

## Poka Lambro Communications Services Agreement

This Agreement (“Agreement”) governs the rates, terms and conditions for provision by Poka Lambro Communications (Company) of interstate and international long distance service (“Service”). Interstate long distance Service is a service involving a call originating in one state and terminating in another state (also referred to as a “state-to-state” call). International long distance Service is a service involving a call originating in one country and terminating in another country. As used in this Agreement, “you” and “your” refer to the individual or entity using or paying for the Service. This Agreement incorporates by reference the rates, terms and conditions included in the Poka Lambro Communications Rates, Terms and Conditions document. The Poka Lambro Communications Rates, Terms and Conditions Document (“RTC Document”) is available at the Company’s headquarters located 11.5 miles north of Tahoka on U.S. Highway 87, Tahoka, Texas 79373 and on Poka Lambro Communication’s website at [www.poka.com](http://www.poka.com).

By accepting Service from the Company you accept the rates, terms and Conditions included in this agreement and the incorporated rtc document as a binding agreement between you and the Company

1. SERVICES. Availability of individual Service offerings of the Company is described in the RTC Document.
2. RATES. You agree to pay the Company for the Services at the rates and charges listed in the RTC Document. The Company will apply rates and charges for Services provided to you as described in the RTC Document.
3. CHANGES IN RATES, TERMS AND CONDITIONS. The Company may change this Agreement, including the incorporated RTC Document, from time to time. Changes in rates, terms and conditions are effective no sooner than fifteen (15) days after the Company posts on its web site modifications to the RTC Document reflecting the changes. The Company will also notify you of increases by bill message, bill insert or other reasonable commercial method at least fifteen (15) days prior to the effective date for the increases. Advance notice does not apply to increases in taxes and other charges described in Section 5 below. The Company may decrease rates and charges without providing advance notice. Use of the Company's service after the fifteen (15) day notice period shall be construed as your agreement to the changed rates, terms and conditions.
4. PAYMENTS. You must pay all bills or invoices from the Company for Services on or before the due date. Terms and conditions applicable to payment are contained in the RTC Document. Terms and conditions contained in the RTC Document applicable to payments include, but are not limited to, a requirement for payment by you of late payment charges at the highest interest rate allowable by law applied to past due amounts.

5. **TAXES AND OTHER CHARGES.** In addition to payment for Services, you must pay all taxes, fees, surcharges and other charges that the Company bills you related to Services. Taxes and surcharges will be in the amounts that federal, state and local authorities require the Company to bill you. The Company will not provide advance notice of changes to taxes and surcharges, except as required by applicable law.

6. **TERMINATION OR DENIAL OF SERVICE BY THE COMPANY.** In the event of nonpayment of any bill rendered or any required deposit, the Company may, after written notice, suspend your Service. The Company may, immediately and without notice to you, and without liability of any nature, temporarily deny, terminate, or suspend your Service:

- a. in the event you or your agent: (i) willfully damage the Company's equipment, interfere with use of the Company's Service by other customers of the Company; (ii) unreasonably place capacity demands upon the Company's facilities or Service; or (iii) violate any statute or provision of law, or any rule or regulation of any state or federal regulatory agency relating to communications; or (iv) otherwise fail to comply with the provisions of this Agreement or applicable law; or
- b. in the event you become insolvent, are the subject of any formal legal proceeding commenced in a court involving a voluntary or involuntary petition or proceeding in bankruptcy, seek protection or relief from creditors in a formal legal proceeding after a filing for such relief, or execute an assignment for the benefit of creditors; or
- c. in the event that the Company determines that any Service is being used fraudulently or illegally, whether by you or your agent.

7. **INDEMNIFICATION.** YOU AGREE THAT THE COMPANY SHALL NOT BE RESPONSIBLE FOR ANY THIRD-PARTY CLAIMS AGAINST THE COMPANY THAT ARISE FROM YOUR USE OF THE SERVICES. FURTHER, YOU AGREE TO REIMBURSE THE COMPANY FOR ALL COSTS AND EXPENSES RELATED TO THE DEFENSE OF ANY SUCH CLAIMS, INCLUDING ATTORNEYS' FEES, UNLESS SUCH CLAIMS ARE BASED ON THE COMPANY'S WILLFUL MISCONDUCT OR GROSS NEGLIGENCE. THIS PROVISION WILL CONTINUE TO APPLY AFTER THE AGREEMENT ENDS.

8. **LIABILITIES OF THE COMPANY.** Except as stated in this Section 8, the Company shall have no liability for damages of any kind arising out of or related to events, acts, rights or privileges contemplated in this Agreement.

- a. The liability of the Company for damages resulting in whole or in part from or arising in connection with the furnishing of Service under this Agreement including, but not limited to, mistakes, omissions, interruptions, delays, errors or other defects or misrepresentations shall not exceed an amount equal to the charges under this Agreement applicable to the specific call (or portion thereof) that was affected. No other liability shall attach to the Company.

- b. The Company shall not be liable for any failure of performance hereunder due to causes beyond its control, including, but not limited to: (1) acts of God, fires, flood or other catastrophes; (2) any law, order, regulation, directive, action or request of the United States Government, or any other government, including state and local governments having jurisdiction over the Company, or of any department, agency, bureau, corporation or other instrumentality of any one or more of said governments, or of any civil or military authority; or (3) national emergencies, insurrections, riots, wars or other labor difficulties.
- c. The Company shall not be liable for any act or omission of any other entity furnishing facilities, equipment, or services used by a Customer, with the Company's Services. In addition, the Company shall not be liable for any damages or losses due to the failure or negligence of any customer or due to the failure of customer provided equipment, facilities or services.

9. WARRANTIES. EXCEPT AS THIS AGREEMENT EXPRESSLY STATES, THE COMPANY MAKES NO EXPRESS WARRANTY REGARDING THE SERVICES AND DISCLAIMS ANY IMPLIED WARRANTY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

10. BILLING DISPUTES. If you believe you have been billed by the Company in error, you must contact the Company within sixty (60) days of the date of the bill which contains the disputed charge. Refunds or adjustments will not be issued for any charge that is more than sixty (60) days old at the time you notify the Company. You may withhold from payment to the Company the disputed portion of any bill pending resolution of the dispute. You must pay all non-disputed charges on the bill by the due date indicated on the bill. The Company will notify you of the results of its inquiry, and either adjust the billing, issue a credit, or notify you that all or a portion of the disputed amount is still owed. You will be required to pay such amount within fifteen (15) days thereafter, and if you fail to pay this amount within the time required, your account will be deemed past due and unpaid and your Service subject to termination under Section 6 above. Any payments you withhold pending resolution of the dispute may be subject to a late payment charge at the highest interest rate allowable by law applied to past due amounts.

## 11. MISCELLANEOUS

- a. Entire Agreement. This Agreement (which incorporates by reference the RTC Document) constitutes the entire agreement between the Company and you and supersedes all prior agreements, understandings, statements or proposals, and representations, whether written or oral. This Agreement can be amended only as provided in Section 3 above. No written or oral statement, advertisement, or service description not expressly contained in the

Agreement will be allowed to contradict, explain, or supplement it. Neither you nor the Company is relying on any representations or statements by the other party or any other person that are not included in this Agreement.

- b. Separability. If any part of this Agreement is found invalid, the rest of the Agreement will remain valid and enforceable.
- c. No Third Party Rights. This Agreement does not provide any third party with a remedy, claim, or right of reimbursement.
- d. Assignment. The Company can assign all or part of its rights or duties under this Agreement without notifying you. You may not assign this Agreement or the Services without the Company's prior written consent.
- e. Notices. Notices from you to the Company must be provided as specified in this Agreement. Notice from you to the Company made by calling the Company is effective as of the date that the Company's records show that the Company received your call. The Company's notice to you under this Agreement with respect to changes in rates, terms and conditions will be provided as described in Section 3 above. The Company's notice to you under this Agreement for matters other than changes in rates, terms and conditions will be provided by one or more of the following: posting on our web site, recorded announcement, bill message, bill insert, newspaper ad, postcard, letter, call to your billed telephone number.
- f. Governing Law. This Agreement will be governed by the law of the State of Texas.