



Support #: 1-888-228-3577



## Customer Agreement

This Agreement describes the terms and conditions between you and ViaSat Communications, Inc., formerly known as WildBlue Communications, Inc. ("ViaSat," "Us" or "We"), applicable to ViaSat's service (the "Service"). Please note that if you receive your bill for ViaSat Service from a third party, the terms of your customer agreement and contact information will be different than shown in this Agreement. Please read this Agreement carefully since it contains important contract rights and obligations between you and ViaSat, as well as important limitations on those rights. If you would like to contact us, you may call 866-945-3258 or write to:

**ViaSat Communications, Inc.**  
**P.O. Box 4427**  
**Englewood, CO 80155**  
**Attention: Customer Care**

**Wharton County Electric Cooperative, Inc.**  
**P.O. Box 31**  
**1815 E. Jackson St.**  
**El Campo, TX 77437**

**Minimum Service Commitment.** All ViaSat Services require subscribers to commit to a 24-month minimum service term ("Minimum Service Term"), unless a different term is stated for your plan in this Agreement. If you upgrade from your current Service plan using SurfBeam-1 equipment (the "WildBlue Plans") to the Exede Broadband Plans ("Exede Broadband Plans" means any plan offered as of December 5, 2011 using SurfBeam-2 equipment), you must commit to a new 24-month Minimum Service Term beginning on the date your new Service is activated. If you terminate Service prior to the expiration of the Minimum Service Term, you will owe (and your credit card, debit card, or bank account may be charged) the Termination Fee as described below. You may not downgrade your Service plan to a lower Service package until 30 days after activation of your ViaSat Service.

**Term and Renewal.** The term of this Agreement commences on the date your Service is activated and continues for the duration of the Minimum Service Term unless terminated earlier by you or ViaSat in accordance with this Agreement. After the Minimum Service Term expires, the term of this Agreement will automatically renew on a month-to-month basis, unless you have agreed to a new Minimum Service Term under a program offered by ViaSat ("Renewal Program Term").

**Minimum Equipment Commitment.** You agree to return the satellite modem to our place of business upon termination and authorize WCEC to access your premise upon reasonable times and notice to you to retrieve any outdoor equipment, if you have not received ViaSat Service for a min. of 24 months. You further agree that we may abandon any or all of the ViaSat equipment at the time of termination and we are not obligated to de-install or otherwise retrieve any ViaSat equipment.

**Equipment.** New customers must lease the equipment designated by ViaSat ("Equipment") from ViaSat or an authorized distributor of ViaSat in order to receive the Service. Only a ViaSat-authorized installer may install the ViaSat Equipment at your residence.

**Data Allowance Policy (formerly known as the Fair Access Policy or FAP).** The ViaSat Service is subject to data usage limits which are described in the Data Allowance Policy for your Service plan. If you exceed your data usage limits, ViaSat may severely slow, restrict, and/or suspend your Service or certain uses of your Service for a period of time. The data usage limits for ViaSat's Service plans are:

Exede Broadband Plans		Bronze 12	Silver 12	Gold 12
Measured over a fixed monthly period	<b>Data Allowance (GB) (Combined Upload and Download)</b>	40	60	100

**Termination Fees.** If you cancel the Service before completion of the Minimum Service Term or Renewal Program Term, the Termination Fee is equal to the number of months left in your Minimum Service Term or Renewal Program Term multiplied by \$15.00.

**Return of Equipment.** If you fail to return leased Equipment within 30 days after termination of the Agreement, additional charges will apply as specified in the Lease Addendum. If you purchased your ViaSat Equipment, you are not required to return the Equipment upon termination of this Agreement. In any event, ViaSat is not obligated to de-install the ViaSat Equipment.

**This Agreement has 6 pages and also incorporates ViaSat's Data Allowance Policies, Acceptable Use Policy, and the terms of your Service plan. In addition, if you are leasing your Equipment, receiving VOIP through ViaSat, and/or receiving Services through our Recovery Act Program, your Agreement includes, as applicable, the Leasing Addendum, the VOIP Addendum and the Recovery Act Addendum. You acknowledge that you have received, read, understand and agree to be bound by all of the terms and conditions set forth on each of the pages of these documents, as each of them may be updated from time to time, as posted on help.wildblue.net.**

## **Terms and Conditions**

### **1. The Service.**

**1.1 Description.** The Service consists of a satellite-based Internet access service as further described in this Agreement (the "Service"). Service is in available locations in the U.S. with an unobstructed view of the southern sky and its usage is subject to ViaSat's Data Allowance and Acceptable Use Policies. **Please note the following limitations applicable to use of the Service: VOIP services may not work over the ViaSat network if you are receiving Service through one of the WildBlue Plans. Real-time or "twitch" online gaming activities may experience performance degradation over the network, including latency effects. VPN applications may not perform or may perform poorly and are not recommended.**

**1.2 Minimum System Requirements.** Your computer must meet certain minimum requirements to receive the Service as set forth on our website, [www.wildblue.com/about/Wildblue/qaa.jsp](http://www.wildblue.com/about/Wildblue/qaa.jsp). It is your responsibility, at your expense, to obtain, maintain, and operate suitable and fully compatible computer equipment required to access the Service.

### **2. Who May Use The Service? - Responsibility and Supervision.**

**2.1 Age and Account Set-Up.** You represent that the Service will be installed and used solely in your residence and not in any commercial, retail or other business location (other than a home office in your residence). You represent that you are at least 18 years of age. You agree that you are responsible for obtaining installation services for the ViaSat Equipment from a ViaSat-authorized installer and for verifying and maintaining the account, options, settings and other parameters under which the Service is used, including (without limitation) all related passwords and user identification information.

**2.2 Multiple Use of Account.** Only computers physically located in your residence and your family members who permanently reside in your household may receive the Service under a single billing account. Your "household" is limited to the single address where you reside and where the Service is installed. It does not include adjacent apartments, residences, offices or any type of space not physically associated with your address. Any use of the Services other than as specified above is unlawful and unauthorized and a material breach of this Agreement, regardless of whether you receive any compensation for such use, and may result in the immediate termination of the Services and the imposition of the Termination Fee, without prejudice to any rights and remedies available to ViaSat under this Agreement, at law and at equity.

**2.3 Installation of Equipment.** You represent that there are no legal, contractual or similar restrictions on the installation of the ViaSat Equipment in the location(s) you have authorized. It is your responsibility to ensure compliance with all applicable building codes, zoning ordinances, homeowners' association rules, covenants, conditions, and restrictions related to the Services, to pay any fees or other charges, and to obtain any permits or authorizations necessary for the Services (collectively "Legal Requirements"). You are solely responsible for any fines or similar charges for violation of any applicable Legal Requirements. You acknowledge and agree that ViaSat or our designated service provider will be required to access your premises and system to install and maintain the ViaSat Equipment, including the antenna and its components, necessary for you to receive the Service inside and outside your home. This will include attaching a satellite modem to your computer, installing software on your computer and configuring your computer for optimized performance of the Service. By signing this Agreement, scheduling a service or installation visit, and permitting us or our service provider to enter your home, you are authorizing ViaSat and our service provider to perform all of the above actions. **NEITHER VIASAT NOR OUR SERVICE PROVIDER SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY LOSSES RESULTING FROM INSTALLATION, REPAIR OR OTHER SERVICES, INCLUDING WITHOUT LIMITATION, DAMAGE TO YOUR PREMISES, OR LOSS OF SOFTWARE, DATA OR OTHER INFORMATION FROM YOUR COMPUTER.** You are responsible for backing up the data on your computer and we highly recommend that you do so prior to permitting access to us or one of our designated service providers. This limitation does not apply to any damages arising from the gross negligence or willful misconduct of any installation or maintenance service provider. Timeframes for installation, if any, are not guaranteed and may vary depending on the types of services requested and other factors.

**2.4 Subscriber Responsibility.** You agree that you are responsible for all access to and use of the Service through your account or password(s) and for any fees incurred for Service, or for software or other merchandise purchased through the Service, or any other expenses incurred in accordance with the terms of this Agreement. You acknowledge that you are aware that areas accessible on or through the Service may contain material that is unsuitable for minors (persons under 18 years of age). You agree to supervise usage of the Service by minors who use the Service through your account. You ratify and confirm any obligations a minor using your account incurs or assumes and any promises or permissions such minor makes or gives. You acknowledge that an owner's manual or similar material was provided to you at the time of installation of your ViaSat Equipment and that you have read and understand the manual and all product warnings contained in the manual.

### **3. Fees and Payment.**

#### **3.1 Fees, Taxes and Other Charges.**

**(a) Commencement and Duration Of Monthly Fees.** You acknowledge that (subject to any exceptions granted by us) monthly fees payable in advance will apply for each and every month (or portion of a month) that you are a subscriber, beginning with the date your Service is activated. Your account will continue until you cancel the account in accordance with the method or methods specified by us (unless otherwise terminated in accordance with this Agreement). As stated above, you may cancel your account at any time, subject to payment of the Termination Fees, if applicable. The monthly fees shall cease to apply for any months after the billing month in which you cancel or terminate your account in accordance with these terms and conditions.

**(b) Billing and Charges.** You agree to pay, in accordance with the provisions of the billing option you selected, any registration, activation or monthly fees, ISP service charges, minimum charges and other amounts charged to or incurred by you, or by users of your account, at the rates in effect at the start of the billing period in which those amounts are charged or incurred. You agree to pay all applicable taxes related to your use of the Service, provision of services, software or hardware or the use of the Service by users of your account. Information on charges and surcharges (if any) that are to be paid to us and are incurred by you or by users of your account will be made available to you on the ViaSat website or sent to the email address you provide to us, and you agree that this is sufficient notice for all purposes as to charges incurred and paid or to be paid to us. You understand and agree that you will not receive a paper statement in the mail for your Service. Additional terms relating to pricing, billing, and payment which are an integral part of this Agreement are contained in your service plan and set forth on the ViaSat website: [www.exede.com](http://www.exede.com) (please enter your zip code) and are incorporated into this Agreement. ViaSat reserves the right to correct and charge under-billed amounts for a period of 90 days after the incorrect statement was issued. Payment of the outstanding balance is due in full each month.

**(c) Administrative Fees.** If your electronic payment is not received by us by its due date, your payment is returned or your account has been suspended, you may be charged administrative fees. You acknowledge that these fees are not an interest or finance charge and are reasonably related to the actual expenses we incur due to non-payment. If we do not receive your full payment by its due date, we may charge you administrative late or nonpayment fees equal to the lesser of (i) \$5.00 per month; and (ii) the maximum amount permitted under applicable law. Such charge shall apply monthly until all delinquent amounts are paid in full. If your EFT or credit card payment fails to be honored by your bank or other financial institution, we may charge you a collection fee equal to the lesser of (i) \$15.00; and (ii) the maximum amount permitted under applicable law.

**3.2 Payment Authorization.** Except where additional methods of payment are specifically required or permitted under applicable law or regulation or as otherwise agreed to by ViaSat from time to time, you agree that ViaSat can charge your credit card or debit card ("Card Payment"), or initiate an electronic funds transfer out of your bank account ("EFT Payment") for payment of all Service fees, the Termination Fee or any other amounts payable under this Agreement. Additionally, you agree that ViaSat will bill your monthly Service fee and lease fee (if applicable) in advance, and such fees will automatically be collected through either a Card Payment or EFT Payment. With respect to such charges the following authorization applies: You authorize automatic Card Payments or EFT Payments by ViaSat. You agree that the charges described above will be billed to the credit or debit card provided by you when you applied for the Service until such time as you may authorize recurring EFT Payments. You must provide current, complete, and accurate information for your billing account, and promptly update any changes

(such as a change in billing address, credit card number, credit card expiration date, bank account number) and contact email address. Changes to such information can be made by calling ViaSat Customer Care. If you fail to provide us with any of the foregoing information, you agree that ViaSat may continue charging you for any service provided under your account. In addition to administrative fees that you may owe, if we are unable to process your credit or debit card at any time or we otherwise do not receive electronic payment from you by its due date, your account may be immediately suspended and you will remain responsible for all amounts payable by you to us. If we do not receive your payment before your next statement is issued, your account may be terminated due to your default or nonpayment and such termination may result in a Termination Fee owed by you. Your card issuer agreement governs use of your credit or debit card payment in connection with this Service and you must refer to that agreement with respect to your rights and liabilities as a cardholder. If we do not receive payment from your credit or debit card issuer or its agent, you agree to pay us all amounts due upon demand by us. You agree that ViaSat will not be responsible for any expenses that you may incur resulting from overdrawing your bank account or exceeding your credit limit as a result of an automatic charge made under this Agreement. Credit card payment is not required for residents of states where payment by credit cards may not be made mandatory.

**3.3 Disputes and Partial Payments.** If you think a charge is incorrect or you need more information on any charges applied to your account, you should contact our billing department. You must contact us within 45 days of receiving the statement on which the error or problem appeared. ViaSat will make available to you a statement for each billing cycle showing payments, credit purchases and other charges. ViaSat will not pay you interest on any overcharged amounts later refunded or credited to you. We may, but are not required to, accept partial payments from you. If partial payments are made, they will be applied to amounts owed by you starting with the oldest outstanding statement. If you send us checks or money orders marked "payment in full" or otherwise labeled with a similar restrictive endorsement, we can, but are not required to, accept them, without losing any of our rights to collect all amounts owed by you under this Agreement. If we choose to use any collection agency or attorney to collect money that you owe us or to assert any other right that we may have against you, you agree to pay the reasonable costs of collection or other action including, but not limited to, the costs of a collection agency, reasonable attorney's fees, and court costs.

**3.4 Reactivation.** To reactivate suspended Service, you must bring your account up to date through the month of reactivation by making payment in full of any outstanding balance, fees and other applicable charges. In addition, we may require a deposit before reactivating your Service. The amount of the deposit will not exceed one year of monthly fees. Amounts deposited by you will appear on your statement as a credit, and service charges and other fees will be invoiced as described above. If you fail to pay any amount on a subsequent bill, the unpaid amount will be deducted each billing cycle from the credit amount. Credit amounts will not earn or accrue interest.

**3.5 Credit Inquiries and Reporting.** You authorize us to make inquiries and to receive information about your credit experience from others, including credit reporting agencies, enter this information in your file and disclose this information concerning you to appropriate third parties for reasonable business purposes. In the case of late payment or non-payment for any of the Services ordered by you or any other charges, you understand and agree that we may report such late payment or non-payment to the appropriate credit reporting agencies.

#### **4. Modifications, Rights of Cancellation or Suspension.**

**4.1 Modification of this Agreement.** Upon notice published over the Service, we may at any time (and from time to time) modify this Agreement, including, without limitation, our pricing and billing terms. We may, but are not required to, notify you by e-mail, online via one or more of the websites within the Service or other electronic notice. If you do not agree to such changes or additions, then you must terminate this Agreement in accordance with Section 4.3 and stop using the Service prior to the effective date of such modifications. Your continued use of the Service after the effective date of such modifications constitutes your acceptance of such modifications. If a change results in an increase of the monthly fee by more than 25%, however, you may terminate your Service, without incurring any Termination Fee, by calling us within 30 days after the first statement reflecting such changes is issued.

**4.2 Modification of the Service.** We may discontinue, add to or revise any or all aspects of the Service in our sole discretion and without notice, including access to support services, publications and any other products or services ancillary to the Service. In particular, we reserve the right at our sole discretion to modify, supplement, delete, discontinue or remove any software, file, publications, information, communication or other content provided to you by ViaSat or its vendors in connection with the Service. If we undertake any of these changes, we may, but are not required to, notify you by e-mail, online via one of more of the websites within the Service or other electronic notice. If you do not agree to such changes, then you must cancel your subscription and stop using the Service prior to the effective date of such changes. Your use of the Service after the effective date of such changes or additions constitutes your acceptance of such changes. In addition, we may take any action consistent with our Acceptable Use and Data Allowance Policies, including actions to (a) prevent bulk e-mailing from entering or leaving any e-mail account or the network e-mail system, (b) delete e-mail messages if your e-mail account has not been accessed by you within a time established by us from time to time, in our sole discretion, (c) instruct our system not to process e-mail or instant messages due to space limitations, (d) make available to third parties information relating to ViaSat or its subscribers, (e) withdraw, change, suspend or discontinue any functionality or feature of the Service, (f) delete attachments to e-mail due to potentially harmful materials included within such attachment, and (g) limit access to the Service to prevent abusive consumption and ensure fair access for all subscribers.

**4.3 Termination by Subscriber.** Subject to your payment of the Termination Fee and the monthly fees for the full billing cycle in which termination occurred, you may immediately terminate this Agreement at any time by giving us written or telephone notice. You are responsible for the full monthly Service fee for any month (or portion of a month) in which you receive Service and ViaSat will not provide a pro-rata refund for any pre-paid fees regardless of when your service is terminated. In limited circumstances, ViaSat may permit you to temporarily suspend service. You are responsible for the full monthly Service fee for any month (or portion of a month) in which you receive Service and ViaSat will not provide a pro-rata refund for any pre-paid fees regardless of when your service is suspended. Please allow five business days from the date of receipt for processing written requests to terminate or suspend your Service. For clarification, ViaSat does not accept notices of termination or suspension via e-mail or chat. You will continue to be liable under this Agreement for all fees and charges until such time as the Agreement has been properly terminated or suspended or we have acknowledged such termination or suspension in writing or by e-mail. In addition, if you leased your Equipment, upon termination you will be responsible for the return of the Equipment to ViaSat in accordance with your obligations under the Lease Addendum.

**4.4 Termination or Suspension by ViaSat.** We may immediately terminate your Service and this Agreement if you or a user of your account breaches this Agreement. We reserve the right in our sole discretion to terminate your account and this Agreement at any time or to suspend (with or without notice) or terminate access to or use of the Service, in whole or in part.

**4.5 Post-Termination or Suspension Obligations.** Notwithstanding any cancellation or termination of this Agreement or any of your accounts, or any suspension or termination of access to or use of the Service, you will remain responsible for all payment and other obligations under this Agreement, including the obligation to pay all charges that may be due as a result of or in connection with such cancellation, termination or suspension. Your payment and other obligations under this Agreement are not suspended or affected by a suspension of access to or use of the Service, in whole or in part, due to a violation (actual, threatened, or alleged) of this Agreement or of any law or legal obligation by you or any user of your account.

#### **5. Permitted Use And Restrictions on Use.**

**5.1 Software License.** Subject to the terms of this Agreement, ViaSat grants to you a personal, non-exclusive, non-assignable and nontransferable license to use and display the software provided by or on behalf of ViaSat (including any updates) only for the purpose of accessing the Service ("Software") on any machine(s) on which you are the primary user or which you are authorized to use. For the Exede Broadband Plans, ViaSat uses third party software provided by Accelenet either in your modem or in your PC. You agree to comply with the terms of the Accelenet License Agreement located at [www.viasatresidential.com/legal](http://www.viasatresidential.com/legal). You may also be required to accept the terms via a "click-through" or similar agreement. Please read the terms very carefully, as they contain important disclosures about the use and security of data transmitted to and from your computer. Our Subscriber Privacy Policy also provides important information about this application. Unauthorized copying of the Software, including software that has been modified, merged or included with the Software, or the written materials associated therewith is expressly forbidden. You may not sublicense, assign, or transfer this license or the Software except as permitted in writing by ViaSat. Any attempt to sublicense, assign or transfer any of the rights, duties or obligations under this license is void and may result in termination by ViaSat of this Agreement and the license. You agree that you shall not copy or duplicate or permit anyone else to copy or duplicate, any part of the Software, or create or attempt to create, or permit others to create or attempt to create, by reverse engineering or otherwise, the source programs or any part thereof from the object programs or from other information made available under this Agreement.

**5.2 Restrictions on Use of The Service.** You agree to comply with ViaSat's Acceptable Use and Data Allowance Policies located at [www.viasatresidential.com/legal](http://www.viasatresidential.com/legal), each of which are incorporated into and made a part of this Agreement. ViaSat reserves the right to immediately terminate the

Service and this Agreement if you knowingly or otherwise engage in any prohibited activity. Please note that if you use ViaSat's email and other web application services, these services are provided through Google and are subject to Google's terms and conditions. You do not own, nor have any rights other than those expressly granted to you, to a particular IP address, even if you have ordered a static IP address.

**5.3 Data Allowance Policies.** If your usage exceeds the limits set forth in the Data Allowance Policy, we may reduce the bandwidth available to you on a temporary basis. ViaSat Internet access is not guaranteed. The terms of the Data Allowance Policy apply to all Service plans.

**5.4 Prohibition on Resale.** Reselling the Service or otherwise making the Service available to anyone outside your residence (e.g. via wi-fi, or any other method), in whole or in part, directly or indirectly, or on a bundled or unbundled basis is prohibited. The Service is for personal and non-commercial use only and you agree not to use the Service for operation as an Internet service provider or for any business enterprise or purpose, or as an end-point on a non-ViaSat local area network or wide area network. In addition, other prohibited activities include connecting multiple computers behind the satellite modem to set up a LAN (Local Area Network) that in any manner would result in a violation of the terms of the Acceptable Use Policy, Data Allowance Policy, or terms of any other policy or plan, or running programs, equipment, or servers from your residence that provide network content or any other services to anyone outside of your premises. You may not connect the ViaSat Equipment to any computer outside of your residence.

**5.5 No Unauthorized Use of ViaSat Equipment or Software.** You are strictly prohibited from servicing, altering, modifying, or tampering with the ViaSat Equipment, Software or Service or permitting any other person to do the same who is not authorized by ViaSat. You may not copy, distribute, sublicense, decompile or reverse engineer any of the Software.

**5.6 Compliance with Laws.** You agree to comply with all applicable laws, rules and regulations in connection with the Service, your use of the Service and this Agreement.

**5.7 Security.** You agree to take reasonable measures to protect the security of your computer, including maintaining at your cost an up-to-date version of anti-virus and/or firewall software to protect your computer from malicious code, programs or other internal components (such as a computer virus, computer worm, computer time bomb or similar component). You expressly agree that if your computer becomes infected and causes any of the prohibited activities listed in the Acceptable Use Policy, ViaSat may immediately suspend your Service until such time as your computer is sufficiently protected to prevent further prohibited activities. You will be fully liable for all monthly fees and other charges under this Agreement during any period of suspension. In all cases, you are solely responsible for the security of any device you choose to connect to the Service, including any data stored or shared on that device.

**5.8 Responsibility of Subscriber.** You are responsible for any misuse of the Service, even if the misuse was committed by a friend, family member, or guest with access to your Service account. Therefore, you must take steps to ensure that others do not use your account to gain unauthorized access to the Service by, for example, strictly maintaining the confidentiality of your login and password. You are considered the registered recipient of the Services, and you will be liable for any charges or fees incurred by the use of your ViaSat Equipment by anyone else up to the time that we receive your notice of termination, unless otherwise provided by applicable law. You may not assign or transfer your Service without our written consent. If you do, we may deactivate your Service. If your ViaSat Equipment is stolen or otherwise removed from your premises without your authorization you must notify ViaSat Customer Care Center immediately, or else you will be liable for payment for unauthorized use of the Service or ViaSat Equipment.

**6. ViaSat Equipment.** If you purchased your Equipment, the terms of sale applicable to the ViaSat Equipment are governed by your purchase agreement or other documents evidencing such sale and, if applicable, ViaSat's limited warranty (available at [www.viasatresidential.com/legal](http://www.viasatresidential.com/legal)) and service plan, if any. In addition, ViaSat Equipment contains software and/or other intellectual property subject to a license agreement(s) ("License Agreement") provided with the ViaSat Equipment. Any breach of the License Agreement constitutes a breach of this Agreement.

## **7. Warranties and Limitations of Liability.**

**7.1 DISCLAIMER OF WARRANTIES.** YOU EXPRESSLY AGREE THAT USE OF THE SERVICE IS AT YOUR SOLE RISK. NEITHER VIASAT NOR ANY OF VIASAT'S WHOLESALERS, DEALERS, DISTRIBUTORS, AGENTS, EMPLOYEES, SUPPLIERS, LICENSORS OR THIRD PARTY CONTENT PROVIDERS ("VIASAT'S PARTNERS") WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE; NOR DO VIASAT NOR ANY OF VIASAT'S PARTNERS MAKE ANY WARRANTY AS TO THE RESULTS TO BE OBTAINED FROM USE OF THE SERVICE, INCLUDING ANY MINIMUM UPLOAD OR DOWNLOAD SPEEDS. THE SERVICE IS DISTRIBUTED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY OR COMPLETENESS OF INFORMATIONAL CONTENT, NON-INFRINGEMENT OR OTHERWISE, EXCEPT THE FOREGOING SHALL NOT APPLY IN STATES WHERE IT IS PROHIBITED. VIASAT EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY THAT THE SERVICE WILL BE ERROR FREE, SECURE OR UNINTERRUPTED OR OPERATE AT ANY MINIMUM SPEED. NO ORAL ADVICE OR WRITTEN INFORMATION GIVEN BY VIASAT OR ANY OF VIASAT'S PARTNERS SHALL CREATE A WARRANTY; NOR SHALL YOU RELY ON ANY SUCH INFORMATION OR ADVICE. BECAUSE VIASAT PROVIDES SUBSCRIBERS WITH ELECTRONIC ACCESS TO THE CONTENT AVAILABLE ON THE INTERNET, WE CANNOT AND DO NOT WARRANT THE ACCURACY OF ANY OF THE INFORMATION YOU OBTAIN THROUGH THE SERVICE. WE SHALL HAVE NO LIABILITY WHATSOEVER FOR ANY DAMAGE TO OR LOSS OR DESTRUCTION OF ANY HARDWARE, SOFTWARE, FILES OR DATA RESULTING FROM, OR FROM ANY ATTEMPT TO REMOVE, ANY COMPUTER VIRUS OR OTHER HARMFUL FEATURE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU TO THE EXTENT SUCH EXCLUSION IS NOT ALLOWED BY APPLICABLE LAW. THE LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU ALSO MAY HAVE OTHER RIGHTS THAT VARY BY JURISDICTION.

**7.2 LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER VIASAT NOR ANY OF VIASAT'S PARTNERS SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF USE OF THE SERVICE OR INABILITY TO USE THE SERVICE OR OUT OF ANY BREACH OF ANY REPRESENTATION OR WARRANTY. WITHOUT IN ANY WAY LIMITING THE FOREGOING, IF FOR ANY REASON, BY OPERATION OF LAW OR OTHERWISE, ANY PORTION OF THE FOREGOING LIMITATION OF LIABILITY SHALL BE VOIDED, THEN IN SUCH EVENT VIASAT'S MAXIMUM, SOLE, AND EXCLUSIVE LIABILITY AND THE LIABILITY OF VIASAT'S PARTNERS SHALL BE LIMITED TO GENERAL MONEY DAMAGES IN AN AMOUNT NOT TO EXCEED THE TOTAL AMOUNT ACTUALLY PAID TO VIASAT BY YOU FOR SERVICE DURING AND FOR A PERIOD OF TIME COMMENCING UPON THE OCCURRENCE OF SUCH ERROR, DEFECT OR FAILURE AND CEASING UPON THE DISCOVERY OF SUCH, IN WHOLE OR IN PART; PROVIDED, HOWEVER, THAT IN NO EVENT SHALL SUCH PERIOD OF TIME EXCEED THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE WHICH SUCH ERROR, DEFECT OR FAILURE IS FIRST DISCOVERED IN WHOLE OR IN PART.

**7.3 Applicability and Exceptions.** The foregoing exclusions or limitations of liability apply regardless of any allegation or finding that a remedy failed of its essential purpose, regardless of the form of action or theory of liability (including, without limitation, negligence) and even if ViaSat or others were advised or aware of the possibility or likelihood of such damages or liability. The foregoing shall not apply in states where such exclusions are prohibited. In addition, these exclusions and limitations do not apply to your purchase of your ViaSat Equipment, which is governed by your purchase agreement or other documents evidencing such sale and if applicable, ViaSat's limited warranty (available at [www.viasatresidential.com/legal](http://www.viasatresidential.com/legal)) and service plan, if any.

**7.4 Service Interruptions.** Service may be interrupted from time to time for a variety of reasons, including thundershowers at your home or at your assigned gateway location. Weather conditions at your assigned gateway may be different than the weather at your home. We are not responsible for any interruptions of Service that occur due to acts of God (including weather), power failure or any other cause beyond our reasonable control. However, because we value our subscribers, for an interruption of a significant length of time that is within our reasonable control, upon your request we may provide what we reasonably determine to be a fair and equitable adjustment to your account to make up for the Service interruption. THIS WILL BE YOUR SOLE REMEDY AND OUR SOLE DUTY IN SUCH CASES. You acknowledge and agree that the Service is not intended to be, and should not be used as, your primary or "life-line" telecommunications service.

**7.5 Indemnity.** You agree to indemnify, defend and hold us harmless against all claims, liability, damages, costs and expenses, including but not limited to reasonable attorneys fees, arising out of or related to any and all use of your account. This includes, without limitation, responsibility for all consequences of your (or that of any user of your account) violation of this Agreement or placement on or over, or retrieval from or through, the Service of any software, file, information, communication or other content and all costs incurred by us in enforcing this Agreement against you.

**7.6 Third Party Beneficiaries.** The provisions of this Section 7 are for the benefit of us and our respective contractors, information or content providers, service providers, licensors, employees and agents; and each shall have the right to assert and enforce such provisions directly on its own behalf. Other than as expressly stated in this Agreement, this Agreement shall not be deemed to create any rights in third parties.

## **8. General**

**8.1 Limits on Transfers.** Unless otherwise agreed in writing, your right to use the Service, or to designate other users of your account, is not transferable and is subject to any limits established by ourselves, or by your credit card company or other billing institution, as applicable.

**8.2 Applicable Law.** This Agreement is made in the State of Colorado. This Agreement and all of the parties' respective rights and duties, including, without limitation, claims for violation of state consumer protection laws, unfair competition laws, and any claims in tort shall be governed by and construed in accordance with the laws of the State of Colorado, in the United States, excluding conflicts of law provisions.

**8.3 Dispute Resolution.** To expedite resolution of problems and control the cost of disputes, you and ViaSat agree that any legal or equitable claim relating to this Agreement, any addendum, or your Service (referred to as a "Claim") will be resolved as follows: We will first try to resolve any Claim informally. Accordingly, neither of us may start a formal proceeding until at least 60 days after one of us notifies the other of a Claim in writing ("Notice"). You will send your Notice to the address on the first page of this Agreement to the attention of the Consumer Affairs Manager, and we will send our Notice to your billing address. If you and ViaSat are unable to resolve the Claim within 60 days after Notice is received, then ViaSat and you agree to arbitrate **any and all Claims** between us. This agreement to arbitrate is intended to be broadly interpreted. It includes, but is not limited to:

- Any Claims arising out of or relating to any aspect of the relationship between us, whether based in contract, statute, fraud, misrepresentation, tort, or any other legal theory;
- Any Claims that arose before this or any prior Agreement ;
- Any Claims that are currently the subject of a purported class action suit in which you are not a member of a certified class; and
- Any Claims that may arise after the termination of this Agreement.

Notwithstanding the foregoing, either party may bring an individual action in small claims court in the county of your billing address. This Agreement does not preclude you from bringing issues to the attention of federal, state, or local agencies, including, for example, the Federal Communications Commission. If the law allows, these agencies may seek relief against us on your behalf. **You agree that by entering into this Agreement, you and ViaSat are each waiving the right to participate in a class action and to a trial by jury.** This Agreement evidences a transaction in interstate commerce, and thus the Federal Arbitration Act governs the interpretation and enforcement of this provision. This Dispute Resolution provision shall survive termination of this Agreement. The arbitration shall be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, the "Arbitration Rules") of the American Arbitration Association ("AAA"), as modified by this Agreement, and will be administered by the AAA. The Arbitration Rules are available online at adr.org, by calling the AAA at 1-800-778-7879, or by writing to the address on the first page of this Agreement to the attention of the Consumer Affairs Manager. The arbitrator is bound by the terms of this Agreement. All issues shall be for the arbitrator to decide, except issues relating to the scope and enforceability of this Dispute Resolution provision which shall solely be for a court of competent jurisdiction to decide. Unless you and ViaSat agree otherwise, any arbitration hearings shall take place in Douglas, Denver, or Arapahoe County in Colorado. During the arbitration, neither party shall disclose to the arbitrator until after the arbitrator determines the amount, if any to which you or ViaSat is entitled, the amount of any settlement offer made by ViaSat or you. If your claim is for \$5,000 or less, you and ViaSat agree that you may choose whether the arbitration will be conducted solely on the basis (a) of documents submitted to the arbitrator, (b) through telephonic hearings, or (c) by an in-person hearing as established by the Arbitration Rules. If your claim is in excess of \$5,000, the right to a hearing shall be determined by the Arbitration Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator shall issue a reasoned written decision sufficiently explaining the essential findings and conclusions on which the award is based. If the arbitrator finds that either the substance of your Claim or the relief sought in your Claim is frivolous or brought for an improper purpose (as measured by the standards set forth in the Federal Rule of Civil Procedure 11(b)), then the payment of all such fees shall be governed by the Arbitration Rules. In such case, you agree to reimburse ViaSat for all monies previously disbursed by it that are otherwise your obligation to pay under the Arbitration Rules. The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual Claim. **YOU AND VIASAT AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.** Furthermore, the arbitrator may not consolidate more than one person's Claim, and may not otherwise preside over any form of a representative or class proceeding, unless both you and ViaSat agree otherwise. If this specific provision is found to be unenforceable for any reason, then the entirety of this Dispute Resolution provision shall be null and void. Notwithstanding any provision in this Agreement to the contrary, we agree that if ViaSat makes any future change to this Dispute Resolution provision during your Minimum Service Term, you may reject any such change by sending us written notice within 30 days of the change to the address on the first page of this Agreement. By rejecting any future change, you are agreeing that you will arbitrate any dispute between us in accordance with the language of this provision. Any cause of action brought by you, or by users of your account, with respect to the Service or this Agreement must be instituted within one year after the claim or cause of action has arisen or be barred. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement and it is acknowledged that this is a services contract and not a contract for the sale of goods.

**8.4 Notices, Disclosures and Other Communications.** Where notification by ViaSat is contemplated by or related to this Agreement, notice may be made by any reasonable means, including, but not limited to, e-mail or publication over the Service. A printed version of this Agreement and of any notice given in electronic form by ViaSat shall be admissible in judicial and administrative proceedings relating to or based upon this Agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. You must promptly notify us of any change in your credit card information, e-mail or postal address by calling ViaSat Customer Care.

**8.5 Construction and Delegation.** If any term of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or unenforceable, it shall be construed in such a way as to eliminate the offending aspects while still giving as much effect as possible to the intentions of such term. If this cannot be done and the entire term is invalid, illegal or unenforceable and cannot be so repaired, then the term shall be considered to be stricken from this Agreement as if it had not been included from the beginning. In any such case, the balance of this Agreement shall remain in effect in accordance with its remaining terms notwithstanding such invalid, illegal or unenforceable term. Neither the course of conduct between parties nor trade practice shall act to modify the provisions of this Agreement. We may authorize or allow our contractors and other third parties to provide the services necessary or related to making the Service available and to perform obligations and exercise our rights under this Agreement, and we may collect payment on their behalf, if applicable.

**8.6 Miscellaneous.** We may enforce or decline to enforce any or all of the terms of this Agreement in our sole discretion. In no event shall we be required to explain, comment on, suffer liability for or forfeit any right or discretion based on its enforcement, non-enforcement or consistency of enforcement of these terms. Captions used in this document are for convenience only and shall not be considered a part of this Agreement or be used to construe its terms or meaning. The provisions of any Sections of this Agreement, which by their nature should continue, shall survive any termination of this Agreement.

**8.7 Assignment Of Account.** We may sell, assign, pledge or transfer this Agreement, the lease addendum, your account or an interest in your account to a third party without notice to you. In the absence of a notice of such sale or transfer, you must continue to make all required payments to us in accordance with your statement.

**8.8 Entire Agreement.** This Agreement, as well as the additional online documents specifically incorporated as a part of this Agreement, constitutes the entire and only agreement with respect to its subject matter between you and ViaSat, applicable also to all users of your account. This Agreement supersedes all representations, proposals, inducements, assurances, promises, agreements and other communications with respect to its subject matter except as expressly set forth in this document.

## Lease Addendum

This Lease Addendum is between you and ViaSat Communications, Inc. and is separate and different from any other commitment you may have made with ViaSat and is fully enforceable under these terms.

If you have purchased your Equipment from ViaSat, formally known as WildBlue Communications, Inc., these terms do not apply to you.

A. **Applicable Documents and Terms.** If you leased Equipment from ViaSat, the terms and conditions of this Lease Addendum, the Customer Agreement and the pricing terms of the lease promotion apply to you. Unless otherwise specified in your Customer Agreement: (i) the leased Equipment shall at all times remain the sole and exclusive property of ViaSat and we will have the right, in our sole discretion, to provide or replace leased Equipment with new or reconditioned Equipment and to remove, or require the return of, such Equipment upon cancellation or disconnection of your Services for any reason; and (ii) we will charge you a monthly Equipment rental fee (an "Equipment Rental Fee") for the Equipment. If you elected a promotion under which you prepaid lease fees, no additional lease fee will apply until you have exhausted the prepaid amount. Upon expiration of the prepaid lease term, the monthly Equipment Rental Fee will be charged to your payment method on file.

B. **Ownership by ViaSat.** No leased Equipment provided to you by ViaSat shall be deemed fixtures or part of your realty. Our ownership of such Equipment may be displayed by notice contained on it. You shall have no right to pledge, sell, mortgage, otherwise encumber, give away, remove, relocate, alter or tamper with the Equipment (or any notice of our ownership thereon) at any time. Any reinstallation, return, or change in the location of the Equipment shall be performed by us at our service rates in effect at the time of such service. We reserve the right to make such filings as may be determined to be necessary by us in our sole discretion to evidence our ownership rights in the Equipment, and you agree to execute any and all documents as may be so determined to be necessary for us to make such filings. You are responsible for preventing the loss or destruction of leased Equipment and we recommend that your Equipment be covered by your homeowners, renters or other insurance policy.

C. **Return of Equipment.** If you cease to be a ViaSat customer for any reason (whether voluntarily or involuntarily), you must call ViaSat within seven days after the termination of your ViaSat Service, to (i) request that a prepaid shipping package be sent to you to ship the Equipment to ViaSat; or (ii) make arrangements for ViaSat to de-install your Equipment at our standard rates. You acknowledge that the Equipment must be returned to ViaSat in good working order, normal wear and tear excepted. If ViaSat does not receive all of the Equipment within **30 days** after the termination of your ViaSat Services or if the Equipment is damaged when it is returned to ViaSat, you agree to pay ViaSat the sum of **\$150 for each unreturned or damaged satellite modem** and **\$150 for each unreturned or damaged transceiver integrated assembly**. This fee represents compensation for a portion of the expenses incurred by ViaSat in establishing your account and providing you the Equipment for your use. Additionally, you agree that ViaSat may charge any amounts due for unreturned or damaged Equipment using the payment method on file with ViaSat (Card Payment or EFT Payment) and you hereby authorize ViaSat to make such charges.

D. **Repair/Replacement.** During your Minimum Service Term, ViaSat will repair or replace defective Equipment returned to ViaSat's designated address. For the first 90 days after activation of your Service, coverage includes any applicable labor charges for service calls. After the first 90 days, a \$14.95 shipping charge applies to Equipment replaced by mail, and a \$95.00 service charge applies for Equipment replaced with an in home service call. You shall notify us promptly of any defect in, damage to, or accident involving your leased Equipment by calling 1-866-945-3258. All maintenance and repair of Equipment shall be performed by us or our designee(s). ViaSat may charge you for any repairs that are necessitated by any damage to, or misuse of, the Equipment.

E. **Monthly Rental Fee.** You will be charged an optional monthly fee for the rental of ViaSat Equipment in your household in accordance with the Service you are purchasing. Applicable taxes will apply. THE RENTAL FEE IS SUBJECT TO CHANGE AT ANY TIME.

F. **Disclaimer.** VIASAT PROVIDES YOU THE VIASAT EQUIPMENT AS IS, AND MAKES NO WARRANTY, EITHER EXPRESSED OR IMPLIED, REGARDING THE EQUIPMENT PROVIDED TO YOU. EQUIPMENT MAY BE NEW OR REFURBISHED. ALL SUCH WARRANTIES INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY EXCLUDED. VIASAT IS NOT RESPONSIBLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES RELATING TO THE EQUIPMENT PROVIDED TO YOU.

G. **Customer Acknowledgement.** Customer acknowledges and agrees that ViaSat is not extending credit and that the unreturned Equipment fees are not interest, a credit service fee or a finance charge. If your Equipment is stolen or otherwise removed from your premises without your authorization, you must notify our Customer Service Center by telephone or in writing immediately, but in any event not more than three business days after such removal to avoid liability for payment for unauthorized use of your Equipment. You will not be liable for unauthorized use that occurs after we have received your notification.

## **Acceptable Use Policy Customer Agreement and Usage Policy**

BY USING THE INTERNET ACCESS OFFERED BY YOUR wcec-wb.net d.b.a. *Exede* (heretofore referred to as *Exede*) OR OPENING THIS PACKAGE, YOU ARE CONSENTING TO BE BOUND BY THIS AGREEMENT. IF YOU DO NOT AGREE TO ALL THE TERMS OF THIS AGREEMENT, DO NOT USE INTERNET ACCESS OFFERED BY *EXEDE* OR RETURN THE PRODUCT TO THE PLACE OF PURCHASE FOR A REFUND.

THE SOFTWARE AND DOCUMENTATION ARE PROVIDED FOR USE ONLY (I) WITH THE INTERNET ACCESS SERVICE INITIALLY OFFERED BY *EXEDE* IN CONJUNCTION WITH THE DISTRIBUTION OF THE SOFTWARE AND DOCUMENTATION AND (II) IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. NO RIGHT OR LICENSE IS GRANTED TO USE THE SOFTWARE OR DOCUMENTATION WITH ANY OTHER INTERNET ACCESS.

### **GRANT**

*EXEDE* hereby grants non-exclusive, non-transferable, limited license to access the Internet through *EXEDE*'s network and a non-exclusive license to use its accompanying software product and accompanying documentation on the following terms:

#### **You may:**

use the Software only with the Internet service initially offered by *EXEDE* in conjunction with the distribution of the Software and Documentation of *EXEDE*'s Internet Services, with which it is bundled; use the Software on any single computer; use the Software on a second computer so long as the first and second computers are not used simultaneously; or copy the Software for archival purposes, provided any copy contains all the original Software's proprietary notices.

#### **You may not:**

use the Software or Documentation in conjunction with any Internet access or other network service, other than *EXEDE*'s Internet Services permit individuals outside your household to use the Software except under the terms above; modify, translate, reverse engineer, decompile, disassemble (except to the extent applicable laws specifically prohibit such restriction), or create derivative works based on the Software or Documentation; copy the Software or Documentation (except for back-up purposes); rent, lease, transfer or otherwise transfer rights to the Software or Documentation; or remove any proprietary notices or labels on the Software or Documentation.

### **TITLE**

Title, ownership rights and intellectual property rights in and to the Software and Documentation will remain with *EXEDE* and/or its suppliers. The copyright laws of the United States and international copyright treaties protect the Software. Title, ownership rights and intellectual property rights in and to the content accessed through the Software or through *EXEDE*'s Internet Services are the property of the applicable content owner and may be protected by applicable copyright or other law. This license gives you no rights to such content. You retain any rights you may have in data posted by you to the Internet.

### **NO ASSIGNMENT**

The benefits or rights conferred by this agreement are non-transferable and non-assignable. The connectivity provided is expressly limited to you. Resale or use of this connection by another person or persons is prohibited.

## DEFINITION OF SERVICES

Single Dial-up Internet Services provide Internet access to one user on one computer for a single dial-up session. Single Dial-up Internet Services include Residential Basic Service, Residential Standard Service, Educational Dial-up Service, Business Single Dial-up Service, and other single dial-up services that may be provided from time to time. Multiple User Internet Services provide Internet access to one or more users on one or more computers for single or multiple simultaneous sessions. Business Virtual Direct Service is a Multiple User Internet Service that provides Internet access through a single dial-up session. Business Direct Services are Multiple User Internet Services that provide Internet access through a direct connection.

## CHARGES AND BILLING

A valid credit card may be required to open an account for Single Dial-up Internet Services. A completed Internet Services Application is required for Multiple User Internet Services.

You agree to pay **EXEDE** all charges relating to use of your account(s). Single Dial-up Internet Service charges will be according to rates and prices published online at the time of use. Charges for Multiple User Internet Services will be as stated in the Internet Services Application or as otherwise agreed in writing by the parties. Charges for other services, such as promotional offerings and other services to be offered from time to time, will be according to prices published at the time.

Charges at the date of invoice will include the next month's access fee, the next month's other recurring charges, and additional usage charges incurred during the prior month, if any. Your first bill will be prorated according to the days of service left in **EXEDE**'s billing period. Residential Dial-up customers will receive the first 30 days of service at no charge. Charges for all Business Services will be payable by you commencing no later than one business day after receipt of application by **EXEDE**.

For Single Dial-up Internet Services, you may elect payment by bank draft, credit card, debit card, check or money order. **EXEDE** will send you an invoice by e-mail setting forth all charges incurred by you at the end of each **EXEDE** billing cycle. You are solely responsible for informing **EXEDE** of new expiration dates and account numbers on your listed credit card, debit card, or bank draft accounts as appropriate. You are responsible for keeping **EXEDE** updated when your listed credit card has no remaining credit. For Residential Dial-up customers, monthly invoices by U.S. mail may be requested instead of an e-mail invoice for an additional charge of \$1 per month. Business Services customers may request monthly invoices by U.S. mail for no additional charge. Invoices will be mailed by the first (1st) day of the month.

For payments made by credit card, debit card or bank draft your account will be charged on the first (1st) calendar day of each month. For payments made by check or money order, your payment is due on the twentieth (20) calendar day of the month.

**EXEDE** will charge \$25 for all returned checks and for bank drafts declined by your bank, and your account will be subject to immediate suspension. **EXEDE** will charge a \$15 processing fee for all credit card or debit card transactions that are either denied or cannot be processed for any reason, and your account will be subject to immediate suspension. If payment is not received by the date due, your account is delinquent and subject to an interest charge of 1.5% per month on the outstanding balance. If your state law does not allow an interest rate of 1.5% per month, the maximum allowable rate for your state will be charged. **EXEDE** may at any time charge your credit card any amount past due or any balance due at the time of notification to **EXEDE** of a denied bank draft, declined debit card, or check returned for non-sufficient funds.



If you default, you are liable for any and all attorney fees, court costs and collection agency fees or commissions if **EXEDE** has to employ these methods in order to collect debts owed to **EXEDE** under this Agreement. Accounts cancelled due to non-payment will be reported to a credit reporting agency.

You agree to pay a fine of \$500 for flagrant disregard of **EXEDE**'s Allowable Use Policy as contained in this Agreement. It is at **EXEDE**'s sole discretion what constitutes flagrant disregard of allowable use.

#### OTHER CHARGES

You are responsible for any local or long distance phone charges accrued in connecting to **EXEDE**. **EXEDE** is not responsible for any phone charges unintentionally incurred by any subscriber for any reason. You also are responsible for providing all equipment, including computer hardware and software, used in connecting to **EXEDE**.

#### LIMITATION OF LIABILITY

**EXEDE** exercises no control whatsoever over the content of the information accessed through **EXEDE**'s Internet Services. **EXEDE**'s Internet Services are provided on an "as is, as available" basis, without warranty of any kind, expressed or implied, including, but not limited to, the warranties of performance, merchantability and fitness for a particular purpose. **EXEDE** and/or contributors will have no liability whatsoever to you for any claim(s) relating in any way to (i) your inability or failure to perform research or related work or to work properly or completely, or (ii) any lost profits or consequential, exemplary, incidental, indirect or special damages relating in whole or in part to your rights hereunder or use of, or inability to use, **EXEDE**'s Internet Services. **EXEDE** will not be responsible for any damage suffered by you, including, but not limited to, loss of data resulting from delays, non-deliveries, mis-deliveries or service interruptions caused by its own negligence or your errors or omissions. Use of any information obtained via **EXEDE**'s Internet Services is at your sole risk. **EXEDE** specifically disclaims any responsibility for the accuracy or quality of information obtained through **EXEDE**'s Internet Services.

Under no circumstances and under no legal theory, tort, contract or otherwise, will **EXEDE** or its suppliers or resellers be liable to you or any other person for any indirect, special, incidental or consequential damages of any character including, without limitation, damages for loss of goodwill, work stoppage, computer failure or malfunction, or any and all other commercial damages or losses, or for any damages in excess of **EXEDE**'s list price for a license to the Software and Documentation, even if **EXEDE** will have been informed of the possibility of such damages, or for any claim by any other party. This limitation of liability will not apply to liability for death or personal injury to the extent applicable law prohibits such limitation. Furthermore, some states do not allow the exclusion or limitation of incidental or consequential damages, so this limitation and exclusion may not apply to you.

#### ALLOWABLE USE

**EXEDE** will publish its Customer Agreement, including the Allowable Use Policy, on its web site. These policies may be revised from time to time. You agree to abide by **EXEDE**'s policies concerning use of **EXEDE**'s Internet Services as published on line at the time of use.

**EXEDE**'s Internet Services may only be used for lawful purposes. Transmission of any material in violation of any federal or state statute or regulation is prohibited. This includes, but is not limited to, copyrighted material, material legally judged to be threatening or obscene, or material protected by trade secret. You agree to indemnify and hold harmless **EXEDE** from any claims resulting from your use of **EXEDE**'s Internet Services.

Commercial advertisements are unwelcome in most Usenet discussion groups and on most e-mail mailing lists. Inappropriate posting may result in account suspension or cancellation. See the newsgroup or mailing

list's charter for whether advertising is allowed or not. "Spamming," or sending a message to many different off-topic newsgroups, is not allowed. Sending a message, especially an advertisement, to more than five recipients, is considered by itself spamming unless the individuals have specifically requested to be added to a mailing list on that topic. E-mail is a person-to-person medium, not a broadcast medium. Unsolicited advertisements via e-mail, or via discussion groups whose charter does not explicitly allow advertisements, are not allowable.

Violations of **EXEDE**'s Customer Agreement and allowable use policies will result in account suspension or cancellation and fines as states in Charges and Billing.

#### UNLIMITED USAGE

**EXEDE** offers unlimited usage to Single Dial-up Internet Services customers. "Unlimited usage" does not mean "unlimited access." Unlimited dial-up accounts have no hourly charges when the account holder is wholly and exclusively engaged in personal, interactive Internet use. Personal, interactive use is approximated by **EXEDE** at 320 hours. Accounts may not be used for automated, unsupervised use of the Internet or simultaneous connections by multiple people. Accounts may not be kept connected with a keep-alive of any sort, such as setting an e-mail program to check mail periodically unattended. **EXEDE** may disconnect dial-up connections after extended periods of inactivity or unauthorized use.

#### RESPONSIBILITY FOR ACCOUNT USE

You are responsible for all use of your account(s) and confidentiality of password(s). **EXEDE** will suspend or change access upon notification that your password has been stolen, lost or otherwise possibly compromised. **EXEDE** is not responsible for your personal files residing online on **EXEDE** owned and controlled computers. You will be responsible for independent backup of your data stored online. You will be responsible for all access to and use of **EXEDE**'s Internet Services by your personnel or by means of your equipment, whether or not you have knowledge of or authorize such access or use.

If the subscriber is less than 18 years of age, the application must be signed and these terms agreed to by a parent or legal guardian, who is responsible for all charges related to the use of subscriber's account(s).

#### UNAUTHORIZED USE OF ACCOUNT

**EXEDE** will strongly react to any use or attempted use of an Internet account or computer without the owner's authorization. Such attempts include "social engineering" (tricking other people into releasing their passwords), password cracking, security hole scanning, denial-of-service attacks (ping-flooding, sending packets with an illegal packet size, UDP flooding, half-open TCP connection flooding, etc.) and the like.

Harassment or abusive use of e-mail and other Internet services are not allowed. **EXEDE** will handle incidents of harassment on a case-by-case basis, consulting with all parties involved.

Any unauthorized use of accounts or computers by a **EXEDE** customer, whether or not the attacked account or computer belongs to **EXEDE**, will result in action against the attacker. Possible actions include warnings, account suspension or cancellation, and legal action, according to the seriousness of the attack.

#### LIMITATIONS ON RESOURCE USAGE

**EXEDE** reserves the right to impose limits on the total amount of disk space and other resources available for your use on **EXEDE** operated computers. E-mail accounts for dial-up account users are subject to a limit of 2MB. **EXEDE** reserves the right to delete, without notice, personal e-mail files that have not been accessed for more than one month.

Disk space for storage of web pages is available in amounts specific to each Internet service package. Use of excess space will be charged on a monthly basis according to rates and prices published online at the time of use. **EXEDE** reserves the right to remove files that exceed allowed limits.

#### E-MAIL PRIVACY

Electronic mail passes through multiple mail servers on the Internet as it passes from source to destination. Privacy can never be guaranteed from every possible mail server; therefore, users seeking total privacy should use some encryption scheme to render messages unreadable by eavesdroppers. With regards to **EXEDE**'s mail servers, **EXEDE** places a high value on privacy and will only examine users' mail when absolutely required, for example when troubleshooting e-mail delivery problems or being presented with a search warrant for the information.

#### ILLEGAL MATERIAL

**EXEDE** bears certain legal liabilities for the use of its computer network and equipment. As such, **EXEDE** prohibits any and all use of **EXEDE**'s network for illegal purposes. When presented with a search warrant, **EXEDE** is obligated to release any information named therein, and will cooperate with authorities in any criminal investigation of inappropriate Internet usage.

However, **EXEDE** recognizes that the legal status of the Internet has not yet been resolved satisfactorily, either through legislation or court precedent. Therefore, **EXEDE** must make certain decisions regarding the illegality of various specific actions. Among the actions **EXEDE** considers illegal and therefore will not allow on its network are: unauthorized distribution of copyrighted material; exploitation of minors; and unauthorized use of computer resources. **EXEDE** believes the First Amendment rights of free speech, freedom of the press and freedom of association apply to the Internet to the same degree as they do to print media and that any attempt to infringe upon those rights is void of legitimacy.

#### WEB SERVICE

**EXEDE** provides personal web space to dial-up customers. **EXEDE** includes web service in its enhanced packages and hosts commercial web pages for a fee. In all cases, the web pages reside on **EXEDE**'s computer equipment, giving **EXEDE** some ethical responsibility for the content of such pages. **EXEDE** will handle potentially inappropriate web pages on a case-by-case basis. Examples of inappropriate information include downloadable virus code and obscene materials.

Personal web space provided under any Residential Service may not be used for purposes that can be deemed as an attempt to sell a product or service. Only web space provided under non-Residential Services account may be used for commercial activity.

Domain name service is available as an optional service. You are responsible for domain name registration with InterNIC and for any fees charged by InterNIC. **EXEDE** charges a \$125 setup fee for adding your registered name on the **EXEDE** domain name server.

**EXEDE** grants you non-exclusive, non-transferable, limited license to store documents on a **EXEDE** Internet World Wide Web server, and to use the server at burst bandwidth speeds up to **EXEDE**'s full capacity. **EXEDE** will bill for usage in accordance with rate and prices published online at the time of use.

#### TERM AND TERMINATION

This agreement will become effective on the date the service application is entered into **EXEDE**'s system (no later than the end of one business day after receipt of application). **EXEDE**, at its sole discretion, may terminate this agreement immediately or suspend your access to the service upon any breach of this Agreement by you.

You are responsible for notifying **EXEDE** of your wish to terminate your account if desired. Charges will continue to accrue until your notification to **EXEDE** of account termination, or until your account is cancelled due to non-payment as stated in "Charges and Billing." If your account is cancelled due to non-payment, you will be in default and subject to any and all late fees and collection fees payable by you under this Agreement.

Licenses granted hereunder will terminate automatically if you fail to comply with the limitations described herein. Upon termination, you must destroy all copies of the Software and Documentation.

#### EXPORTCONTROLS

None of the Software or underlying information or technology may be downloaded or otherwise exported or re-exported into (or to a national or resident of) Cuba, Iraq, Libya, North Korea, Yugoslavia, Iran, Syria or any country to which the United States has embargoed goods; or to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Denial Orders. By downloading or using the Software, you are agreeing to the foregoing and are representing and warranting that you are not located in, under the control of, or a national or resident of any such country or on any such list.

In addition, if the licensed Software is identified as a not-for-export product (for example, on the box, media or on the installation process), then the following applies: except for export to Canada for use in Canada by Canadian citizens, the Software and any underlying technology may not be exported outside the United States or to any foreign entity or "foreign person" as defined by U.S. Government regulations, including without limitation, anyone who is not a citizen, national or lawful permanent resident of the United States. By downloading or using the

Software, you are agreeing to the foregoing and are warranting that you are not a "foreign person" or under the control of a foreign person.

#### EFFECT OF AGREEMENT

This Agreement (which will include the current and future Schedules hereto) represents the complete agreement concerning this license between the parties and supersedes all prior agreements and representations between them.

#### MODIFICATION OF TERMS AND CHARGES

**EXEDE** reserves the right to change rates or otherwise modify provisions of this Agreement by notifying you at least thirty (30) days before the effective date of the change, by written or online notice. Your use of **EXEDE**'s Internet Services after such notice will constitute your acceptance of the modifications to this agreement.

#### FORCE MAJEURE

**EXEDE**'s performance hereunder is subject to interruption and delay due to causes beyond its reasonable control such as acts of God, acts of any government, war or other hostility, civil disorder, the elements, fire, explosion, power failure, equipment failure, industrial or labor disputes, inability to obtain necessary supplies and the like.

#### SEVERABILITY

If any provision of this Agreement is held to be unenforceable for any reason, such provision will be reformed only to the extent necessary to make it enforceable, and all other provisions are unaffected.

## NOTICES

Except as otherwise provided herein, all notices hereunder will be given in writing as follows:

### **EXEDE EL Campo, Texas**

## GOVERNING LAW

This Agreement will be governed by and construed under the laws of the state of North Carolina except as governed by Federal law. The application of the United Nations Convention of Contracts for the International Sale of Goods is expressly included. All disputes will be settled in North Carolina courts.

## WAIVER

Failure of any party to enforce any provision of this Agreement will not constitute or be construed as a waiver of such provision or of the right to enforce such provision.

## U.S. GOVERNMENT RESTRICTED RIGHTS

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**If you did not receive Sections 1 through 8 of this Agreement, the Lease Addendum and, if applicable, the Recovery Act Addendum and VOIP Addendum, DO NOT SIGN THIS AGREEMENT.**

(Customer)

Name on Account: \_\_\_\_\_ Date: \_\_\_\_\_

Phone #: \_\_\_\_\_ Physical Address: \_\_\_\_\_

Alt. Phone Number: \_\_\_\_\_ \_\_\_\_\_

Mailing Address: \_\_\_\_\_

TDL # N/A \_\_\_\_\_

S.S.N. N/A \_\_\_\_\_ Map Ref: \_\_\_\_\_

Received AUP and FAP: \_\_\_\_\_

Amount collected: - \_\_\_\_\_

Email (optional): \_\_\_\_\_

**Package Choice:**

Bronze	Silver	Gold
\$65.00	\$95.00	\$145.00

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Print Name**

+++++

**FOR OFFICE USE**

Wildblue Email Address: \_\_\_\_\_

WCEC Account Number: \_\_\_\_\_

Package Choice: \_\_\_\_\_

Billing: \_\_\_\_\_

Deposit: \_\_\_\_\_

Credit Check: \_\_\_\_\_

Paid: \_\_\_\_\_

Deposit Installments: \_\_\_\_\_