



Terms and Conditions of Internet Service

1. PARTIES. These Terms and Conditions of Internet Service (together with all incorporated documents and your agreement to purchase services, the “Agreement”) between the individual or organization identified as the customer for your account (“Customer”) and Wintek Corporation (“Wintek”), govern Customer’s use of Wintek Internet and related services.

2. SERVICE. **A.** Wintek will provide Customer access to Internet services solely within its service area. **B.** Wintek requires the use of lawful equipment compatible with the network and technology of Wintek. **C.** Customer hereby acknowledges that all internet services are subject to Wintek’s Internet Service Policies and Disclosures, at https://www.wintek.com/assets/file_uploads/wintek-internet-service-policies-and-disclosures.pdf, which are hereby incorporated into this Agreement by reference. Customer understands that violating those policies can result in service limitation, suspension, or termination. **D.** Customer authorizes Wintek and Tipmont Rural Electric Membership Corporation (“Tipmont REMC”) and their agents to access your property in connection with constructing, operating, and maintaining communications infrastructure. If Customer is the property owner, Customer hereby consents to the expansion of any existing electric easement that Tipmont REMC has on Customer’s property to include construction, operation, and maintenance of communications infrastructure on or under the lands covered by the easement.

3. PAYMENT. **A.** Customer shall pay to Wintek or its designated agent the then-current charges for the plans and/or features selected and all applicable fees, taxes, and overage, toll, and usage charges. **B.** Any charges incurred by Customer as a result of a third-party’s use of or access to Customer’s account, equipment, or network are the sole responsibility of Customer. **C.** Customer shall be invoiced on a monthly basis. Payment shall be due in full within fifteen (15) days after the invoice date. **D.** If Customer has set up automatic payments, Customer acknowledges and

agrees that Wintek is authorized to automatically withdraw all owed payments, including all deposits, fees, device payments, and penalties from the identified account(s). Customer shall be solely responsible for ensuring that all financial, banking, and payment information remains accurate and up-to-date. **E.** Notice of any disputes must be in writing and received by us at our address within forty-five (45) days after receipt of invoice or Customer will waive any objection. Payment will be deemed made when received by Wintek. Late payments are subject to the maximum late payment charge permitted by law. Wintek may, at its sole option and without limiting any remedy under the law, disconnect Customer from service for non-payment. Customer may then be required to pay a reconnection charge for service restoration. Customer shall be liable to Wintek for any and all costs and fees, including collection and attorneys’ fees, associated with the collection of amounts owed.

4. CREDIT CHECKS AND DEPOSIT. Wintek reserves the right to perform a credit check prior to initiating service, and to require a deposit at any time for initiation, continuation, or restoration of service.

5. EQUIPMENT. **A.** This Agreement creates a bailment that permits Customer to use the equipment identified in your account (“Equipment”). Customer shall use the Equipment in the manner and for the purposes for which it was designed and intended, in accordance with all applicable manufacturer, vendor, and Wintek manuals and instructions, in compliance with all applicable laws, regulations, and orders, and only in accordance with this Agreement. During the Term, Customer shall maintain, service, and keep the Equipment in Acceptable Condition. Customer shall keep the Equipment free and clear of any claims, liens, or encumbrances. Customer shall not lend, sell, sublease, or transfer the Equipment to any third party. **B.** Customer hereby agrees to pay the then-current equipment rental fee to Wintek or its designated agent each month during the Term. **C.** The Equipment is and at all times shall remain the sole and exclusive

personal property of Wintek. No right, title or interest in the Equipment shall pass to the Customer other than the right to maintain possession and use of the Equipment during the Term. **D.** (i) Upon termination of this Agreement for any reason, Customer shall return the Equipment to Wintek within fourteen (14) calendar days. (ii) Equipment that is in the same condition as it was when Customer first took possession of it, except for normal and reasonable wear and tear, as determined by Wintek in the exercise of its sole judgment and discretion, and that is accompanied with its original packaging with all accessories and instructions, shall be deemed to be in "Acceptable Condition." Under no circumstances shall nonfunctional or defaced Equipment be deemed to be in Acceptable Condition. (iii) If Customer fails to return Equipment within 14 days of termination, or if Wintek determines that the Equipment is not in Acceptable Condition at the time of return, Customer shall be responsible for paying all service and rental fees until the day after the deadline for returning Equipment, as well as a fee in the amount necessary to replace the Equipment. **E.** Customer hereby assumes and shall bear the entire risk—including theft, loss, destruction, or damage—relating to the Equipment until Wintek has received possession of the Equipment in Acceptable Condition from Customer. **F.** Customer has determined that the Equipment is suitable for the use intended and that it has inspected the Equipment and accepts the Equipment as delivered. Customer shall not assert any claim or defense against Wintek by reason of any defect in the Equipment or any warranties, representations, service, or maintenance agreements, express or implied, made by the manufacturer or distributor of the Equipment or by any other entity.

6. SERVICE TERM AND RENEWAL. **A.** Customer shall receive service on a month-to-month basis until terminated pursuant to this Agreement (the "Term"). **B.** Monthly service shall be provided on the terms, conditions, and rates then in effect for Customer's service plan.

7. CANCELLATION AND TERMINATION. **A.** In the event Customer cancels a request for service before equipment installation and network connections are completed, Customer shall be liable to Wintek or its agent for all labor costs associated with the installation of Customer's access equipment and network connections, and removal of Customer's access equipment and network disconnections. If at any time within forty-five (45) days after service is established Customer terminates the Agreement, Customer will forfeit any deposit tendered by

Customer to Wintek. **B.** Either party may terminate the Agreement for any reason upon giving notice to the other party. Termination by Customer must be made in writing to Wintek, effective thirty (30) days after receipt of such request. In the event Wintek is unable to locate Customer, notice to Customer will be deemed given on the date of mailing to Customer's last known address.

8. THIRD PARTY SERVICES. In connection with Customer's use of the services, Customer may access services, and applications ("Third Party Services") provided by third parties ("Third Party Suppliers") and subject to separate agreements ("Third Party Agreements"). Customer hereby agrees to abide by any such agreements as a condition of Customer's access to and use of Third Party Services.

9. INDEMNIFICATION AND LIMITATION OF LIABILITY. **A.** Customer shall fully indemnify, release, and hold Wintek harmless from any and all losses, costs, liabilities, claims, injuries, damages, or expenses to Customer or any third party arising from or related to: (i) Customer's violation of the law or its breach of this Agreement or any third party agreement; (ii) Customer's use or misuse of Wintek services or resources or any Third Party Service; (iii) service disruptions or performance deficiencies caused or created by Customer's equipment or Customer's configuration of equipment; and (iv) any third-party's use of or access to Customer's equipment, account, or network. **B.** Customer is solely responsible for securing and protecting Customer's network, equipment, and any data stored therein, including as necessary to avoid abuse of Wintek's network or services. **C.** Wintek's performance under the Agreement shall be excused by labor difficulties, utility outages, governmental orders, civil commotions, acts of God, or other conditions or circumstances beyond its reasonable control. **D.** Wintek shall not be liable to Customer if changes in operation, procedures, or services require modification or alteration of Customer's equipment, render the same obsolete or otherwise affect its performance. There shall be no credits, reductions, or set-offs for downtime, disruption, or interruption of services. **E.** IN NO EVENT SHALL WINTEK BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, LOSS OF BUSINESS OR BUSINESS OPPORTUNITY, LOSS OF USE, AND LOSS OF DATA ARISING FROM OR RELATED TO WINTEK'S SERVICES, THE EQUIPMENT, OR ANY THIRD PARTY SERVICE.

10. WARRANTIES. THE SERVICES ARE PROVIDED ON AN AS-IS BASIS. WINTEK MAKES NO WARRANTIES OR REPRESENTATIONS, EITHER EXPRESS OR IMPLIED, CONCERNING THE SERVICES, THE EQUIPMENT, OR ANY THIRD PARTY SERVICES AND EXPRESSLY DISCLAIMS WARRANTIES OF NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, COMPATIBILITY WITH CUSTOMER-OWNED EQUIPMENT, SYSTEMS, OR SOFTWARE, AND ANY OTHER WARRANTY IMPLIED BY LAW.

11. AGREEMENT. **A.** Customer shall be bound by the Agreement if Customer activates equipment that accesses any Wintek service, opens a package that indicates Customer accepts service by opening it, or by using any Wintek service. **B.** The Agreement, including all documents incorporated by reference and your agreement to purchase services, constitutes the entire agreement between Customer and Wintek related to Wintek's Internet services. It replaces and supersedes any and all other agreements, including prior or contemporaneous representations of sales representatives or the personnel of Wintek, whether oral or written. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of this Agreement shall remain in full force and effect. **C.** The Agreement is governed by the laws of the State of Indiana without regard to its conflict of laws principles. **D.** Failure of either party to enforce any right shall not constitute a waiver of such right or of any other right, whether of a similar or dissimilar nature, and shall not prohibit the exercise of the same right at a future date. **E.** Tipmont REMC is an intended third party beneficiary entitled to enforce all of the rights and obligations afforded by this Agreement.

12. DISPUTE RESOLUTION. ANY CONTROVERSY ARISING OUT OF OR RELATING TO THE AGREEMENT, THE INTERPRETATION OF THE AGREEMENT, ANY SERVICES PROVIDED BY WINTEK, WHETHER OR NOT PROVIDED PURSUANT TO THE AGREEMENT, OR ANY MATTER NOT WITHIN THE EXCLUSIVE OR ORIGINAL JURISDICTION OF THE FEDERAL COMMUNICATIONS COMMISSION OR THE PUBLIC SERVICE COMMISSION OF THE STATE OF INDIANA SHALL BE SETTLED EXCLUSIVELY AND FINALLY BY ARBITRATION BETWEEN WINTEK AND CUSTOMER. The arbitration shall be conducted in accordance with arbitration rules created by the

American Arbitration Association, and shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16. All submissions to arbitration shall be made within forty-five (45) days of the date upon which the controversy to be arbitrated arose. The arbitration shall be conducted before a sole arbitrator, and under no circumstance shall punitive damages be awarded in the arbitration. Any award rendered in such arbitration proceedings shall be final and binding on each of the parties, and judgment may be entered thereon in a court of competent jurisdiction. The arbitrator may award declaratory or injunctive relief only in connection with your individual claim and only to the extent necessary to provide relief warranted by your individual claim. Further, unless both you and Wintek agree otherwise, the arbitrator may not consolidate more than one person's claims and may not otherwise preside over any form of a representative or class proceeding. You agree that, by entering into this Agreement, you are waiving the right to a trial by jury or to participate in a class action. **You agree that, by entering into this Agreement, you are waiving the right to a trial by jury or to participate in a class action. YOU AGREE THAT YOU MAY BRING CLAIMS ONLY IN YOUR INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.**

13. CHANGE OF TERMS. **A.** Subject to applicable law, Wintek may change its prices, fees, or other terms and conditions of service, including arbitration and dispute resolution provisions, at any time without notice. Wintek may further change, add, or discontinue service offerings, service plans, products, and equipment at any time without notice. Such changes shall be effective upon being posted to Wintek's website. Customer's continued use of Wintek's products, services, or network after the effective date of a change of terms indicates Customer's acceptance of the modified terms. If Customer finds any such change to be unacceptable, he or she may terminate the Agreement pursuant to Section 7. **B.** The Agreement shall at all times be subject to change or modification required by the regulatory authority of the state in which service is provided, the Federal Communications Commission, or any other authorized governmental body.

14. PRIVACY. Customer's use of Wintek Internet services is subject to the Wintek Internet Service Privacy Policy, available at https://www.wintek.com/assets/file_uploads/wintek-privacy-policy.pdf, which is hereby incorporated into this Agreement by reference.

Date Original Adopted: March 20, 2019