

## GENERALLY AVAILABLE TERMS AND CONDITIONS

These Generally Available Terms and Conditions are between FairPoint Communications Inc., by and through its subsidiaries listed in Exhibit 1, ("FairPoint Communications") with offices at 520 E. Morehead Street, Suite 250, Charlotte, NC 28202 ("FairPoint Communications" or "Company") and the person or entity purchasing Services hereunder ("Carrier" or "Customer") and include the Service Descriptions and other terms set forth in Attachments 1 through 3, which are attached hereto and incorporated herein by reference (collectively, the "Agreement"). Customer's acceptance of this Agreement indicates its agreement to comply with these terms. Customer agrees with and is deemed to have accepted this Agreement upon Customer's continued use of the Service(s) after April 1, 2008 (for existing Customers and lines as of such date and for new lines added by such Customers after April 1, 2008). Services governed by these Generally Available Terms and Conditions are available only to those Customers with existing service orders as of April 1, 2008.

The term "Service" shall mean "FairPoint Communications Wholesale DSL (as further described in Attachment 1), including other optional features, products and services provided by FairPoint Communications under the rate plan applicable to the Service.

The following terms apply to all Services set forth in Attachment 1:

### 1. Undertaking of Carrier

- 1.1 Service is furnished for interstate communications originating or terminating at specified points within Company's operating territory.
- 1.2 Company shall provide Service in accordance with the terms and conditions set forth in this Agreement, including the terms contained in Attachments 1 through 3, as applicable to the Services ordered.
- 1.3 Service is provided on a monthly basis unless ordered on a longer term basis, and is available 24 hours per day, seven days per week.

### 2. Limitations on Service

- 2.1 Service is offered subject to the availability of the necessary facilities and equipment and subject to the provisions of this Agreement to those Customers of record as of April 1, 2008.
- 2.2 Company reserves the right to discontinue furnishing Service, or to limit the use of Service, when necessitated by conditions beyond its control, when Customer is using Service in violation of the law or in violation of the provisions of this Agreement or for nonpayment by Customer.
- 2.3 Customer may not transfer or assign the use of any Service provided under this Agreement without the prior written consent of Company. All conditions contained in this Agreement, as well as any additional conditions for Service, shall apply to any and all such permitted assignees or transferees. Except and to the extent that applicable laws or regulation require such notice, Company may assign its rights and obligations hereunder in whole or in part without notice to Customer.
- 2.4 Service may not be used for any unlawful purpose.
- 2.5 Company may require Customer to sign an application form furnished by Company and

to establish credit as provided in this Agreement, as a condition precedent to the initial establishment of Service. Company's acceptance of an order for Service to be provided to an applicant whose credit has not been duly established may be subject to the deposit provisions described in Section 9 of this Agreement. Company may also require a signed authorization from Customer for additions to or changes in existing Service for Customer.

### **3. Limitations on Liabilities**

- 3.1 The liability of Company for damages is limited to liability arising solely and directly from mistakes, omissions, interruptions, delays, errors, or defects in transmission occurring in the course of furnishing Service that are not caused in whole or in part by acts or omissions of any other person, and shall in no event exceed an amount equal to the charges Company would assess Customer during the period during which mistakes, omissions, interruptions, delays, errors, or defects in transmission occurred.
- 3.2 Company shall not be liable for unlawful use, or use by any unauthorized person, of its Service, or for any claim arising out of a breach in the privacy or security of communications transmitted by Company.
- 3.3 Company shall not be liable for any failure of performance due to causes beyond its reasonable control, including but not limited to acts of God, fires, meteorological phenomena, floods, or other catastrophes, national emergencies, insurrections, riots or wars, strikes, lockouts, work stoppages or other labor difficulties, and any law, order, regulation, or other action of any governing authority or agency thereof. With respect to the Services, Company hereby expressly disclaims all warranties, expressed or implied, not stated in this Agreement, and in particular disclaims all warranties of merchantability and fitness for a particular purpose.
- 3.4 Company shall not be liable for any act or omission of other carriers or persons, including carriers or persons whose facilities may be utilized in establishing connections to Company's facilities. Customer shall indemnify and save harmless Company from any third party claims asserting such liability.
- 3.5 Company shall not be liable for any damages Customer may incur as a result of the unauthorized use the Services provided under this Agreement. Customer is responsible for controlling access to, and the use of, the Services provided by Company.

### **4. Cancellation or Discontinuance of Service by Company**

Without incurring any liability, Company may under the following conditions cancel Service prior to commencement. Company may also discontinue Service that is being furnished, provided that, unless otherwise stated, Customer shall be given fifteen (15) days written notice of such cancellation or discontinuance of Service.

- 4.1 For noncompliance with or violation of any applicable municipal, state, or federal law, ordinance or regulation or noncompliance with or violation of any Commission regulation, provided that no notice may be given.
- 4.2 For Customer's refusal to provide reasonable access to Company or its agents for the purpose of installation, inspection or maintenance of equipment owned by Company.
- 4.3 For noncompliance with any of the provisions of this Agreement.

- 4.4 For nonpayment of any sum due Company for more than thirty (30) days after delivery of an invoice to the custody of the U.S. Mail or other delivery service.
- 4.5 Without notice, in the event of Customer's use of equipment in such a manner as to adversely affect Company's equipment or its provision of service to others.
- 4.6 Without notice, in the event of unauthorized or fraudulent use of Service. Whenever Service is discontinued for unauthorized use of Service, Company may, before restoring Service, require Customer to make, at its own expense, all changes to its facilities or equipment necessary to eliminate unauthorized use and to pay to Company an amount reasonably estimated by Company as the loss in revenues to Company resulting from such unauthorized use plus claims lodged against Company by third parties.
- 4.7 Without notice, by reason of any order or decision of a court or other government authority having jurisdiction that prohibits Company from furnishing Service to Customer.

## **5. Cancellation or Termination of Service by Customer**

- 5.1 Customer may cancel Service by giving notice to Company up to the day Service is scheduled to commence subject to payment of any applicable early termination charges.
- 5.2 If Customer orders Service which requires special construction or facilities for Customer's use, and then cancels its order before Service begins, a charge shall be made to Customer for the non-recoverable portions of the expenditures or liabilities incurred on behalf of Customer by Company. This charge may be in addition to any other applicable early termination charges.
- 5.3 Company shall have up to thirty (30) days to complete a disconnection. Customer shall be responsible for all charges for 30 days, or until the disconnection is effected, whichever is sooner. This 30-day period shall begin on the day of receipt of a disconnection notice from Customer.

## **6. Reserved for Future Use**

## **7. Restoration of Service**

The use and restoration of Service shall in all cases be in accordance with the priority system specified in Part 64, Subpart D, of the Rules and Regulations of the Federal Communications Commission.

## **8. Payment and Billing**

- 8.1 For billing of fixed charges, service is considered to be established upon the day on which Company notifies Customer of installation or testing of Customer's service. Fixed charges shall be billed monthly in advance and are due upon receipt. Customer shall be billed for all usage in arrears. Rate changes shall be effective on the effective date of the rate change.
- 8.2 Bills are due and payable upon receipt. Interest at the lesser of a rate of one and one-half percent (1.5%) per month, or the maximum rate allowed by law, may be charged on any amount remaining unpaid after thirty (30) days from delivery of an invoice to the custody

of the U.S. Mail or other delivery service.

- 8.3 The security of Customer's authorization or access code is the responsibility of Customer. Customer shall be responsible for payment of all charges applicable to the service, including in cases where the service was accessed in a manner not authorized by Customer.
- 8.4 Company reserves the right to examine the credit record of an applicant or Customer. A Customer whose service has been discontinued for nonpayment of bills shall be required to pay any unpaid balance due to Company before service is restored, and a deposit may be required.
- 8.5 Company shall make no refund of overpayments by Customer unless the claim for such overpayment, together with proper evidence, is submitted within two (2) years from the date of the alleged overpayment. In calculating refunds, any applicable discounts shall be adjusted based upon the actual monthly usage after all credits or adjustments have been applied.
- 8.6 A charge shall apply whenever any check or draft for payment for service is not accepted by the institution on which it is written.

## **9. Deposits**

- 9.1 Each applicant for Service may be required to establish credit. Any applicant whose credit has not been duly established may be required to make a deposit to be held as a guarantee of payment of charges at the time of application. In addition, an existing Customer may be required to make a deposit or increase a deposit presently held. Company shall pay interest on deposits if and to the extent required by applicable law.
- 9.2 A deposit shall not exceed the estimated charges for three (3) month's Service plus installation, and shall be returned.
  - a. When an application for Service has been canceled prior to the establishment of Service. Such deposit shall be applied to any applicable charges, and the excess portion of the deposit shall be returned.
  - b. At the end of twelve (12) consecutive months of a satisfactory credit history.
  - c. Upon the discontinuance of Service. Company shall apply Customer deposit against any outstanding balances due. If a credit balance exists, a refund shall be made to Customer.

The fact that a deposit has been made in no way relieves Customer from complying with the regulations with respect to the prompt payment of bills on presentation.

## **10. Taxes**

- 10.1 Service may be subject to Federal, state and/or local taxes at the prevailing rates. Such taxes are listed as separate line items on Customer's invoice, are not included in the rates and charges listed herein, and shall be paid by Customer in addition to the rates and charges stated in this Agreement.
- 10.2 To the extent that a municipality, other political subdivision or local agency of government, or

any state or federal regulatory commission or board, imposes upon and collects from Company a gross receipts tax, occupation tax, license tax, permit fee, franchise fee, regulatory or other fee, such taxes and fees shall, insofar as practicable, be billed pro rata to Customers receiving Service within the territorial limits of such municipality, other political subdivision, or local or Federal government or agency.

- 10.3 Company may adjust its rates and charges or impose additional rates and charges on its Customers in order to recover amounts it is required by governmental or quasi-governmental authorities to collect from or pay to others in support of statutory or regulatory programs.

**11. Terminal Equipment.**

Service may be used with or terminated in Customer-provided terminal equipment. Such terminal equipment shall be furnished by and maintained at the expense of Customer, except as otherwise provided. Customer is also responsible for all costs it incurs in the use of Service, including but not limited to equipment, wiring, electrical power, and personnel. When such terminal equipment is used, it shall in all respects comply with the generally accepted minimum protective standards of the telecommunications industry as endorsed by the Federal Communications Commission.

**12. Interconnection**

Service furnished by Company may be connected with the services or facilities of other carriers. Customer is responsible for all charges billed by other carriers in connection with the use of Service. Any special equipment or facilities necessary to achieve compatibility between carriers are the sole responsibility of Customer.

**13. Inspection, Testing and Adjustment**

- 13.1 Company may, with or without notice, make such tests and inspections as may be necessary to determine whether Agreement requirements are being complied with in the installation, operation, and maintenance of Customer's or Company's equipment or services. Company may, without notice, interrupt Service at any time, as necessary, because of a departure from any of these requirements and may continue such interruption until its requirements have been satisfied.
- 13.2 Upon reasonable notice, the facilities provided by Company shall be made available to Company by Customer for such tests and adjustments as may be necessary for their maintenance to a condition satisfactory to Company.
- 13.3 Company shall not be liable to Customer for any damages for Service interruption pursuant to this Section.

**14. Interruption of Service**

- 14.1 It shall be the obligation of Customer to notify Company of any interruption of Service. Before giving such notice, Customer shall ascertain that the trouble is not being caused by any action or omission of Customer or is not in wiring or equipment connected to the terminal of Company. Company's liability for Service interruption is limited according to the provisions of Section 3.
- 14.2 When Service is interrupted for four hours or more, Company will, upon request by

Customer, issue a credit, computed as set forth below, provided such interruption is not determined by Company to have been caused by the negligence or willful action of Customer, or any other person at Customer's terminal location, or by the failure of Customer's equipment or power supply.

- 14.3 Credit is computed by multiplying the monthly rate for Service by the ratio that the number of hours in the period of interruption bears to 720 hours. For the purpose of this computation, each month shall be considered to have 720 hours. The credit shall be based upon the non-usage charges for the month during which the interruption occurred, excluding equipment and access line charges.
- 14.4 An interruption is measured from the time Company detects trouble or Customer notifies Company of the interruption by an expeditious means, until the trouble is cleared. Each interruption is considered separately for the purposes of establishing credit allowance. No credit shall be given for an interruption of Service of less than four hours. The credit for a billing period shall not exceed the monthly rate.
- 14.5 Credit for interruption of Service does not apply when such credit is limited under the rates, terms and conditions of the specific Service involved.

## 15. Provision of Service

Services are provided only in those geographic areas where facilities exist, where Company has in its discretion determined (subject to applicable law) to provide Services, and where Company is authorized to provide Services. Services offered under this Agreement are subject to availability and only for those Customers of record as of April 1, 2008.

## 16. Changes or Updates to the Services or to this Agreement

- 16.1 FairPoint Communications reserves the right to make changes to the Service or any portion thereof. If such a change materially and adversely affects your use of the Service, and FairPoint Communications cannot reasonably mitigate the impact, then Customer may terminate the Service within thirty (30) days of the effective date of the change without further obligation by providing written notice to FairPoint Communications.
- 16.2 FairPoint Communications may revise the terms and conditions of this Agreement from time to time by posting such revisions to the located at:

[www.fairpoint.com/wholesale](http://www.fairpoint.com/wholesale)

Field Code Changed

Customer agrees to visit this website periodically to be aware of and review any such revisions. Increases to the monthly price of the Service shall be effective thirty (30) days after posting; revisions to any other terms and conditions shall be effective upon posting. By continuing to use the Service after revisions are in effect, Customer accepts and agrees to the revisions and to abide by them.

## 17. Applicable Law

The construction, interpretation and performance of this Agreement shall be governed by the laws of the State of New York, without regard to its conflicts of laws rules. All disputes relating to this Agreement shall be resolved through the application of such laws.

**18. Miscellaneous.**

- 18.1 The terms and conditions of this Agreement supersede all previous agreements, proposals or representations related to the Service.
- 18.2 Any notices or demands or other communications which under the terms of this Agreement or under any statute must or may be given or made by either party shall be in writing to the respective parties as set forth herein. Notices to FairPoint Communications shall be sent to the following address:

FairPoint Communications Legal Department  
520 E. Morehead Street, Suite 250  
Charlotte, NC 28202

Notices to Customer shall be sent to the Customer's billing address.

Either party may change the notice address or addressee by giving notice thereof to the other party. Notices may be given by first class U.S. mail or nationally recognized overnight express courier. Notices shall be deemed to have been given on receipt if delivered by overnight express courier or three (3) days after delivery to the United States Postal Service if mailed. In addition, FairPoint Communications may provide notice you Customer by electronic mail and notice shall be deemed given upon sending of such electronic mail to the address in FairPoint Communications' records. Customer agrees to provide FairPoint Communications with an accurate electronic email address for the purpose of receiving such notice and to update such address when it changes.

- 18.3 If any of the terms or conditions in this Agreement is properly found to be invalid or unenforceable by a government body, the remaining terms or conditions of this agreement shall not be affected by the finding and shall continue to apply as necessary to reflect the original intention of the parties.
- 18.4 FairPoint Communication's failure at any time to enforce any provision of this Agreement or any right or remedy available hereunder or at law or equity, or to exercise any option herein provided shall in no way be construed to be a waiver of such provision, right, remedy or option or in any other way affect the validity of this Agreement. The exercise by FairPoint Communications of any rights, remedies or options provided hereunder or at law or equity shall not preclude or prejudice FairPoint Communications from exercising thereafter the same or any other rights or remedies or options.

## **EXHIBIT 1**

### **FairPoint Communications Affiliated Operating Telephone Companies**

Northern New England Telephone Operations LLC DBA FairPoint Communications-NNE

Telephone Operating Company of Vermont LLC DAB FairPoint Communications

## ATTACHMENT 1

### FAIRPOINT COMMUNICATIONS WHOLESALE DSL

The following terms and conditions apply to purchases of FairPoint Communications' Wholesale DSL Service under FairPoint Communications' Generally Available Terms and Conditions (the "Agreement"). Capitalized terms shall have the meaning set forth in the Agreement unless otherwise defined in this Attachment 1.

#### **I. Service Description**

- A. FairPoint Communications Wholesale DSL services are data access services that use DSL technology to transport data over compatible facilities to an end user premises. Data traffic generated by a Customer-provided modem is transported to the FairPoint Communications Wholesale DSL Connection Point. From there, the traffic is transported to the end user's Information Service Provider (ISP) or content provider via Company's other data network interface services.
- B. The following types of FairPoint Communications Wholesale DSL services are available based on the upstream and downstream speed combinations chosen by Customer:
1. FairPoint Communications Wholesale DSL 768K/128K - provides maximum speeds of 768 Kilobits Per Second (Kbps) downstream and 128 Kbps upstream.
  2. FairPoint Communications Wholesale DSL 1.5M/128K - provides maximum speeds of 1.5 Megabits Per Second (Mbps) downstream and 128 Kbps upstream.
  3. FairPoint Communications Wholesale DSL 1.5M/384K - provides maximum speeds of 1.5 Mbps downstream and 384 Kbps upstream.
  4. FairPoint Communications Wholesale DSL 7.1 M/768K - provides maximum speeds of 7.1 Mbps downstream and 768 Kbps upstream.
  5. FairPoint Communications Wholesale DSL 384K/384K - provides maximum speeds of 384 Kbps downstream and 384 Kbps upstream.
  6. FairPoint Communications Wholesale DSL 768K/768K - provides maximum speeds of 768 Kbps downstream and 768 Kbps upstream.
  7. FairPoint Communications Wholesale DSL 3M/768K - provides maximum speeds of 3 Mbps downstream and 768 Kbps upstream.
- C. The data speeds listed above are maximum speeds. Actual speeds may be lower due to the impact of loop distance, modem technology and other factors. Therefore, performance levels cannot be guaranteed. This includes data speeds, throughput, and packet loss.

D. Optional Features

1. Direct PVC Premium Service

Direct PVC Premium Service allows the customer to provide its end-user with a static Internet Protocol (IP) address on a FairPoint Communications Wholesale DSL arrangement by using a Direct Permanent Virtual Circuit (PVC) architecture.

Direct PVC Premium Service will be provided subject to the availability and limitations of Company facilities.

- a. In the following states, the existing network architecture supports the capability to assign dynamic IP addresses by aggregating the traffic of multiple end-users:

Maine, New Hampshire and Vermont

Direct PVC Premium Service is available as a chargeable option (see Section V.E) where facilities allow.

**II. Terms and Conditions**

- A. Company will provision and maintain FairPoint Communications Wholesale DSL from the FairPoint Communications Wholesale DSL Connection Point to the Network Interface Device (NID) at the end user's designated premises. Company will advise Customer of any additional equipment necessary to support FairPoint Communications Wholesale DSL. Customer is responsible for obtaining the necessary additional equipment, including any required splitters or filter and a compatible DSL modem.
- B. Customer will provide Company with the necessary information (e.g., end user name and address, circuit information, serving area, etc.) to provision FairPoint Communications Wholesale DSL.
- C. Access from FairPoint Communications Wholesale DSL Connection Point will be provided via Company's data network interface services. These services may include, but not limited to, Frame Relay Service (FRS), Asynchronous Transfer Mode Cell Relay Service (ATM), High Capacity Broadband Access Cloud (HiBAC) and Dedicated Special Access services. A minimum connection speed of DS-1 or higher is required for ATM, HiBAC, and FRS data network interface services. The rates and charges for these data network interface services are in addition to the rates and charges for FairPoint Communications Wholesale DSL.

- D. Company offers FairPoint Communications Wholesale DSL service over available, compatible facilities to Customers of Record to serve end users who subscribe to Company's local exchange service. In addition, Company offers FairPoint Communications Wholesale DSL service over available, compatible facilities to Customers to serve end users who do not subscribe to Company's local exchange service in the following circumstances:
1. Where an existing Customer's end user switches its existing local exchange service from Company to a carrier that does not use Company's switching facilities and does not require a dispatch of Company personnel to the end user's premises; or
  2. Where a Customer's end user does not currently subscribe to local exchange service provided either by Company or a carrier that utilizes Company's loop or switching facilities; or
  3. Where a Customer's end user receives local exchange service from a carrier that uses Company's loop and switching facilities, other than a reseller of Company's local exchange service, provided that such carrier has agreed to make the high frequency portion of such loop available to Company at no charge.
- E. Company will qualify facilities or obtain qualification information on facilities to determine the suitability of such facilities for FairPoint Communications Wholesale DSL. Company will not provide FairPoint Communications Wholesale DSL on facilities that are unsuitable for the Service, nor will Company provide FairPoint Communications Wholesale DSL if it determines that such provision will produce interference to other services.
- F. FairPoint Communications Wholesale DSL will be provided subject to the availability and limitations of Company facilities. Wholesale DSL is available only to Customer of record as of April 1, 2008.
- G. Company reserves the right to interrupt temporarily FairPoint Communications Wholesale DSL for maintenance, software upgrades, and in emergency situations.
- H. Customer will obtain the appropriate authorization to allow Company's employees or agents to enter the end user's designated premises at any reasonable hour for the purpose of installing, inspecting, or repairing FairPoint Communications Wholesale DSL arrangement, or, upon termination of FairPoint Communications Wholesale DSL, removing Company's equipment. Customer will present evidence of such authorization to Company upon request.

### **III. Rate Regulations**

- A. Monthly Rate - A Monthly Recurring Charge (MRC) applies for each FairPoint Communications Wholesale DSL Solutions arrangement. Monthly rate schedules that are available include month-to-month, one- year term, and under a Five-Year Term and Volume Discount Plan (5N-TVDP) as described in the following.
- B. Service Activation - A single Nonrecurring Charge (NRC) applies for the initial service activation associated with each FairPoint Communications Wholesale DSL arrangement ordered.
- C. ISP/Content Provider Change - A single NRC applies for activities associated with a change

in ISP/Content Provider per each FairPoint Communications Wholesale DSL arrangement changed.

- D. Speed Change-Downward - A single NRC applies for activities associated with a downward change in speed from one service type to another with each FairPoint Communications Wholesale DSL Solutions arrangement changed.
- E. Speed Change-Upward - A single NRC applies for activities associated with an upward change in speed from one service type to another with each FairPoint Communications Wholesale DSL arrangement changed.
- F. Software Change - A single NRC applies for a software change associated with the remapping of circuit information or other software changes associated with a FairPoint Communications Wholesale DSL arrangement. This charge also applies when the Customer's Wholesale DSL Service is validly assigned, or is suspended and transitioned to a new provider due to nonpayment. The Software Change charge applies to the new provider on a per software change basis.
- G. For Customers ordering Schedule 5C of the Term and Volume Discount Plan who cancels FairPoint Communications Wholesale DSL to designated premises within 30 days of installation, Customer will not be charged the foregoing recurring monthly rate or nonrecurring charge.
- H. Direct PVC Premium Service Charge - As described previously, a monthly recurring charge applies for each Direct PVC Premium Service. The charge applies to all available FairPoint Communications Wholesale DSL speeds and is in addition to the rates and charges for the associated FairPoint Communications Wholesale DSL arrangement. If a customer elects to disconnect Direct PVC Premium Service and maintain the underlying FairPoint Communications Wholesale DSL service arrangement, a new Service Activation Charge will apply.

#### **IV. Rate Plans**

##### **One-Year Term Plan**

###### **A. Description**

FairPoint Communications Wholesale DSL One-Year Term Plan provides FairPoint Communications Customers discounted rates based on commitments of a specific term. The One-Year Term Plan encompasses all of Customer's FairPoint Communications Wholesale DSL arrangements.

If Customer is not the end user of the Service, then Customer who purchases FairPoint Communications Wholesale DSL under the One-Year Term Plan assumes the following obligations:

- Customer will submit orders to Company electronically in a format and manner designated by Company;
- Customer will provision all Customer premises equipment to its end users;
- Customer will deal directly with its end users and will be solely liable with respect to all matters relating to the Service, including marketing, ordering, installation, maintenance, repair, billing and collections; and

- Customer will not direct its end users to contact Company regarding any aspect of the Service.

At expiration of the One-Year Term Plan, Customer may choose to convert to the month-to-month rates, or continue with rates, charges, terms and conditions in effect at the end of the expiring Term Plan on a year-to-year basis. A conversion to month-to-month rates, or discontinuance, will require that Customer submit a service change order.

One-Year Term Plans are subject to payments for early termination.

**B. Termination without Liability**

Customer may terminate a term plan without termination liability should the monthly rates increase during the term of the existing term plan. Subsequent to a rate increase, Customer must either elect to terminate the term plan without liability or continue the term plan at the new rate.

End users subscribing to FairPoint Communications Wholesale DSL arrangement(s) under a one- year term who change to an ISP/Content Provider subscribing to FairPoint Communications Wholesale DSL Solutions under a Five-Year Term and Volume Discount Plan are automatically included in the ISP/Content Provider's Five-Year TVDP. No termination liability applies to the terminated one-year term plan of the end user.

**C. Termination Liability**

If Customer elects to discontinue its term plan prior to the end of the commitment period, termination liability charges will apply. Liability will be the difference between what would have been charged had Customer had the month- to-month rate for each FairPoint Communications Wholesale DSL arrangement in-service at the end of each month Customer subscribed to the term plan less all payments made and owed.

Five-Year Term and Volume Discount Plan (TVDP)

**A. Description**

FairPoint Communications Wholesale DSL Five-Year Term and Volume Discount Plan (5N-TVDP) provides Customers discounted rates for FairPoint Communications Wholesale DSL based on commitments of a specific term with minimum volumes. FairPoint Communications Wholesale DSL Solutions is subject to the terms and conditions set forth above.

A Customer who purchases FairPoint Communications Wholesale DSL under the 5N-TVDP assumes the following obligations:

- Customer will submit orders to Company electronically in a format and manner designated by Company;
- Customer will provision all Customer premises equipment to its end users;
- Customer will deal directly with its end users and will be solely liable with respect to all matters relating to the Service, including marketing, ordering,

installation, maintenance, repair, billing and collections; and

- Customer will not direct its end users to contact Company regarding any aspect of the Service.
- Customer agrees to be billed via Company's standard billing system for Wholesale DSL.

The 5N-TVDP has three optional volume Commitment Levels, A, B and C. Each Commitment Level has minimum service arrangement volumes assigned for each year of the plan. The Commitment Level includes all of Customer's billed FairPoint Communications Wholesale DSL arrangements. Commitment Levels are selected by Customer and must be designated in Customer's order for 5N-TVDP. The Commitment Levels are specified following.

Customer with an existing 1-Year Term Plan may migrate all existing Service arrangements to a 5N-TVDP without termination liability.

At the expiration of a 5N-TVDP, Customer may commit to a new 5N-TVDP, convert to month-to-month or One-Year Term Plan rates as specified above, or continue with rates, charges, terms and conditions in effect at the end of the expiring 5N-TVDP on a year-to-year basis. A commitment to a new 5N-TVDP, conversion to month-to-month or One-Year Term Plan rates, or a request to discontinue Service will require that Customer submit a service change order.

The 5N-TVDP is subject to payments for missed annual commitments ("Shortfall Liability") and for early termination ("Termination Liability").

#### B. Annual Review

The Commitment Level is reviewed at the end of each Subscription Year on the service anniversary date. A count is taken of all billed FairPoint Communications Wholesale DSL arrangements as of the last day of the Subscription Year. Customers who do not meet the minimum quantity of billed arrangements for their Commitment Level on such date will be so notified.

Subscription Year One will begin on the service anniversary date, which is the Subscription Date indicated on the Application for Service agreement signed by the Company and the Customer. Each Subscription Year runs 12 months from its service anniversary date.

If, at the annual review, the total quantity of billed FairPoint Communications Wholesale DSL arrangements that Customer has on the last day of the Subscription Year does not meet the respective minimum Annual Commitment Level, a Shortfall Liability will be assessed. In addition, Customers with Commitment Levels B and C with less than the minimum arrangement volumes will be reassigned to a reduced Commitment Level for the next year based on their current arrangement volume (e.g., a 5N-TVDP Customer in Commitment Level C with 125,000 arrangements billed at the end of year three would be placed in Commitment Level B for year four).

At the end of any Subscription Year, Customer may elect to move to a higher Commitment Level for the next Subscription Year and for the remainder of the 5N-TVDP, if it has met the minimum arrangement volume for its existing Commitment Level. However, should

Customer fail to meet the minimum arrangement volume for the higher Commitment Level by the end of the Subscription Year following such election, an additional charge will be assessed equal to 10% of the Shortfall Liability for the Subscription Year, as specified below.

C. Shortfall Liability

Shortfall liability applies to any 5N-TVDP Customer that fails to meet the minimum arrangement volumes for its designated commitment level.

Shortfall liability is based on the difference between the monthly rate for the designated commitment level and the monthly rate for the commitment level that should have been charged based upon the actual quantity of billed FairPoint Communications Wholesale DSL arrangements at the end of the Subscription Year. The shortfall liability is equal to the difference in the monthly rate multiplied by the sum of all arrangements billed at the end of each month during such Subscription Year. For example, at the end of Subscription Year Two, a 5N-TVDP Customer with Commitment Level C and only 10,000 arrangements in-service will be assessed the difference in the monthly rate between Commitment Level B and Commitment Level C for each arrangement billed at the end of each month during the Subscription Year.

Customer may stay in its commitment level by paying an alternative shortfall liability equal to the minimum arrangement volume applicable to its Commitment Level less the actual number of FairPoint Communications Wholesale DSL arrangements billed at the end of the Subscription Year multiplied by the current monthly rate for the selected commitment level, multiplied by six.

An additional payment of 10% of the shortfall liability is assessed those Customers who fail to meet the minimum arrangement volume after moving to a higher commitment level the previous year.

Customers who fall below the minimum arrangement volume for Commitment Level A in any Subscription Year will be terminated from the 5N-TVDP and will be subject to termination liability. All of Customer's FairPoint Communications Wholesale DSL arrangements will revert to the basic month-to-month rates.

If a Customer falls below the minimum volume for Commitment Level A and is terminated from the 5N-TVDP twice, in consecutive Subscription Years, the Customer may not subscribe to any term plan for 12 months after being moved to month-to-month rates.

D. Termination Without Liability

Customer may terminate a 5N-TVDP without termination liability or shortfall liability should the monthly rates increase during the term of the existing 5N-TVDP, exclusive of any increase due to local, state or federal fees, taxes or surcharges. Subsequent to a rate increase, Customer must either elect to terminate the plan without liability or continue the 5N-TVDP at the new rate. Customer's continuation in the 5N-TVDP 30 days or more following a rate increase shall constitute Customer's election to continue the plan at the new rate.

E. Termination Liability

If Customer elects to discontinue its 5N-TVDP prior to the end of the commitment period,

termination liability charges will apply. Liability will be the difference between what would have been charged had Customer had the month-to-month rate set forth in Section V.A, below for each FairPoint Communications Wholesale DSL arrangement billed at the end of each month Customer subscribed to the 5N-TVDP less all payments made and owed, including any shortfall liability payments made and owed.

**V. Rates and Charges**

A. Month-to-Month Plan

	Monthly Rate
768K/128K	\$ 29.95
1.5M/128K	39.95
1.5M/384K	39.95
7.1 M/768K	89.95
384K/384K	46.00
768K/768K	80.00
3M/768K	39.95

B. One Year Term Plan

	Monthly Rate
768K/128K	\$ 27.50
1.5M/128K	37.50
1.5M/384K	37.50
7.1 M/768K	82.50
384K/384K	44.00
768K/768K	68.00
3M/768K	37.50

C. Five-Year Term and Volume Discount Plan

768K/1 28K    1.5M/128K    1.5M/384K

CL	SY1	SY2	SY3	SY4	SY5	Mo. Rate	Mo. Rate	Mo. Rate
A	50	100	150	200	250	\$13.95	\$28.95	\$28.95
B	400	800	1,200	1,600	2,000	12.95	27.95	27.95
C	5,000	10,000	15,000	20,000	25,000	11.95	26.95	26.95

CL	SY1	SY2	SY3	SY4	SY5	7.1 M/768K Mo. Rate	384K/384K Mo. Rate	768K/768K Mo. Rate
A	50	100	150	200	250	\$72.95	\$40.00	\$56.00
B	400	800	1,200	1,600	2,000	67.95	38.00	54.00
C	5,000	10,000	15,000	20,000	25,000	60.95	34.00	50.00

CL	SY1	SY2	SY3	SY4	SY5	3M/768K Mo. Rate
A	50	100	150	200	250	\$28.95
B	400	800	1,200	1,600	2,000	27.95
C	5,000	10,000	15,000	20,000	25,000	26.95

Note: CL = Annual Commitment Level (billed lines in service)  
 SY = Subscription Year  
 Mo. Rate = Monthly Rate

D. Nonrecurring Charges	NRC Rate
1. Service Activation	\$60.00
2. ISP/Content Provider Change	60.00
3. Speed Change – Downward	0.00
4. Speed Change – Upward	0.00
5. Software Change	6.00

E. Optional Features	Monthly Rate
Direct PVC Premium Service - Per Arrangement	\$15.00