

Terms and Conditions – 05/12/2022

1. Definitions.....	2
2. Acceptable Use.....	2
3. Prohibited Use.....	3
4. Customer’s Responsibilities for Proper Account Use and Information.....	4
5. Disclaimer of Warranties	5
6. Indemnification	7
7. Copyright Information	7
8. Website Usage	8
9. Technical Support	9
10. Privacy.....	9
11. Service Limitations	10
12. Broadband – High-Speed Internet	10
13. Service Level Limits	11
14. Personal Website	11
15. Commercial Website	11
16. Network Address Assignments.....	11
17. Domain Name Hosting and Registration	12
18. Promotions & Discounts	12
19. Billing and Payment Practices	13
20. Voluntary Suspension.....	14
21. Cancellation.....	14
22. Account Inquiries	14
23. Jurisdiction and Attorney’s Fees	15
24. Export	15
25. Additional Terms Governing Big Gig Promotion	15
26. Service Interruption; Force Majeure	16
27. Miscellaneous Provisions	17



1. Definitions

- 1.1 These Terms and Conditions (or this “Agreement”) govern any Internet-related and/or broadband services (each individually, a “Service” and collectively, the “Services”) provided by Whidbey Telephone Company, dba Whidbey Telecom Internet & Broadband (“Whidbey Telecom”) to a Customer, including, but not limited to, Internet access, all service level offerings of High-Speed Internet, Broadband, Fiber Optic Internet, IP Address assignments, Digital Voice, email, email filters, WiFi, Wireless, and World Wide Web and Commercial Web Site services including Web Site Hosting.
- 1.2 As used in these Terms & Conditions, “Customer” is a person or entity that has entered into an agreement with Whidbey Telecom, which has been accepted by Whidbey Telecom, and by which Whidbey Telecom has agreed to provide one or more Services to the Customer.
- 1.3 A current copy of these Terms and Conditions is available on the Whidbey Telecom website.
- 1.4 Use of any Services constitutes acceptance of these Terms and Conditions.
- 1.5 Whidbey Telecom reserves the right to modify the terms of these Terms and Conditions and/or prices for the Services and may discontinue or revise any or all other aspects of the Services in Whidbey Telecom’s sole discretion at any time by posting changes online. These Terms and Conditions may be amended at any time, and any amendment shall become effective immediately upon posting of the amended Terms and Conditions on the company website or at a successor website address. Customer’s continued use of the Services after changes are posted constitutes the Customer’s acceptance of this Agreement as modified by the posted changes. The updated, online version of this Agreement shall supersede any prior version of this Agreement that may have been included in any software or related materials provided by Whidbey Telecom.
- 1.6 In the event of a conflict between these Terms and Conditions and any prior agreement or application governing a Customer’s account or use of the Services, these Terms and Conditions, as amended, shall govern

2. Acceptable Use

- 2.1 The Services and any Whidbey Telecom equipment associated with the Services may only be used for lawful purposes.
- 2.2 Customer shall comply with the regulations, rules, and policies set forth herein and all applicable laws and regulations governing use of the Services.
- 2.3 Use of any Services in violation of these Terms and Conditions or in violation of any applicable law or regulation is prohibited and may result in the immediate termination without advance notice of Customer’s account and right to use the Services.

3. Prohibited Use

The Services and any Whidbey Telecom equipment associated with the Services may only be used for lawful purposes. Prohibited uses of the Services include, but are not limited to:

- 3.1 Any attempt to accomplish any unlawful purpose, including but not limited to storing, sending, or disseminating any material, by uploading, posting, via email or other means (“Transmission”), that: (a) violates any local, state, federal or international law, order, or regulation; (b) is libelous, obscene, threatening, or defamatory; (c) infringes upon the intellectual property rights of any other or (d) that constitutes or encourages a criminal offense or gives rise to civil liability;
- 3.2 Transmission of any material which a reasonable person could deem to be objectionable, offensive, indecent, pornographic, harassing, threatening, or otherwise inappropriate, whether or not Transmission of the material is unlawful;
- 3.3 Transmission of any material in violation of any law or contractual or fiduciary relationship (such as inside information, or proprietary and confidential information learned or disclosed as part of employment relationships or under non-disclosure agreements);
- 3.4 Transmission of any material that infringes any patent, trademark, trade secret, copyright or other proprietary rights of any party;
- 3.5 Transmission of any material that contains software viruses or any computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment or which impedes other Customers’ ability to use the Services;
- 3.6 Impersonating any person or entity, or falsely stating or otherwise misrepresenting an affiliation with a person or entity, and/or forging headers or otherwise manipulating identifiers in order to disguise the origin of any material transmitted through the Services;
- 3.7 Transmission of unsolicited commercial email or the collection of responses from unsolicited messages;
- 3.8 Transmission of chain letters;
- 3.9 Attempting to probe, scan or test the vulnerability of a Whidbey Telecom system or network in any form;
- 3.10 Using any method to breach Whidbey Telecom’s security or authentication measures;
- 3.11 Engaging in hacking, denial of service attacks, or malicious or destructive behavior in any form.
- 3.12 If another organization’s networks or computing resources are used in connection with the Services, Customer shall be subject to that organization’s permission and usage policies in addition to these Terms and Conditions.



- 3.13 Whidbey Telecom shall have the right, but not the duty, to remove any web site hosted on its servers which, in its discretion, is found to contain pornographic or obscene material.
- 3.14 The Services are for end-user use only and may not be resold, commercially or non-commercially, in whole or in part, directly or indirectly, or on a bundled or unbundled basis, in the absence of a separate re-seller agreement approved in writing by Whidbey Telecom. Customer shall not use the Services in the operation of any business or service which competes directly or indirectly with Whidbey Telecom, which determination shall be made by Whidbey Telecom, in its sole discretion.
- 3.15 Customer is responsible for the use of their Whidbey Telecom account and/or the Services, by any person having access to the account or the Services, whether or not such use or access is with Customer's permission or knowledge. Customer should not share Customer's password, send it over the Internet in any unencrypted form, including by email, or otherwise compromise its security. If Customer has any reason to believe the security of Customer's password or account has been compromised, the Customer should immediately change the password. If Whidbey Telecom has any reason to believe Customer's password or account has been compromised, Whidbey Telecom may, at its sole discretion, disable or restrict access to the account and/or the Services, without notice, until the problem has been resolved; however, Whidbey Telecom has no obligation to do so.
- 3.16 Whidbey Telecom may take any one or more of the following actions in response to violations of these Terms and Conditions: (a) issue an oral or written notice to Customer to cease the violations; (b) suspend Customer's account and/or access to the Services; (c) terminate Customer's account and/or access to the Services; (d) bill Customer for Whidbey Telecom's administrative costs and/or reactivation charges incurred as a result of the violations; or (e) bring legal action to enjoin violations and/or to collect damages caused by the violations.
- 3.17 Whidbey Telecom reserves the right to cancel or discontinue Customer's use of the Services at any time and for any reason.

4. Customer's Responsibilities for Proper Account Use and Information

- 4.1 Customer represents that the Customer is at least eighteen (18) years old (or, if Customer is an entity, that the person acting on the entity's behalf in obtaining the Services is at least eighteen (18) years old) and that it accepts these Terms and Conditions on behalf of itself and any person who has access to the Services through use of Customer's Whidbey Telecom account. Customer shall ensure that all users of Customer's Whidbey Telecom account understand these Terms and Conditions and will comply with them. Customer may permit an authorized user under eighteen (18) years of age to use Customer's account and the Services, and Customer acknowledges that it is responsible to provide adult supervision of such use of the Services and to ensure that the Whidbey Telecom account and the Services are used in compliance with these Terms and Conditions.
- 4.2 Customer shall promptly notify Whidbey Telecom of any changes in Customer's contact information, such as Customer's address or telephone number.



- 4.3 Customer shall promptly notify Whidbey Telecom by email at: abuse@whidbey.com of any violation or suspected violation of these Terms and Conditions that Customer becomes aware of, and provide Whidbey Telecom with as much of the following information as possible related to the violation or suspected violation as is known to Customer: (a) the IP address used to commit the alleged violation; (b) the date and time of the alleged violation, including the time zone; and (c) a description or other evidence of the alleged violation. When reporting an issue regarding unsolicited email, please provide a copy of the email message(s) with the full header information.
- 4.4 Customer is solely responsible for any Transmission of personal identifiable information over the Internet. It shall be the Customer's sole responsibility to determine if a website and the method of Transmission utilized by a website or other software, program or application, to transmit personal information such as credit card and/or bank account numbers and personal identifiable information, is secure and is the party they intended to transmit the information to.
- 4.5 Customer is solely responsible for any Transmission of personal identifiable information that is included as any part or portion of, but not limited to, an email, social media site, file transfer, newsgroup, blog, and instant message transmission. Customer agrees that Customer is solely responsible to protect Customer's personal identifiable information from identity theft.

5. Disclaimer of Warranties

- 5.1 ALL USE OF WHIDBEY TELECOM SERVICES AND THE INTERNET IS AT THE USER'S SOLE RISK. THE SERVICES ARE PROVIDED ON AN "AS IS," "AS AVAILABLE" BASIS. WHIDBEY TELECOM MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, AND AFFIRMATIVELY DISCLAIMS ALL WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS OF ANY ASPECT OF THE SERVICES FOR A PARTICULAR PURPOSE. CUSTOMER ACKNOWLEDGES THAT WHIDBEY TELECOM'S OR CUSTOMER'S INSTALLATION, USE, INSPECTION, MAINTENANCE, REPAIR, REPLACEMENT OR REMOVAL OF THE SERVICES, WHIDBEY TELECOM EQUIPMENT OR WHIDBEY TELECOM'S SOFTWARE MAY RESULT IN DAMAGE TO CUSTOMER'S COMPUTER(S), TELEPHONE(S), TELEVISION(S), RECORDING AND PLAYBACK DEVICE(S), AUDIO EQUIPMENT, OR OTHER EQUIPMENT OR HARDWARE, INCLUDING SOFTWARE AND DATA FILES STORED THEREON. CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR BACKING UP ALL EXISTING COMPUTER OR OTHER SOFTWARE OR DATA FILES PRIOR TO THE PERFORMANCE OF ANY OF THE FOREGOING ACTIVITIES. WHIDBEY TELECOM SHALL NOT HAVE ANY LIABILITY, AND EXPRESSLY DISCLAIMS ANY RESPONSIBILITY WHATSOEVER, FOR ANY DAMAGE TO, OR LOSS OF, OR DESTRUCTION OF, ANY EQUIPMENT, SOFTWARE, HARDWARE, DATA OR FILES RESULTING FROM A VIRUS, ANY OTHER HARMFUL FEATURE, OR FROM ANY ATTEMPT TO REMOVE THE AFOREMENTIONED VIRUS AND/OR HARMFUL FEATURE. WHIDBEY TELECOM MAKES NO WARRANTY THAT THE SERVICES WILL BE UNINTERRUPTED OR "ERROR FREE" OR THAT THE WHIDBEY TELECOM EQUIPMENT WILL OPERATE AS INTENDED AT ALL TIMES. IN PARTICULAR, CUSTOMER AGREES THAT CUSTOMER'S USE



OF THE SERVICES, THE PURCHASE OF SERVICES AND LEASE OF WHIDBEY TELECOM EQUIPMENT, AND THE TRANSMISSION OF INFORMATION AND OTHER COMMUNICATIONS BY AND TO CUSTOMER, IS AT CUSTOMER'S SOLE RISK.

- 5.2 Whidbey Telecom shall not be responsible for any damages or costs arising out of Customer's use of the Services or the unavailability of the Services, including, but not limited to, damage to Customer's home or business computer or other network devices, damage caused by viruses, damage or costs incurred as a result of: lost profits or revenue, loss of clients, loss of use of computer programs, loss of data, the costs of recovering programs or data, claims by third parties, loss of data from delays, non-deliveries, mis-deliveries, or service interruptions caused by Whidbey Telecom's own negligence, a third party service provider's negligence, or Customer's negligence, errors and/or omissions.
- 5.3 Whidbey Telecom shall not be liable for any indirect, special, incidental, or consequential damages arising out of the use of the Services or Customer's inability to use the Services, even if it has been advised of the possibility of such damages.
- 5.4 In no event shall Whidbey Telecom's liability to Customer exceed the amount charged by Whidbey Telecom for providing the affected Services to Customer for one month.
- 5.5 Customer shall take appropriate security measures to prevent unauthorized access to its computers and other network devices, including, but not limited to, keeping all software updated.
- 5.6 Some computer and network device software and applications have the capability to allow remote access. Whidbey Telecom recommends that Customer disable all features, including print and file sharing and other remote access capabilities that may allow anyone to remotely access Customer's computer or other network devices.
- 5.7 If any application or feature which permits remote access to Customer's computer and/or network devices is enabled on any Customer computer or other network device, Customer hereby acknowledges and agrees that it does so at its own risk, and Whidbey Telecom shall not be responsible, and assumes no liability, for any access by others to Customer's computer or network devices.
- 5.8 Customer's failure to take proper security measures may cause immediate termination of the Services, without notice, at Whidbey Telecom's sole discretion.
- 5.9 Use of any information or software obtained via the Services is at Customer's own risk. Whidbey Telecom does not control, and shall not be liable for, data or content that is accessed or received via the Services. Whidbey Telecom explicitly and specifically denies any responsibility for the accuracy, completeness, timeliness, usefulness, or quality of any information obtained through the Services.
- 5.10 The Internet contains materials that may be false or misleading, sexually explicit, or otherwise offensive. Whidbey Telecom has no control over and accepts no responsibility for, such materials.



- 5.11 Whidbey Telecom is not a publisher of third-party content that can be accessed through the Services and is not responsible for any opinions, advice, statements, services, or other information provided by third parties and accessible through the Services. Customer is responsible for evaluating such content and for paying all fees and charges from third-party vendors whose sites, products, or services Customer may access, buy, or use via the Services.
- 5.12 If Customer uses the Services to access websites or content provided by third parties or to purchase products from third parties, Customer's personal information may become available to third parties. The way third parties handle and use Customer's personal information related to the use of the third-party services is governed by their policies, not Whidbey Telecom's. Whidbey Telecom has no responsibility for third-party security policies and practices, general policies, or their compliance with them or breach of them.
- 5.13 The prices for the Services are set in reliance upon the enforceability of the disclaimers of warranties and limitations of liability set forth in these Terms and Conditions, and these Terms and Conditions form an essential element of the provision of the Services.

6. Indemnification

EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, CUSTOMER AGREES TO DEFEND, INDEMNIFY, AND HOLD WHIDBEY TELECOM, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AFFILIATES, ITS AGENTS, AND ANY OTHER PROVIDER WHO FURNISHES SERVICES TO CUSTOMER IN CONNECTION WITH THESE TERMS AND CONDITIONS, HARMLESS FROM CLAIMS OR DAMAGES RELATING TO OR ARISING OUT OF CUSTOMER'S BREACH OF THIS AGREEMENT OR CUSTOMER'S USE OF THE SERVICES OR ANY WHIDBEY TELECOM EQUIPMENT. CUSTOMER AGREES THAT WHIDBEY TELECOM SHALL NOT BE RESPONSIBLE FOR ANY THIRD-PARTY CLAIMS AGAINST WHIDBEY THAT ARISE FROM CUSTOMER'S USE OF THE SERVICES OR THE EQUIPMENT. FURTHERMORE, CUSTOMER AGREES TO REIMBURSE WHIDBEY TELECOM FOR ALL COSTS AND EXPENSES RELATED TO THE DEFENSE OF ANY SUCH CLAIMS.

7. Copyright Information

- 7.1 Customers of Whidbey Telecom and users of the Services shall not transmit any material (by uploading, posting, emailing or by any other method) that infringes any patent, trademark, trade secret, copyright, or other proprietary rights of any party, including, but not limited to, use of such information on radio, television or printed media, such as newspapers, magazines or newsletters. Whidbey Telecom is registered with the United States Patent and Trademark Office as an online service provider and will process all appropriately formatted notices of alleged infringement and will take appropriate action as required by The Digital Millennium Copyright Act ("DMCA") and other applicable intellectual property laws. Owners of copyrighted works who believe that their rights under U.S. copyright law have been infringed upon as a result of Customer's use of the Services may take advantage of certain provisions of the DMCA to report alleged infringements. Whidbey Telecom reserves the right to terminate Customer's use of the Services if Customer or any user of Customer's use of the Services is either found to infringe third party copyright or other intellectual property rights or is believed by Whidbey Telecom, in its sole discretion, to be infringing these rights. The owners of copyrighted works who believe Customer's use



of the Services has infringed their rights under U.S. copyright laws may notify Whidbey Telecom of the alleged infringement at the following address:

Copyright Infringement Agent Whidbey Telecom
14888 SR 525
Langley, WA. 98260
Email: Copyright-Agent@whidbey.com
Fax: 360-321-8118

- 7.2 The DMCA requires the notification to be in writing and to contain the following information: (a) physical or electronic signature of a person authorized to act on behalf of the copyright owner; (b) identification of the copyrighted work claimed to have been infringed upon; (c) identification of the material that is claimed to be infringing and that is to be removed or access to which is to be disabled, as well as information reasonably sufficient to permit Whidbey Telecom to locate the material; (d) contact information of the complaining party; (e) a statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agents, or the law; and (e) a statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the copyright owner of an exclusive right that is allegedly infringed upon. Upon Whidbey Telecom's receipt of a satisfactory notice of claimed copyright infringement, to the extent it is reasonably able to do so, Whidbey Telecom will either directly or indirectly (X) remove the allegedly infringing work(s) from the Services or (Y) disable access to the work(s). Whidbey Telecom will notify the affected Customer or user of the Services of the removal or disabling of access to the work(s). If the affected Customer or user believes in good faith that the allegedly infringing works have been removed or blocked by mistake or misidentification, then that Customer may send a counter-notification to Whidbey Telecom. Upon Whidbey Telecom's receipt of a counter-notification that satisfies the requirements of DMCA, Whidbey Telecom will provide a copy of the counter-notification to the person who sent the original notification of claimed infringement and will follow the DMCA's procedures with respect to a counter-notification. In no event shall Whidbey Telecom be a party to any dispute or lawsuit regarding alleged copyright infringement and Customer shall indemnify and hold harmless Whidbey Telecom, and its directors, officers, employees, agents, and successors or assigns, from any such dispute or lawsuit.

8. Website Usage

- 8.1 Whidbey Telecom's maintenance of websites located on whidbey.com, whidbey.net, whidbeytel.com, whidbeytv.com, or any other domain or website operated by Whidbey Telecom is a complimentary information service offered by Whidbey Telecom at no charge.
- 8.2 Whidbey Telecom may provide links on its website to other websites that are not under its control. These links are provided for Customer's convenience only and are not intended as an endorsement by Whidbey Telecom of the third-party organization or individual operating any website, or a warranty of any type regarding any website or the information on any website.



- 8.3 All content included on websites operated by Whidbey Telecom, including, but not limited to, text, graphics, logos, buttons, icons, images, and software, is the property of Whidbey Telecom or is used by Whidbey Telecom with permission of the legal owner, and is subject to protection by U.S. and international copyright and trademark laws. Reproduction, duplication, modification, distribution, transmission, replication, display, or performance of the content of any website operated by Whidbey Telecom without the express written permission of Whidbey Telecom is strictly prohibited.

9. Technical Support

Whidbey Telecom provides technical support, free of charge, by telephone and email (360-321-3284; support@whidbey.net). Technical support to Whidbey Telecom's Customers is on a first-come, first-served basis. Technical support is not intended to assist with questions not directly related to the Services. In order to maintain the highest overall quality of service to Whidbey Telecom Customers, technical support calls of excessive duration, frequency, or regarding matters not directly related to the Services may be handled or rescheduled at Whidbey Telecom's convenience and may be subject to a special handling charge.

10. Privacy

- 10.1 Except as provided in these Terms and Conditions, Whidbey Telecom will not divulge any of Customer's personal information to third parties unless (1) Customer gives Whidbey Telecom prior permission, (2) Whidbey Telecom reasonably believes the disclosure is required by law or legal process, (3) Whidbey Telecom suspects fraud or a violation of law, or these Terms and Conditions, by a Customer involving Whidbey Telecom, or (4) Customer makes an inquiry, request or complaint that reasonably requires Whidbey Telecom to share Customer information with third parties to satisfy the inquiry.
- 10.2 Whidbey Telecom reserves the right to audit connections to the Services for security or throughput usage reasons, to enforce these Terms and Conditions, to comply with any regulations applicable to the Service and/or required of Whidbey Telecom, and to maintain and protect its network and its ability to provide the Services.
- 10.3 Whidbey Telecom shall have the right to investigate suspected violations of these Terms and Conditions or any applicable law or regulation, including but not limited to: (i) gathering information from the user or users involved and the complaining party if any, (ii) examining material on Whidbey Telecom's servers and network, and (iii) monitoring bandwidth, usage, transmissions, and content.
- 10.4 Whidbey Telecom will cooperate with law enforcement authorities and system administrators at other Internet service providers or other network or computing facilities in the investigation of suspected violations of these Terms and Conditions and any applicable law or regulation. This cooperation may include providing legally sought personally identifiable information about Customer to law enforcement or system administrators, including, but not limited to, username, subscriber name, and other account information.



- 10.5 Whidbey Telecom may use network monitoring tools to monitor Customer's bandwidth usage and usage patterns to enforce service-level limits, federal or state speed testing requirements, or for diagnostic and statistical needs.
- 10.6 Whidbey Telecom may contact Customer or website visitors regarding account status and changes to these Terms and Conditions and other policies or agreements relevant to Customer's use of the Services and may from time-to-time contact Customer with information regarding products and or services provided by Whidbey Telecom.
- 10.7 Whidbey Telecom also may create aggregate reports on Customer or user demographics and traffic patterns for its internal use.
- 10.8 Recipients of email sent by Customer are not required to keep content of email from Customer private. Unless encrypted by Customer, Customer's email is transmitted in a plain text format, and Whidbey Telecom has no ability to protect its confidentiality after it is transmitted beyond Whidbey Telecom's internal network to the Internet or to other networks maintained by others.

11. Service Limitations

Customer's usernames, email addresses and passwords are Whidbey Telecom property, and Whidbey Telecom may alter or replace them at any time. Customer's email account is limited to the disk and server storage amount specified by Whidbey Telecom's current service offerings and Customer's account type, and Customer's incoming email will be rejected if the storage limit is exceeded. Additional storage may be permitted on a space-available basis for an additional fee. Viruses and executable attachments may be blocked from Whidbey Telecom's email servers at Whidbey Telecom's sole discretion. Email accounts that are determined by Whidbey Telecom to be inactive or have not been accessed in six (6) months may be suspended. Email accounts that are suspended or inactive for more than twelve (12) months may be disconnected at Whidbey Telecom's sole discretion.

12. Broadband – High-Speed Internet

- 12.1 Routers and other network equipment provided to Customer by Whidbey Telecom are the property of Whidbey Telecom and subject to the applicable Lease Agreement separately executed by and between Whidbey Telecom and Customer.
- 12.2 Customer shall provide the appropriate environment for all Whidbey Telecom equipment and shall not alter, modify or tamper with this equipment without prior, written authorization from Whidbey Telecom.
- 12.3 In the event of cancellation of Services, all Whidbey Telecom property shall be returned to Whidbey Telecom in working order.



- 12.4 Customer is responsible for all costs associated with repair or replacement of Whidbey Telecom's equipment that is damaged while it is in Customer's possession.

13. Service Level Limits

- 13.1 Each Service level may have a Maximum Throughput Rate, a Usage Limit or other characteristics. Whidbey Telecom can set or change the Maximum Throughput Rate, Usage Limit or other characteristics of any Service level. If Whidbey Telecom does so, Whidbey Telecom may put in place additional terms to address usages that are not consistent with the resulting Broadband Service level.
- 13.2 At Whidbey Telecom's sole discretion, Whidbey Telecom may suspend Customer's Service, reduce Customer's Maximum Throughput Rate or charge Customer for Customer's excess usage. Customer may need to subscribe to a more expensive Service level or pay for additional bandwidth to avoid suspension or slower Service. Whidbey Telecom will notify Customer of any new or changed Usage Limit (or any material reduction in the previously published Maximum Throughput Rate) for Customer's Service level and any related terms.
- 13.3 Throughput Rates. Whidbey Telecom does not guarantee that Customer will obtain the Maximum Throughput Rate for the level of Service to which Customer subscribes. The Throughput Rate Customer experiences may be affected by a number of factors, including, but not limited to, the nature of the Internet and its protocols or the condition and configuration of Customer-Owned Equipment at Customer's location.

14. Personal Website

Space on a Whidbey Telecom server for a personal website is included with certain High-Speed Internet accounts. The limits for a personal website are as follows: No more than 50 Mb disk storage. Will not exceed 900 MB per month bandwidth usage. Will not be used for commercial purposes and does not meet any of the conditions describing a commercial website, listed under Commercial Website.

15. Commercial Website

A Commercial Website is defined by its content, intent and bandwidth usage. Web sites that advertise or provide information, resources, services, or merchandise to the general public for direct or indirect commercial gain, websites designed to raise money for a particular purpose, including websites maintained by non-profit or not-for-profit organizations, and websites whose bandwidth usage exceeds 500 MB, are defined by Whidbey Telecom as Commercial Websites. The current prices and descriptions for Commercial Websites can be obtained through Whidbey Telecom's offices, or on the Whidbey Telecom website.

16. Network Address Assignments

All network address assignments issued by Whidbey Telecom (such as Class C, subnet, static and dynamic IP addresses) are the property of Whidbey Telecom and are subject to American Registry for Internet Numbers guidelines located at <http://www.arin.net>. Network address assignments may be changed by Whidbey Telecom at any time. In the event Customer's Services are terminated for any reason, all network address assignments provided by Whidbey Telecom for Customer's use in connection with the Services shall revert to Whidbey Telecom.



17. Domain Name Hosting and Registration

- 17.1 Customer represents and warrants to Whidbey Telecom that all Customer domain names hosted by Whidbey Telecom do not, directly or indirectly, infringe the legal rights of any third party and that the domain name is not being registered for any unlawful purpose. Each Customer for whom Whidbey Telecom hosts domain names shall: (1) pay to Whidbey Telecom, or Customer's Registration Service Provider, all applicable fees associated with registration and use of Customer's domain names, (2) provide Whidbey Telecom, or Customer's Registration Service Provider, with current, complete and accurate information about Customer as required by the registration process, and (3) maintain and update this information as needed to keep it current, complete and accurate. Registration of any domain name shall be subject to suspension, cancellation, or transfer pursuant to any Internet Corporation for Assigned Names and Numbers "ICANN" adopted policy located at, <http://www.icann.org/udrp/>.
- 17.2 Whidbey Telecom shall not be a party to any dispute or lawsuit involving domain name registration or use.

18. Promotions & Discounts

- 18.1 Whidbey Telecom will offer, from time to time, special promotional pricing and/or discounts for Whidbey Telecom Services. Such promotion/discounts may be offered with certain terms, conditions, and/or restrictions. Use of a promotion/discount and/or any Service(s) that has a promotion/ discount applied to it constitutes acceptance by Customer of all promotion/discount terms, conditions, and restrictions, as well as these Terms and Conditions.
- 18.2 Whidbey Telecom and/or its affiliates and subsidiaries reserve the right to change or discontinue any promotion/discount at any time and, in some instances, without notice.
- 18.3 Regular monthly service rates apply after applicable promotional periods end or if any Service is downgraded or canceled, whether cancellation or downgrade is Customer requested or Whidbey Telecom initiated.
- 18.4 Acceptance of a promotional or discounted price may require Customer to commit to a minimum service period. An early termination fee may be applied to Customer's account balance following cancellation or downgrade of a promotional or discounted Service if required minimum service period commitment is not met.
- 18.5 Promotional pricing excludes monthly charges for current Service subscriptions, equipment fees, installation fees, taxes and any additional charges or applicable fees, including early termination fees, that may or may not exist at the time of the promotion and that are subject to change with or without notice to Customer throughout the promotional period and after.

- 18.6 Promotional pricing and discounts are not transferrable.
- 18.7 Customer's account must be in good standing for any promotion or discount to apply. Whidbey Telecom may cancel or suspend any and all promotions or discounts, in Whidbey Telecom's sole discretion, if Customer fails to keep Customer's account in good standing.

19. Billing and Payment Practices

- 19.1 Whidbey Telecom's prices, fees, and Services are subject to change without notice. All requests for changes to Customer's account or Services must be received by Whidbey Telecom by the twentieth (20th) day of the month in order to be reflected on the following month's bill. Changes to Customer's account or Services or Whidbey Telecom's billing methods may result in changes in the charges for the Services.
- 19.2 Whidbey Telecom's bills will be rendered on or about the first (1st) of each month, and payment is due upon receipt and shall be received by Whidbey Telecom no later than the payment due date specified in the bill. If full payment is not received by the payment due date specified in the bill, the Customer's account will be flagged as delinquent. After the payment due date interest will accrue on any balance for any Service(s) that remain unpaid after the payment due date at a rate of one and one-half percent (1.5%) per month per applicable Service (or such other rate identified in a Customer's agreement), or the highest rate allowed by law, whichever is lower.
- 19.3 If Whidbey Telecom does not receive full payment of the charges for one or more Services set forth in Customer's bill by the tenth (10th) of the month following the month the bill was rendered (or such later date as Whidbey Telecom may, in its sole discretion, agree to receive payment from Customer), Whidbey Telecom may anytime thereafter suspend Customer's corresponding Service(s) for non-payment.
- 19.4 If charges for any Services remain unpaid for ten (10) days after Customer's Service(s) have been suspended for non-payment, Whidbey Telecom may anytime thereafter disconnect the Services for which payment remains outstanding, which may also result in the termination of the Customer's account and deletion of any data associated with it.
- 19.5 Suspension or disconnection of Customer's Service(s), or termination of Customer's account shall not affect Customer's obligation to pay all fees due or incurred on the account, including collection and attorneys' fees incurred by Whidbey Telecom.
- 19.6 Whidbey Telecom's bills are rendered for a full month's Service(s), and Whidbey Telecom shall have no obligation to prorate any charges in the event Customer's Service(s) or account are suspended or terminated for nonpayment.
- 19.7 If Customer's Service(s) or Account is suspended or terminated for non-payment, and Customer seeks to re-establish Service(s), Whidbey Telecom may charge a reconnection fee and will not re-establish Customer's Service(s) until all past due amounts and applicable reconnection charges are paid in full.



20. Voluntary Suspension

- 20.1 High-Speed Internet and Broadband services, email, and commercial website accounts: Whidbey Telecom, in its sole discretion and upon Customer's request, may allow Customer to voluntarily suspend Customer's Service(s) or account, sometimes called a "vacation hold," for no less than one (1) day and up to twelve (12) months, during which time Whidbey Telecom may bill Customer a monthly charge for each suspended Service(s) and/or equipment remaining at Customer's premise during voluntary suspension. Requests for suspension must be received by the twentieth (20th) day of the month in order to be reflected on the following month's bill.
- 20.2 Whidbey Telecom reserves the right to change, at any time and without notice, the monthly fee for suspending any of its Services.
- 20.3 Suspension does not relieve Customer of past obligations and charges. Any Services which are suspended for more than twelve (12) months may be subject to termination unless special arrangements have been made.
- 20.4 Re-activation of Service(s) may be subject to installation and setup fees in effect at the time of re-activation.

21. Cancellation.

- 21.1 The Services will remain in effect until terminated by either party as set forth herein.
- 21.2 Requests for service cancellation must be received, and the requested disconnect date must be prior to the twentieth (20th) day of the month in order to be reflected on the following month's bill. Upon cancelation, all promotional discounts and offers will be terminated and may not be renewed.
- 21.3 If Customer cancels Service(s), Whidbey Telecom may charge a reconnection fee if Customer seeks to re-establish such Service(s), and Whidbey Telecom will not re-establish Customer's Services until all past due amounts and applicable reconnection charges are paid in full.
- 21.4 Cancellation of Services shall not relieve Customer of accrued charges for the Services or other obligations under these Terms and Conditions.

22. Account Inquiries

Account inquiries or billing questions should be directed as follows:

Email: billing@whidbey.com
Whidbey Telecom, 14888 SR 525 Langley, WA 98260-0329
South Whidbey: 360-321-1122
North Whidbey: 360-678-8822
Camano Island/Snohomish County: 360-652-8885
Point Roberts: 360-945-8888



23. Jurisdiction and Attorney's Fees

- 23.1 These Terms and Conditions are governed by Washington State law without regard to its conflict of law provisions. The Superior Court of Washington State for Island County shall have exclusive jurisdiction over all disputes arising out of or related to these Terms and Conditions, Customer's account, and the Services.
- 23.2 Customer hereby consents to the personal jurisdiction of this court with respect to such matters.
- 23.3 In any legal proceeding arising from or related to these Terms and Conditions, the substantially prevailing party shall be entitled to recover its reasonable expenses incurred in such proceeding, including its reasonable attorneys' fees and costs of suit, in addition to such other relief as the court may grant.

24. Export

The United States export control laws regulate the export and re-export of technology originating in the United States. This includes transmission of information and software to foreign countries and foreign nationals. Customer and all users of the Services shall abide by these laws, including, but not limited to, the Export Administration Act, the Arms Export Control Act, and their implementing regulations. Customer shall not transfer, by any means, any content derived through use of the Services to either a foreign national or a foreign destination without first obtaining any required government authorization.

25. Additional Terms Governing Big Gig Promotion

- 25.1 The provisions below are effective as of March 1, 2022, supplement all other terms and conditions related to the Big GiG® \$70 for Life Promotion, and are incorporated into these Terms and Conditions by reference.
- 25.2 During the pre-registration period for The BiG GiG® \$70 for Life Promotion ("The BiG GiG® Promotion"), Customer was required to provide complete and accurate information including account holder's first and last name, email address, phone number and the service address where the Service(s) would be installed at some future date ("Service Address"). Whidbey Telecom has the right to cancel any incomplete, or inaccurate registrations for The BiG Gig® Promotion.
- 25.3 The \$70 monthly price for The BiG GiG® Promotion excludes all applicable taxes and fees including fees that may be applied in the future.
- 25.4 The \$70 monthly price for The BiG GiG® Promotion excludes the lease or purchase cost of required or optional equipment provided to the Customer by Whidbey Telecom including, but not limited to, an Uninterruptable Power Supply (UPS), battery units, routers, modems, Optical Network Terminal (ONT) and power supply units, as well as equipment upgrades either requested by the Customer or deemed necessary by Whidbey Telecom.



- 25.5 The BiG GiG® Promotion is only available in designated service areas, and/or specific service addresses, where Whidbey Telecom has installed, or is able to install bandwidth that can accommodate up to 1 Gig bandwidth service. Whidbey Telecom will attempt to notify the Customer that installation is available at the Service Address using the contact information provided by Customer under Section 25.2.
- 25.6 With regard to Customers who are entities and not individuals, The BiG GiG® Promotion reference to “for Life” shall mean the shorter of: a) 180 calendar months; b) the date of sale, transfer, or merger of the entity; or c) the date of legal termination or dissolution of the entity.
- 25.7 The BiG GiG® Promotion applies only to the one single applicant (at one Service Address) who completed the promotion registration and is non-transferrable to any person or any entity.
- 25.8 The BiG GiG® Promotion applies only to the Service Address registered and is not transferable to a different address.
- 25.9 The BiG GiG® Promotion may be redeemed once for a single Service Address.
- 25.10 The WiFi service offering is sold as a standalone service and is not part of The BiG GiG® Promotion.
- 25.11 Whidbey Telecom shall terminate all The BiG GiG® Promotion offers to Customers who do not initiate an installation within 90 days of Whidbey Telecom’s attempt to notify Customer that service is available at the Service Address under Section 25.2.
- 25.12 Subject to modifications, these Terms and Conditions are applicable to all such Services, sales, and promotions offered by Whidbey Telecom to its Customers, including Customers that completed the registration for The BiG GiG® Promotion.

26. Service Interruption; Force Majeure

- 26.1 Customer agrees that Whidbey Telecom has no liability for delays in or interruption to Customer’s Services, except that if for reasons within Whidbey Telecom’s reasonable control, for more than twenty-four (24) consecutive hours, (i) there is a complete failure of the High-Speed Data (HSD) Service or (ii) there is a complete failure of the Whidbey Telecom VoIP Service, Whidbey Telecom will provide Customer a prorated credit for the period of such interruption or failure if Customer requests a credit within thirty (30) days of the interruption or failure. In no event shall Whidbey Telecom be required to provide a credit to Customer for an amount in excess of applicable Service fees. Whidbey Telecom will make any such credit on the next practicable bill for Customer’s Services. State and local law or regulation may impose other outage credit requirements with respect to some or all of Customer’s Services. In such event, the relevant law or regulation will control.
- 26.2 Customer acknowledges that Whidbey Telecom may conduct maintenance from time to time that may result in interruptions of Customer’s Services.

- 26.3 Whidbey Telecom shall have no liability, except for the credit as set forth herein, for interruption of Customer's Services due to circumstances beyond its reasonable control, including, but not limited to, acts of God, flood, natural disaster, vandalism, terrorism, regulation or governmental acts, fire, civil disturbance, electrical power outage, computer viruses or worms, strike or weather.
- 26.4 Whidbey Telecom is only obligated to provide the above-referenced credits for loss of HSD Service if Whidbey Telecom is billing Customer for the HSD Service at the time of the outage. If Customer's ISP or OLP is billing Customer, Customer will look solely to Customer's ISP or OLP, as applicable, for a credit with respect to the HSD Service.

27. Miscellaneous Provisions

- 27.1 Customer's use of the Services constitutes acceptance of these Terms and Conditions as amended from time to time and Customer's agreement to pay for the Services according to the Whidbey Telecom's billing policies as amended from time to time.
- 27.2 If any part of these Terms and Conditions are found invalid, the balance of the Terms and Conditions shall remain enforceable.
- 27.3 If, at any time, Whidbey Telecom does not enforce any right or remedy available to it under these Terms and Conditions, that failure shall not result in a waiver of Whidbey Telecom's right to enforce that right or remedy at a later time.
- 27.4 Copied, scanned, or other duplicate digital or electronic images of these Terms and Conditions are admissible for all purposes.
- 27.5 Customer has no right to receive Service from Whidbey Telecom and Service may be denied at Whidbey Telecom's sole discretion, whether it is the initial provision of the Services or reinstatement to the Services.

#END OF DOCUMENT#