is incorporated, the date of incorporation and a copy of its certificate of incorporation or, if it is an out-of-state corporation, a copy of its certificate of authority in South Dakota from the Secretary of State;**

Applicant is a privately held corporation, incorporated in Georgia in 1984. A copy of Applicant's certificate of authority to operate in the State of South Dakota is provided in Attachment I.

- (b) The location of its principal office, if any, in this state and the name and address of its current registered agent.**

Ernest has no principal office in South Dakota.

**Registered Agent:** National Registered Agents, Inc.  
300 South Philips Avenue, Suite 300  
Sioux Falls, SD 57102

**3. If the applicant is a corporation: (cont'd.)**

- (c) The name and address of each corporation, association, partnership, cooperative or individual holding a 20 percent or greater ownership or management interest in the applicant corporation and the amount and character of the ownership or management interest;**

**Principal stockholders.**

Joseph Ernest	70%
Chairman and CEO	
Ernest Communications, Inc.	
5275 Triangle Parkway, Suite 150	
Norcross, Georgia 30092	
Telephone: 770 / 242-9069	

Paul Masters	30%
President	
Ernest Communications, Inc.	
5275 Triangle Parkway, Suite 150	
Norcross, Georgia 30092	
Telephone: 770 / 242-9069	

**4. If the applicant is a partnership, the name, title and business address of each partner, both general and limited.**

Not applicable.

**5. A description of the telecommunications services the applicant intends to offer.**

Ernest proposes to offer outbound telecommunications services to residential and business Customers, utilizing switched and dedicated access. Switched access service is available on a presubscription basis from equal access originating end offices. Ernest will also offer travel card and inbound toll-free services. All services are available twenty-four (24) hours a day, seven (7) day a week. Service is offered as an add-on to Ernest's interstate service.

Ernest will operate as a switchless reseller. Calls originate over LEC facilities to the Company's underlying carrier(s). The Company's underlying carrier performs all interexchange switching, routing, and call termination functions. Call detail information is provided to the Company by the underlying carrier for purposes of rating and billing calls.

**6. A detailed statement of the means by which the applicant will provide its services.**

Ernest does not intend to install or operate any switching or transmission facilities in South Dakota. The Company will use resold transmission services of other carriers.

**7. The geographic areas in which the services will be offered or a map describing the service area.**

Ernest intends to offer its services throughout the State of South Dakota.

8. **Current financial statements of the applicant including a balance sheet, income statement, and cash flow statement; a copy of the applicant's latest annual report; a copy of the applicant's report to stockholders; and a copy of the applicant's tariff with the terms and conditions of service.**

Ernest has sufficient financial resources to operate as a telecommunications reseller. Applicant is a privately held corporation, and therefore does not publish an annual report or issue a report to its stockholders. The terms and conditions of service as well as all rates are provided in the Applicant's proposed tariff; see Attachment II.

9. **The names, addresses, telephone number, fax number, E-mail address, and toll-free number of the applicant's representatives to whom all inquiries must be made regarding complaints and regulatory matters, and a description of how the applicant handles customer billings and customer service matters.**

**For inquiries regarding this application and tariff, contact:**

Carey Roesel, Consultant to Ernest Communications, Inc.  
Technologies Management, Inc.  
210 N. Park Avenue  
Winter Park, FL 32789  
Phone: 407-740-8575  
Fax: 407-740-0613

**For complaints and on-going regulatory issues:**

Paul Masters, Chief Financial Officer  
Ernest Communications, Inc.  
5275 Triangle Parkway, Suite 150  
Norcross, Georgia 30092  
Phone: 770-242-9069  
Fax: 770-448-4115  
Toll-Free: 800-456-8353  
E-Mail: [pmasters@ernestgroup.com](mailto:pmasters@ernestgroup.com)

**For all other matters, contact:**

Paul Masters, Chief Financial Officer  
Ernest Communications, Inc.  
5275 Triangle Parkway, Suite 150  
Norcross, Georgia 30092  
Phone: 770-242-9069  
Fax: 770-448-4115  
Toll-Free: 800-456-8353  
E-Mail: [pmasters@ernestgroup.com](mailto:pmasters@ernestgroup.com)

Customers may contact Ernest's Customer Service department at 800-456-8353. Customer service personnel are fully trained to handle calls efficiently and courteously.

10. **A list of the states in which the applicant is registered or certified to provide telecommunications services, whether the applicant has ever been denied registration or certification in any state and the reasons for any such denial, a statement as to whether or not the applicant is in good standing with the appropriate regulatory agency in the states where it is registered or certified, and a detailed explanation of why the applicant is not in good standing in a given state, if applicable:**

Ernest currently provides service in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, California, Missouri, Oklahoma, New York, Maryland, New Jersey, Virginia, Washington, Oregon, Arizona, and Colorado. Ernest has not been denied requested certification in any jurisdiction, nor has it had a permit, license, or certificate revoked by any authority.

The Company understands the bond requirements within South Dakota and is willing to post the \$25,000 surety bond.

11. **A description of how the applicant intends to market services, its target market, whether the applicant engages in any multilevel marketing, and copies of any company brochures used to assist in the sale of services.**

The Company's plan is to market its services to residential and business customers through sales agents. Ernest does not engage in multilevel marketing. Candidates for sales positions are required to participate in a formal one week training session. The training session is conducted by the Director of Sales and Marketing, and includes an overview of the long distance industry, selling techniques, and closing procedures. Company policies and procedures are also reviewed with the candidates. Upon completion of the training session, candidates are required to spend a week with a current telemarketer or salesperson. This "buddy system" is used to acclimate the candidate to the day to day routines before selling independently. Ernest's target market is small and medium sized businesses.

12. **Cost support for rates shown in the company's tariff for all noncompetitive or emerging competitive services.**

All services offered by Ernest are competitive.

13. **Federal tax identification number:**

Ernest's Federal tax identification number is 58-2395113.

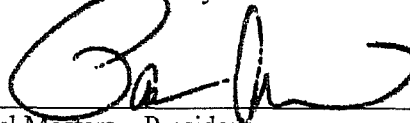
- 14. The number and nature of complaints filed against the applicant with any state or federal regulatory commission regarding the unauthorized switching of a customer's telecommunications provider and the act of charging customers for services that have not been ordered.**

Ernest has not had any slamming or cramming complaints filed against it.

- 15. A written request for waiver of those rules the applicant believes to be inapplicable.**

Ernest is not requesting any waivers at this time.

Submitted by:

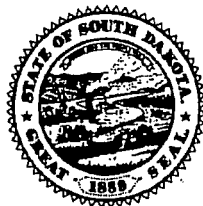
A handwritten signature in black ink, appearing to read 'Paul Masters', is written over a horizontal line.

Paul Masters – President  
Ernest Communications, Inc.

## **ATTACHMENT I**

Authority to Operate in South Dakota

# State of South Dakota



## OFFICE OF THE SECRETARY OF STATE

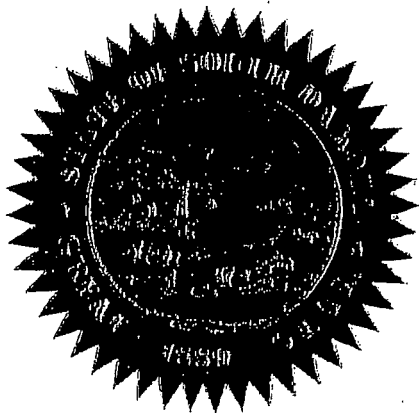
### Certificate of Authority

ORGANIZATIONAL ID #: FB028766

I, **Chris Nelson**, Secretary of State of the State of South Dakota, hereby certify that the Application for a Certificate of Authority of **ERNEST COMMUNICATIONS, INC. (GA)** to transact business in this state duly signed and verified pursuant to the provisions of the South Dakota Corporation Acts, have been received in this office and are found to conform to law.

**ACCORDINGLY** and by virtue of the authority vested in me by law, I hereby issue this Certificate of Authority and attach hereto a duplicate of the application to transact business in this state.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of South Dakota, at Pierre, the Capital, this August 2, 2004.



*Chris Nelson*

Chris Nelson  
Secretary of State





Secretary of State  
State Capitol  
500 E. Capitol Ave.  
Pierre SD 57501  
Phone 605-773-4845  
Fax 605-773-4550

FILE NO. \_\_\_\_\_

RECEIPT NO. \_\_\_\_\_

RECEIVED

NOV 02 '04

S.D. SEC. OF STATE

## Application for Certificate of Authority

Pursuant to the provisions of SDCL 47-8-7, the undersigned corporation hereby applies for a Certificate of Authority to transact business in the State of South Dakota and for that purpose submits the following statement:

(1) The name of the corporation is ERNEST COMMUNICATIONS, INC.  
(exact corporate name)

(2) If the name of the corporation does not contain the word "corporation", "company", "incorporated", or "limited" or does not contain an abbreviation of one or more of such words, then the name of the corporation with the word or abbreviation which it elects to add thereto for use in this state

(3) State where incorporated Georgia Federal Taxpayer ID# 58-2395113

(4) The date of its incorporation is May 11, 1998 and the period of its duration, which may be perpetual, is perpetual

(5) The address of its principal office in the state or country under the laws of which it is incorporated is  
5275 Triangle Parkway, Suite 150, Norcross, GA Zip Code 30092  
mailing address if different from above is: \_\_\_\_\_ Zip Code \_\_\_\_\_

(6) The street address, or a statement that there is no street address, of its proposed registered office in the State of South Dakota is  
300 South Phillips Avenue, Suite 300, Sioux Falls, SD Zip Code 57104

and the name of its proposed registered agent in the State of South Dakota at that address is National Registered Agents, Inc.

(7) The purposes which it proposes to pursue in the transaction of business in the State of South Dakota are: (state specific purpose)  
To provide local and long distance telecommunications services to business,  
residential and coin telephone customers throughout each state

(8) The names and respective addresses of its directors and officers are:

Name	Officer Title	Street Address	City	State	Zip
<u>Paul Masters</u>	<u>President</u>	<u>5275 Triangle Pky, Suite 150,</u>	<u>Norcross,</u>	<u>GA</u>	<u>30092</u>
<u>Joseph Ernest</u>	<u>Vice-President</u>	<u>5275 Triangle Pky, Suite 150,</u>	<u>Norcross,</u>	<u>GA</u>	<u>30092</u>

(9) The aggregate number of shares which it has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class is:

Number of shares	Class	Series	Par value per share or statement that shares are without par value
<u>5,000,000</u>	<u>Common</u>	<u>---</u>	<u>\$.001</u>
<u>1,000,000</u>	<u>Preferred</u>	<u>---</u>	<u>\$.001</u>

(10) The aggregate number of its issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class, is:

Number of shares	Class	Series	Par value per share or statement that shares are without par value
2,025,000	Common	---	\$.001 per share

(11) The amount of its stated capital is \$ 2,025.00

Shares issued times par value equals stated capital. In the case of no par value stock, stated capital is the consideration received for the issued shares.

(12) This application is accompanied by a CERTIFICATE OF FACT or a CERTIFICATE OF GOOD STANDING duly acknowledged by the Secretary of State or other officer having custody of corporate records in the state or country under whose laws it is incorporated.

(13) That such corporation shall not directly or indirectly combine or make any contract with any incorporated company, foreign or domestic, through their stockholders or the trustees or assigns of such stockholders, or with any copartnership or association of persons, or in any manner whatever to fix the prices, limit the production or regulate the transportation of any product or commodity so as to prevent competition in such prices, production or transportation or to establish excessive prices therefor.

(14) That such corporation, as a consideration of its being permitted to begin or continue doing business within the State of South Dakota, will comply with all the laws of the said State with regard to foreign corporations.

The application must be signed, in the presence of a notary public, by the chairman of the board of directors, or by the president or by another officer.

I DECLARE AND AFFIRM UNDER THE PENALTY OF PERJURY THAT THIS APPLICATION IS IN ALL THINGS, TRUE AND CORRECT.

Dated July 2, 2004

(Signature)

Paul Masters, President

(Title)

STATE OF Georgia

COUNTY OF Gwinnett

I, Pam Ernest, a notary public, do hereby certify that on this 2 day of July, 2004, personally appeared before me Paul Masters who, being by me first duly sworn, declared that he/she is the president of ERNEST COMMUNICATIONS, INC., that he/she signed the foregoing document as officer of the corporation, and the statements therein contained are true.

11/12/06  
My Commission Expires

(Notary Public)

Notarial Seal

\*\*\*\*\*  
The Consent of Appointment below must be signed by the registered agent listed in number six.

### Consent of Appointment by the Registered Agent

I, National Registered Agents, Inc., hereby give my consent to serve as the registered  
(name of registered agent)  
agent for ERNEST COMMUNICATIONS, INC.  
(corporate name)

Dated July 20 20 04

By: Paul Ernesty Bette

(signature of registered agent)

**ATTACHMENT II**

Proposed Tariff

SOUTH DAKOTA  
  
INTEREXCHANGE TELECOMMUNICATIONS TARIFF  
  
OF  
  
ERNEST COMMUNICATIONS, INC.

This tariff contains the descriptions, regulations, and rates applicable to the furnishing of interexchange telecommunications services provided by Ernest Communications, Inc. within the State of South Dakota. This tariff is on file with the South Dakota Public Utilities Commission. Copies may be inspected during normal business hours at the Company's principal place of business.

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ISSUED:

EFFECTIVE:

ISSUED BY: Paul Masters, President  
5275 Triangle Parkway, Suite 150  
Norcross, Georgia 30092

sdi0500

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**CHECK SHEET**

Pages, as listed below, are effective as of the date shown at the bottom of the respective page(s). Original and revised pages as named below comprise all changes from the original tariff and are currently in effect as of the date on the bottom of this page.

<b>PAGE</b>	<b>REVISION</b>		<b>PAGE</b>	<b>REVISION</b>	
1	Original	*	25	Original	*
2	Original	*	26	Original	*
3	Original	*	27	Original	*
4	Original	*	28	Original	*
5	Original	*	29	Original	*
6	Original	*	30	Original	*
7	Original	*	31	Original	*
8	Original	*			
9	Original	*			
10	Original	*			
11	Original	*			
12	Original	*			
13	Original	*			
14	Original	*			
15	Original	*			
16	Original	*			
17	Original	*			
18	Original	*			
19	Original	*			
20	Original	*			
21	Original	*			
22	Original	*			
23	Original	*			
24	Original	*			

\* included in this filing.

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**ISSUED:****EFFECTIVE:****ISSUED BY:**

Paul Masters, President  
5275 Triangle Parkway, Suite 150  
Norcross, Georgia 30092

sdi0500

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ISSUED:

EFFECTIVE:

ISSUED BY:

Paul Masters, President  
5275 Triangle Parkway, Suite 150  
Norcross, Georgia 30092

sdi0500

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**SYMBOLS**

The following are the only symbols used for the purposes indicated below:

- C** Changed regulation.
- D** Delete or discontinue.
- I** Change Resulting in an increase to a Customer's bill.
- M** Moved from another tariff location.
- N** New
- R** Change resulting in a reduction to a Customer's bill.
- T** Change in text or regulation.

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ISSUED:

EFFECTIVE:

ISSUED BY: Paul Masters, President  
5275 Triangle Parkway, Suite 150  
Norcross, Georgia 30092

sdi0500

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## TARIFF FORMAT

**A. Page Numbering** - Page numbers appear in the upper right corner of the page. Pages are numbered sequentially. However, new pages are occasionally added to the tariff. When a new page is added between pages already in effect, a decimal is added. For example, a new page added between pages 14 and 15 would be 14.1.

**B. Page Revision Numbers** - Revision numbers also appear in the upper right corner of each page. These numbers are used to determine the most current page version on file with the Commission. For example, the 4th revised Page 14 cancels the 3rd revised Page 14. Because of various suspension periods, deferrals, etc., the most current page number on file with the Commission is not always the tariff page in effect. Consult the Check Sheet for the page currently in effect.

**C. Paragraph Numbering Sequence** - There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:

- 2.
- 2.1.
- 2.1.1.
- 2.1.1.A.
- 2.1.1.A.1.
- 2.1.1.A.1.(a).
- 2.1.1.A.1.(a).I.
- 2.1.1.A.1.(a).I.(i).
- 2.1.1.A.1.(a).I.(i).(1).

**D. Check Sheets** - When a tariff filing is made with the Commission, an updated Check Sheet accompanies the tariff filing. The Check Sheet lists the pages contained in the tariff, with a cross reference to the current revision number. When new pages are added, the Check Sheet is changed to reflect the revision. All revisions made in a given filing are designated by an asterisk (\*). There will be no other symbols used on this page if these are the only changes made to it (i.e., the format, etc. remain the same, just revised revision levels on some pages.) The tariff user should refer to the latest Check Sheet to find out if a particular page is the most current on file with the Commission.

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ISSUED:

EFFECTIVE:

ISSUED BY:

Paul Masters, President  
5275 Triangle Parkway, Suite 150  
Norcross, Georgia 30092

sdi0500



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## SECTION 1 - TERMS AND ABBREVIATIONS

**Authorization Code** - A pre-defined series of numbers to be dialed by the Customer or End User upon access to the Company's system to notify the caller and validate the caller's authorization to use the services provided. The Customer is responsible for charges incurred through the use of his or her assigned Authorization Code.

**Authorized User** - A person, firm, partnership, corporation or other entity who is authorized by the Customer to be connected to and utilize the Carrier's services under the terms and regulations of this tariff.

**Commission** - Refers to the South Dakota Public Utilities Commission.

**Company or Carrier** - Ernest Communications, Inc. unless otherwise clearly indicated by the context.

**Customer** - A person, firm, partnership, corporation or other entity which arranges for the Carrier to provide, discontinue or rearrange telecommunications services on behalf of itself or others; uses the Carrier's telecommunications services; and is responsible for payment of charges, all under the provisions and terms of this tariff.

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ISSUED:

EFFECTIVE:

ISSUED BY:

Paul Masters, President  
5275 Triangle Parkway, Suite 150  
Norcross, Georgia 30092

sdi0500

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**SECTION 1 - TERMS AND ABBREVIATIONS, (CONT'D.)**

**End User** - Any person, firm, corporation, partnership or other entity which uses the services of the Company under the provisions and regulations of this tariff. The End User is responsible for payment unless the charges for the services utilized are accepted and paid by another Customer.

**Equal Access** - Where the local exchange company central office provides interconnection to interexchange carriers with Feature Group D circuits. In such end offices, Customers can presubscribe their telephone line(s) to their preferred interexchange carrier.

**Ernest** - Used throughout this tariff to refer to Ernest Communications, Inc.

**LATA** - Local Area of Transport and Access.

**LEC** - Local Exchange Company.

**Personal Identification Number (PIN)** - See Authorization Code.

**Switched Access Origination/Termination** - Where access between the Customer and the interexchange carrier is provided on local exchange company Feature Group circuits and the connection to the Customer is a LEC-provided business or residential access line. The cost of switched Feature Group access is billed to the interexchange carrier.

**V & H Coordinates** - Geographic points which define the originating and terminating points of a call in mathematical terms so that the airline mileage of the call may be determined. Call mileage may be used for the purpose of rating calls.

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ISSUED:

EFFECTIVE:

ISSUED BY: Paul Masters, President  
5275 Triangle Parkway, Suite 150  
Norcross, Georgia 30092

sdi0500

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## SECTION 2 - RULES AND REGULATIONS

### 2.1 Undertaking of Ernest Communications, Inc.

The Company provides long distance message telecommunications service to Customers for their direct transmission of voice, data and other types of telecommunications.

Communications originate when the Customer accesses the Company directly or through the facilities of another carrier via one or more access lines, equal access or on a dial-up basis. The Company may act as the Customer's agent for ordering access connection facilities provided by other carriers or entities when authorized by the Customer, to allow connection of a Customer's location to the Company's network. The Customer shall be responsible for all charges due for such service arrangements.

The Company's services are provided on a monthly basis, unless otherwise stated in this tariff. Services are available twenty-four (24) hours per day, seven (7) days per week.

### 2.2 Use

- 2.2.1 Services provided under this tariff may be used by the Customer for any lawful telecommunications purpose for which the service is technically suited.
- 2.2.2 The services the Company offers shall not be used for any unlawful purpose or for any use as to which the Customer has not obtained all required governmental approvals, authorizations, licenses, consents and permits.
- 2.2.3 The Company may require applicants for service who intend to use the Company's offerings for resale, shared and/or joint use to file a letter with the Company confirming that their use of the Company's offerings complies with relevant laws and the Commission's regulations, policies, orders, and decisions.
- 2.2.4 A Customer may transmit or receive information or signals via the facilities of the Company. The Company's services are designed primarily for the transmission of voice-grade telephonic signals, except as otherwise stated in this tariff. A user may transmit any form of signal that is compatible with the Company's equipment, but the Company does not guarantee that its services will be suitable for purposes other than voice-grade telephonic communication except as specifically stated in this tariff.

---

ISSUED:

EFFECTIVE:

ISSUED BY: Paul Masters, President  
5275 Triangle Parkway, Suite 150  
Norcross, Georgia 30092

sdi0500

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**SECTION 2 - RULES AND REGULATIONS, (CONT'D.)**

**2.3 Limitations**

- 2.3.1 The Company reserves the right to discontinue service when necessitated by conditions beyond its control, or when the Customer is using the service in violation of the provisions of this tariff, or in violation of the law.
- 2.3.2 Service is offered subject to the availability of the necessary facilities and equipment, or both facilities and equipment, and subject to the provisions of this tariff.
- 2.3.3 The Company does not undertake to transmit messages, but offers the use of its facilities when available, and will not be liable for errors in transmission or for failure to establish connections.
- 2.3.4 Service may be limited or discontinued by the Company, without notice to the Customer, by blocking traffic to certain countries, cities, or NXX exchanges when the Company deems it necessary to take such action to prevent unlawful use of its service. Service will be restored as soon as it can be provided without undue risk.
- 2.3.5 The Company reserves the right to limit or to allocate the use of existing facilities, or of additional facilities offered by the Company, when necessary because of lack of facilities, or due to some other cause beyond the Company's control.
- 2.3.6 To the extent that any conflict arises between the terms and conditions of a service agreement or other contract and the terms and conditions of this tariff, the tariff shall prevail.
- 2.3.7 Title to all equipment provided by the Company under this tariff remains with the Company.

---

ISSUED:

EFFECTIVE:

ISSUED BY:

Paul Masters, President  
5275 Triangle Parkway, Suite 150  
Norcross, Georgia 30092

sdi0500

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**SECTION 2 - RULES AND REGULATIONS, (CONT'D.)**

**2.4 Assignment and Transfer**

- 2.4.1** All facilities provided under this tariff are directly or indirectly controlled by Ernest and neither the Customer nor Subscriber may transfer or assign the use of service or facilities without the express written consent of the Company. All regulations and conditions contained in this tariff shall apply to all such permitted assignees or transferees, as well as all conditions of service. Such transfer or assignment, when permitted, shall only apply where there is no interruption of the use or location of the service or facilities.
- 2.4.2** Customer may request Carrier to assign one or more sub-accounts for billing purposes, and to direct sub-account invoices to Customer's affiliates or other designated entities for payment. Such requests shall not affect the liability of the Customer, who shall remain solely liable to the Company for payment of all invoices for service requested and obtained by Customer, whether invoiced by the Company to the Customer, the Customer's affiliates, or other designated entities.

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ISSUED:

EFFECTIVE:

ISSUED BY: Paul Masters, President  
5275 Triangle Parkway, Suite 150  
Norcross, Georgia 30092

sdi0500

---

**SECTION 2 - RULES AND REGULATIONS, (CONT'D.)**

**2.5 Liability of the Company**

- 2.5.1** Ernest's liability for damages arising out of mistakes, interruptions, omissions, delays, errors, or defects in transmission which occur in the course of furnishing service or facilities, shall be determined in accordance with SDCL 49-13-1 and 49-13-1.1 and any other applicable law.
- 2.5.2** The Company shall not be liable for any claim or loss, expense or damage (including indirect, special or consequential damage), for any interruption, delay, error, omission, or defect in any service, facility or transmission provided under this tariff, if caused by any person or entity other than the Company, by any malfunction of any service or facility provided by any other carrier, by an Act of God, fire, war, civil disturbance, or act of government, or by any other cause beyond the Company's direct control.
- 2.5.3** Indemnification - The Company's liability, if any, for its gross negligence or willful misconduct is not limited by this tariff. The Customer indemnifies and saves harmless the Company against claims for libel, slander, invasion of privacy or the infringement of copyright arising directly or indirectly from the material transmitted over the facilities of the Company or the use thereof by the Customer; against claims for infringement of patents arising from combining with or using in connection with, facilities furnished by the Company and apparatus, equipment and systems provided by the Customer. No agents or employees of other carriers shall be deemed to be agents or employees of the Company.

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ISSUED:

EFFECTIVE:

ISSUED BY:

Paul Masters, President  
5275 Triangle Parkway, Suite 150  
Norcross, Georgia 30092

sdi0500

---

**SECTION 2 - RULES AND REGULATIONS, (CONT'D.)**

**2.5 Liability of the Company, (Cont'd.)**

- 2.5.4** Defacement of premises: No liability shall attach to the Company by reason of any defacement or damage to the Customer's premises resulting from the existence of the Company's equipment or facilities on such premises, or by the installation or removal thereof, when such defacement or damage is not the result of the negligence of the Company or its employees.
- 2.5.5** Service furnished by the Company may be interconnected with the services or facilities of other carriers or private systems. However, service furnished is provided solely by the Company and is not a joint undertaking with other parties.
- 2.5.6** The Company shall not be liable for any claim, loss, or refund as a result of loss or theft of Personal Identification Numbers issued for use with the Company's services.
- 2.5.7** The Company shall not be liable for any damages, including usage charges, that the Customer may incur as a result of the unauthorized use of authorization codes of communications equipment. The unauthorized use of communications equipment includes, but is not limited to, the placement of calls from the Customer's premises, and the placement of calls through equipment controlled and/or provided by the Customer that are transmitted over the company's network without the authorization of the Customer. The Customer shall be fully liable for all such usage charges.

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**SECTION 2 - RULES AND REGULATIONS, (CONT'D.)****2.6 Customer Responsibility**

**2.6.1** All Customers assume general responsibilities in connection with the provisions and use of the Company's service. When facilities, equipment, and/or communication systems provided by others are connected to the Company's facilities, the Customer assumes additional responsibilities. All Customers are responsible for the following:

- A.** The Customer is responsible for placing orders for service, paying all charges for service rendered by the Company and complying with all of the Company's regulations governing the service. The Customer is also responsible for assuring that its users comply with regulations.
- B.** When placing an order for service, the Customer must provide:
  - 1. The names and addresses of the persons responsible for the payment of service charges, and
  - 2. The names, telephone numbers, and addresses of the Customer contact persons.
- C.** The Customer must pay the Company for the replacement or repair of the Company's equipment when the damage results from:
  - 1. The negligence or willful act of the Customer or user;
  - 2. Improper use of service; and
  - 3. Any use of equipment or service provided by others.
- D.** After receipt of payment for the damages, the Company will cooperate with the Customer in prosecuting a claim against any third party causing damage.

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**SECTION 2 - RULES AND REGULATIONS, (CONT'D.)**

**2.6 Customer Responsibility, (Cont'd.)**

**2.6.2 Billing and Payment For Service**

**A. Responsibility for Charges**

The Customer is responsible for payment of all charges for services and equipment furnished to the Customer for transmission of calls via the Company. In particular and without limitation to the foregoing, the Customer is responsible for any and all cost(s) incurred as the result of:

1. any delegation of authority resulting in the use of his or her communications equipment and/or network services which result in the placement of calls via the Company;
2. any and all use of the services provided by the Company, including calls which the Customer did not individually authorize;
3. any calls placed by or through the Customer's equipment via any remote access feature(s);

Charges for installations, service connections, moves and rearrangements are payable upon demand to the Company or its authorized agent. Billing thereafter will include recurring charges and actual usage as defined in this tariff.

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**SECTION 2 - RULES AND REGULATIONS, (CONT'D.)**

**2.6 Customer Responsibility, (Cont'd.)**

**2.6.2 Billing and Payment For Service**

**B. Disputed Charges**

Any objections to billed charges must be reported to the Company or its billing agent in writing within 180 days of the closing date printed on the invoice or statement issued to the Customer. Adjustments to Customers' account shall be made to the extent that circumstances exist which reasonably indicate that such changes are appropriate.

**C. Customer Inquiries or Complaints**

Customer inquiries or complaints regarding service or billings may be made in writing or phone to:

Ernest Communications, Inc.  
5275 Triangle Parkway, Suite 150  
Norcross, Georgia 30092  
Telephone: (770) 242-9069  
Toll Free: (800) 456-8353  
or

Customers may contact the South Dakota Public Utilities Commission if he or she is dissatisfied with the Company's response. The Commission can be reached at:

South Dakota Public Utilities Commission  
500 East Capitol  
Pierre, South Dakota 57501-5070  
Telephone: (605) 773-3201  
Toll Free: (800) 332-1782  
TTY: (800) 877-1113

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**SECTION 2 - RULES AND REGULATIONS, (CONT'D.)**

**2.6 Customer Responsibility, (Cont'd.)**

**2.6.3 Taxes and Fees**

- A.** All state and local taxes (e.g., gross receipts tax, sales tax, municipal utilities tax) are not included in the rates under this tariff, but shall be listed as separate line items on the Customer's bill.
- B.** To the extent that a municipality, other political subdivision or local agency of government, or commission imposes and collects from the Company a gross receipts tax, occupation tax, license tax, permit fee, franchise fee, or regulatory fee, such taxes and fees shall, as allowed by law, be billed pro rata to the Customer receiving service from the Company within the territorial limits of such municipality, other political subdivision or local agency of government.
- C.** Service shall not be subject to taxes for a given taxing jurisdiction if the Customer provides the Company with written verification, acceptable to the Company and to the relevant taxing jurisdiction, that the Customer has been granted a tax exemption.
- D.** The Company may adjust its rates or impose additional rates on its Customer to recover amounts it is required by governmental or quasi-governmental authorities to collect from or pay to others. The Company may also adjust its rates or impose additional rates to cover the administrative cost of collecting such charges or paying compensation to other entities. Examples of such programs include, but are not limited to, the Universal Service Fund (USF), the Presubscribed Interexchange Carrier Charge (PICC), and compensation to pay telephone service providers for the use of their pay telephones to access the Company's services.

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**SECTION 2 - RULES AND REGULATIONS, (CONT'D.)**

**2.6 Customer Responsibility, (Cont'd.)**

**2.6.4 Late Payment Fees**

A late payment fee of 1.5% per month will be charged on any past due balance. Any applicable late payment fees will be assessed according to the terms and conditions of the Company or its billing agent and pursuant to South Dakota state law.

**2.6.5 Return Check Charge**

Customers will be charged \$25.00 on all checks issued to the Company which are returned due to insufficient funds. At the discretion of the Company, the insufficient funds check charge may be waived under appropriate circumstances (e.g., a bank error).

**2.6.6 Deposits**

The Company does not collect Customer deposits.

**2.6.7 Advance Payments**

The Company does not require advance payments for service.

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**SECTION 2 - RULES AND REGULATIONS, (CONT'D.)**

**2.6 Customer Responsibility, (Cont'd.)**

**2.6.8 Cancellation by Customer**

Customers may cancel service verbally or in writing at any time. The Company shall hold the Customer responsible for payment of all charges, including fixed fees, surcharges, etc., which accrue up to the cancellation date. Charges may be avoided by dialing another carrier's access code. In the event the Customer executes a term commitment agreement with the Company, the Customer must cancel service and terminate the agreement in accordance with the agreement terms.

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**SECTION 2 - RULES AND REGULATIONS, (CONT'D.)****2.7 Refunds or Credits for Service Outages or Interruptions**

- 2.7.1** An interruption period begins when the Customer reports a service, facility or circuit to be inoperative and, if necessary, releases it for testing and repair. An interruption period ends when the service, facility or circuit is operative. Credits for service outages or interruptions are subject to the regulations listed below.
- 2.7.2** If the Customer reports a service, facility or circuit to be interrupted but declines to release it for testing and repair, or refuses access to its premises for test and repair by the Company, the service, facility or circuit is considered to be impaired but not interrupted. No credit allowances will be made for a service, facility or circuit considered by the Company to be impaired.
- 2.7.3** Credit allowances for interruption periods which are not due to the Company's testing or adjusting, to the negligence of the Customer, or to the failure of channels, equipment and/or communications systems provided by the Customer, are subject to the general liability provisions set forth in this tariff. It shall be the obligation of the Customer to notify Company immediately of any interruption in service for which a credit allowance is desired by Customer. Before giving such notice, the Customer shall ascertain that the trouble is not within his or her control, or is not in wiring or equipment, if any, furnished by Customer.
- 2.7.4** The Customer shall be responsible for the payment of service charges based upon time and materials for visits by the Company's agents or employees to the premises of the Customer when the service difficulty or trouble report results from the use of equipment or facilities provided by any party other than the Company, including but not limited to the Customer.

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**SECTION 2 - RULES AND REGULATIONS, (CONT'D.)****2.7 Refunds or Credits for Service Outages or Interruptions, (Cont'd.)**

- 2.7.5** For purposes of credit computation every month shall be considered to have seven hundred and twenty (720) hours. For services with a monthly recurring charge, no credit shall be allowed for an interruption of continuous duration of less than four (4) hours. The Customer shall be credited for an interruption of four (4) or more hours at the rate of 1/720th of the monthly charge for the services affected for each hour that the interruption continues. The formula used for computation of credits is as follows:

$$\text{Credit} = A/720 \times B$$

A = outage time in hours (must be 4 or more)

B = total monthly recurring charge for affected service.

- 2.7.6** For usage sensitive long distance services, credits will be limited to, a maximum, the price of the Initial Period of the individual call that was interrupted plus any per call charges or surcharges required to reconnect the caller.

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**SECTION 2 - RULES AND REGULATIONS, (CONT'D.)****2.8 Cancellation or Termination of Service by Customer**

- 2.8.1** Customers of presubscribed long distance services may cancel service at any time by providing Ernest with written or verbal notification. The Company shall hold the Customer responsible for payment of all bills for service furnished until the cancellation date specified by the Customer or until the date that the cancellation notice is received, whichever is later.

**2.9 Cancellation or Termination of Service by Company**

- 2.9.1** For nonpayment: The Company may terminate service to a Customer or Subscriber for nonpayment of undisputed charges upon five (5) days written notice to the Customer or Subscriber without incurring any liability for damages due to loss of telephone service to the Customer or Subscriber.
- 2.9.2** Ernest may refuse or discontinue service under the following conditions provided that, unless otherwise stated, the Customer shall be given five (5) days notice to comply with any rule or remedy any deficiency:
- A.** For non-compliance with or violation of any State, Municipal, or Federal law, ordinance or regulation pertaining to telephone service.
  - B.** For use of telephone service for any purpose other than that described in the application.
  - C.** For neglect or refusal to provide reasonable access to Ernest or its agents for the purpose of inspection and maintenance of equipment owned by Ernest or its agents.
  - D.** For noncompliance with or violation of Commission regulation or Ernest's rules and regulations on file with the Commission.

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**SECTION 2 - RULES AND REGULATIONS, (CONT'D.)**

**2.9 Cancellation or Termination of Service by Company, (Cont'd.)**

**2.9.2 Continued**

- E.** Without notice in the event of Customer, Subscriber or Authorized User use of equipment in such a manner as to adversely affect Ernest's equipment or service to others.
- F.** Without notice in the event of tampering with the equipment or services owned by Ernest or its agents.
- G.** Without notice in the event of unauthorized or fraudulent use of service. Whenever service is discontinued for fraudulent use of service, Ernest may, before restoring service, require the Customer or Subscriber to make, at his or her own expense, all changes in facilities or equipment necessary to eliminate illegal use and to pay an amount reasonably estimated as the loss in revenues resulting from such fraudulent use.
- H.** Without notice by reason of any order or decision of a court or other government authority having jurisdiction which prohibits Company from furnishing such services.

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**SECTION 2 - RULES AND REGULATIONS, (CONT'D.)****2.10 Interconnection**

Service furnished by Ernest may be connected with the services or facilities of other carriers. Such service or facilities are provided under the terms, rates and conditions of the other carrier. The Customer is responsible for all charges billed by other carriers for use in connection with Ernest's service. Any special interface equipment or facilities necessary to achieve compatibility between carriers is the responsibility of the Customer.

**2.11 Terminal Equipment**

The Company's facilities and service may be used with or terminated in terminal equipment or communications systems such as a PBX, key system, single line telephone, or pay telephone. Such terminal equipment shall be furnished and maintained at the expense of the Customer. The Customer is responsible for all costs at his or her premises, including personnel, wiring, electrical power, and the like, incurred in the use of Ernest's service. When such terminal equipment is used, the equipment shall comply with the generally accepted minimum protective criteria standards of the telecommunications industry.

**2.12 Inspection, Testing and Adjustment**

Upon reasonable notice, the facilities or equipment provided by the Company shall be made available to the Company for such tests and adjustments as may be necessary for their maintenance in a condition satisfactory to the Company. No interruption allowance shall be granted for the time during which such tests and adjustments are made, unless such interruption exceeds twenty-four hours in length and credit for the interruption is requested by the Customer.

**2.13 900, 976 and 700 Numbers**

The Company does not provide 900, 976 or 700 number services. Customer calls placed to these numbers are routed to the local or long distance carrier providing the service. Customers may contact their local exchange carrier or the carrier providing the service to request blocking of access to these numbers.

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**SECTION 2 - RULES AND REGULATIONS, (CONT'D.)**

**2.14 Toll Free Services**

- 2.14.1** The Company will make every effort to reserve toll free (i.e., "800/888") vanity numbers for Customers, but makes no guarantee or warranty that the requested number(s) will be available.
- 2.14.2** The Company will participate in porting toll free numbers only when all charges incurred as a result of the toll free number have been paid.
- 2.14.3** Toll free numbers shared by more than one Customer, whereby individual Customers are identified by a unique Personal Identification Number, may not be assigned or transferred for use with service provided by another carrier. Subject to the limitations provided in this tariff, the Company will only honor Customer requests for a change in Responsible Organization or toll free service provider for toll free numbers dedicated to the sole use of that single Customer.
- 2.14.4** If a Customer who has received a toll free number does not subscribe to toll free service within thirty (30) days, the Company reserves the right to make the assigned number available for use by another Customer.

**2.15 Other Rules**

The Company may temporarily suspend service without notice to the Customer, by blocking traffic to certain cities of NXX exchanges, or by blocking calls using certain Personal Identification Numbers when the Company deems it necessary to take such action to prevent unlawful use of its service. The Company will restore service as soon as service can be provided without undue risk.

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### SECTION 3 - SERVICE DESCRIPTIONS AND RATES

#### 3.1 General

Ernest provides direct dialed outbound, inbound, travel card and access to directory assistance for communications originating and terminating within the state. The Company's services are available twenty-four hours per day, seven days a week. Intrastate service is offered in conjunction with interstate service.

Customers are charged individually for each call placed through the Company's network. Charges may vary by service offering, mileage band, class of call, time of day, day of week and/or call duration. Customers are billed based on their use of Ernest's services and network.

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**SECTION 3 - SERVICE DESCRIPTIONS AND RATES, (CONT'D.)**

**3.2 Timing of Calls**

Billing for calls placed over the Ernest network is based in part on the duration of the call as follows, unless otherwise specified in this tariff:

- 3.2.1** Timing of each call begins when the called station is answered (i.e. when two way communications are established.) Answer detection is based on standard industry answer detection methods, including hardware and software answer detection.
- 3.2.2** Chargeable time for calls ends when one of the parties disconnects from the call.
- 3.2.3** The initial and additional billing increments are stated in the description of each service.
- 3.2.4** The Company will not knowingly bill for unanswered calls. When a Customer indicates that he/she was billed for an incomplete call, Ernest will reasonably issue credit for the call.

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**SECTION 3 - SERVICE DESCRIPTIONS AND RATES, (CONT'D.)**

**3.3 Rate Periods**

The Company does not offer time-of-day discounts.

**3.4 Calculation of Distance**

The Company does not offer mileage-sensitive services.

**3.5 Holidays**

The Company does not offer Holiday discounts.

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**SECTION 3 - SERVICE DESCRIPTIONS AND RATES, (CONT'D.)****3.6 Public Telephone Surcharge**

In order to recover the Company's expenses to comply with the FCC's pay telephone compensation plan effective on October 7, 1997 (FCC 97-371), an undiscountable per call charge is applicable to all interstate, intrastate and international calls that originate from any domestic pay telephone used to access the Company's services. This surcharge, which is in addition to standard tariffed usage charges and any applicable service charges and surcharges associated with the Company's service, applies for the use of the instrument used to access The Company service and is unrelated to the Company service accessed from the pay telephone.

Pay telephones include coin-operated and coinless phones owned by local telephone companies, independent companies and other interexchange carriers. The Public Pay Telephone Surcharge applies to the initial completed call and any reoriginated call (i.e., using the "#" symbol).

Whenever possible, the Public Pay Telephone Surcharge will appear on the same invoice containing the usage charges for the surcharged call. In cases where proper pay telephone coding digits are not transmitted to the Company prior to completion of a call, the Public Pay Telephone Surcharge may be billed on a subsequent invoice after the Company has obtained information from a carrier that the originating station is an eligible pay telephone.

The Public Pay Telephone Surcharge does not apply to calls placed from pay telephones at which the Customer pays for service by inserting coins during the progress of the call.

Rate per Call	\$0.55
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**SECTION 3 - SERVICE DESCRIPTIONS AND RATES, (CONT'D.)****3.7 IntraLATA Switched Service****3.7.1 IntraLATA Switched Service**

IntraLATA Switched Service is an outbound calling plan available to Customers who presubscribe to the any one of the Company local exchange services. Calls are billed in six (6) second increments after an initial period for billing purposes of eighteen (18) seconds.

Per Minute Rate: \$0.10

**3.8 Toll Free Services****3.8.1 Switched Toll Free**

Switched Toll Free is available to Customers for incoming calls. Calls originate from any interstate or intrastate location over a toll free number and terminate to a Customer-provided switched access line. Call charges are billed to the Subscriber rather than to the originating caller. Rates are neither time-of-day sensitive nor mileage sensitive. Calls are billed in six (6) second increments after a minimum call duration for billing purposes of eighteen (18) seconds. Rates are not mileage or time-of-day sensitive. A Monthly Recurring Charge applies in addition to usage rates.

Rate Per Minute: \$0.10

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**SECTION 3 - SERVICE DESCRIPTIONS AND RATES, (CONT'D.)****3.9 Calling Card Service**

Calling Card Service is available to Customers for placing calls while away from home or office. Calls are originated by dialing a toll-free access number, followed by an account identification number and personal identification number. Calls may originate from standard residential, business or pay telephone access lines and may terminate to any interstate or intrastate location. Calls are billed in sixty (60) second increments after an initial period for billing purposes of sixty (60) seconds. A one-time card set-up fee applies. There is no per call charge.

Rate Per Minute: \$0.25

Set-up Fee: \$2.00

**3.10 Directory Assistance**

Directory Assistance is available to Ernest Customers. Directory Assistance charge applies to each call to the Directory Assistance Bureau. Up to two requests may be made on each call to Directory Assistance. The Directory Assistance charge applies to each call regardless of whether the Directory Assistance Bureau is able to furnish the requested telephone number.

Per Call Charge: \$1.25

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## SECTION 4 - PROMOTIONS

### 4.1 Demonstration of Service

From time to time the Company may demonstrate service for potential Customers by providing free use of its network on a limited basis for a period of time, not to exceed one (1) month. Demonstration of service and the type, duration or quantity of service provided will be at the Company's discretion.

### 4.2 Promotions - General

From time to time, the Carrier may provide promotional offerings to introduce a current or potential Subscriber to a service not being used by the subscriber. These offerings may be limited to certain dates, times or locations and may waive or reduce recurring or non-recurring charges. Such promotional offerings will be filed with the Commission.

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