



## **COMPUTER SERVICES AGREEMENT**

The undersigned customer hereby authorizes Monitor Cooperative Telephone Company to perform the services described on Exhibit "A" on the following terms and conditions:

1. **Services.** Monitor shall perform the services more particularly described on Exhibit "A" attached hereto and made a part hereof. Monitor agrees to perform these services to the best of its ability. However, customer acknowledges that in certain cases, problem diagnosis and support may not be completed because of a problem with the customer's computer or its configuration that is beyond Monitor's control.
2. **Charges.** In consideration of the services provided hereunder, Customer agrees to pay Monitor the fees set forth in the price list attached hereto as Exhibit "A" and made a part hereof. Exhibit "A" includes an estimate of the total services is provided. Customer acknowledges that the final charge may exceed this estimate.
3. **Backup of Software and Data.** It is the customer's responsibility to back up all software and data that is stored on the customer's computer hard disk drive(s) and/or on any other storage devices the customer may have prior to the performance of any services by Monitor. Monitor shall not be responsible at any time for any loss, alteration or corruption of any software, data or files.
4. **Access; Safe Working Environment.** If services are to be performed within the customer's premises, the Monitor technician must receive full access to the computer(s) and/or peripheral(s) to be serviced, the customer's full consent and cooperation to enter the customer's residence or business, and a safe working environment, work space and electrical power. If the Monitor technician determines in his sole discretion that these conditions have not been met, the premises are dangerous or unsafe, the minimum system requirements are not met or the technical needs, including wiring or overcoming physical or technical barriers, or other requirements of the customer are unusual or extensive and beyond the scope of this Agreement, or if the customer fails to properly restrain a pet or threatens the technician either verbally or physically, services may be denied and a \$\_\_\_\_ cancellation charge may be assessed.
5. **Adult Must Be Present.** If services are to be performed within the customer's premises, a person at least 18 years of age must be present during the entire time period services are provided. If no adult is present when the Monitor technician arrives, services may be denied and a \$\_\_\_\_ charge may be assessed.
6. **Changes and Cancellations.** The customer may change or cancel the customer's order by contacting Monitor customer service at (503) 634-2266. If services are cancelled less than \_\_\_\_ hours prior to the scheduled performance of services, a \$\_\_\_\_ cancellation charge may be assessed.
7. **Limitation of Liability.**
  - a. The liability of Monitor for damages arising out of the furnishing of service, including but not limited to mistakes, omissions, interruptions, delays, errors or defects in transmission, representations, or use of services or damages arising out of

**15265 Woodburn Monitor Rd. NE Woodburn, Oregon 503-634-2266**



failure to furnish service shall, in no event, exceed sums actually paid to Monitor by customer for the specific services giving rise to the claim for the period of service during which such mistake, omission, interruption, delay, or error occurs. No action or proceeding against Monitor may be commenced more than one year after the service is rendered.

- b. Monitor shall not be liable to customer for any direct, indirect, incidental, special, consequential, lost profits, exemplary or punitive damages to customer arising from the use of (or inability to use) services, equipment or facilities furnished by Monitor, even if Monitor is aware or has been advised of the possibility of potential loss or damages.
  - c. Monitor shall not be liable for any defacement or damage to customer's premises resulting from the furnishing of services or equipment on such premises or the installation or removal thereof, including but not limited to any unavoidable damage to the customer's premises resulting from the attachment of wiring on such premises, unless such defacement or damage is caused by the gross negligence or willful misconduct of Monitor's agents or employees.
  - d. Monitor shall not be liable for any damages or losses due to the fault or negligence of the customer or due to the failure or malfunction or customer-provided equipment or facilities.
  - e. Monitor shall not be liable for any act or omission of any other company or companies furnishing a portion of the service or for damages associated with service, equipment or facilities which it does not furnish.
8. **Force Majeure.** Monitor shall not be liable for any delay or failure of performance or equipment due to causes beyond its control, including but not limited to acts of God, fire, flood, explosion or other catastrophes; law, order, regulation, direction, act or request of any government, or any department, agency, commission, bureau or corporation thereof, having or claiming jurisdiction over Monitor; preemption of service due to national emergency; insurrections; riots; wars; unavailability of rights-of-way or materials; or strikes, lockouts, work stoppages or other labor difficulties.
9. **Indemnification.** The customer will indemnify and hold Monitor harmless from any and all loss, claims, demands, suits or other action, or any liability whatsoever, whether suffered, made, instituted or asserted by any other party or person(s), and for any personal injury to, or death of, any person or persons, or for any loss, damage, or destruction of any property whether owned by the customer or any others, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, removal, condition, location or use of services furnished by Monitor. Monitor reserves the right to require each Customer to sign an agreement acknowledging acceptance of the provisions of this section as a condition precedent to such installations.
10. **Monitor Not an Insurer.** IT IS UNDERSTOOD THAT MONITOR IS NOT AN INSURER, THAT INSURANCE, IF ANY, SHALL BE OBTAINED BY THE CUSTOMER AND THAT THE AMOUNTS PAYABLE TO MONITOR HEREUNDER ARE BASED SOLELY UPON THE VALUE OF THE SYSTEM AND SERVICES AND THE SCOPE OF LIABILITY AS HEREIN SET FORTH AND ARE UNRELATED TO

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THE VALUE OF THE CUSTOMER'S PROPERTY OR THE PROPERTY OF OTHERS LOCATED IN CUSTOMER'S PREMISES.

11. **No Warranties.** MONITOR MAKES NO GUARANTEE OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE.
12. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.
13. **Miscellaneous.**
  - a. The parties represent that each, respectively, has full right, power, and authority to execute this Agreement.
  - b. In the event either party hereto shall institute suit to enforce any rights hereunder, the prevailing party shall be entitled to recover court costs and attorney's fees incurred as a result thereof.
  - c. This Agreement constitutes the entire agreement and understanding of the parties and supersedes all offers, negotiations, and other agreements of any kinds. There are no representations or understandings of any kind not set forth herein. Any modification of or amendment to this Agreement must be in writing and executed by both parties.
  - d. This Agreement shall be construed in accordance with the laws of the State of Oregon.
  - e. If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their hand the day and year hereinabove first written.

MONITOR COOPERATIVE TELEPHONE COMPANY

"Monitor"

By: \_\_\_\_\_  
Title

"Customer"

\_\_\_\_\_  
Name

\_\_\_\_\_  
Telephone