

**Before the  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of )  
Zito Mifflin County, LLC )  
)  
Petition for Designation as an )  
Eligible Telecommunications Carrier )  
And Request for Expedited )  
Consideration )

Docket No. P-2021-3023622

**SECOND RESPONSES OF ZITO MIFFLIN COUNTY, LLC TO  
THE BUREAU OF CONSUMER SERVICES' THIRD DATA REQUESTS**

1. **In response to the second data request # 12, Exhibit D is a disclosure of limitation of digital voice service. Please provide a mockup of a point-of-sale disclosure that satisfies 47 CFR 54.9.20(d). This includes the offer of an 8- or 24- hour power source, if any, and/or installation options. This disclosure can be combined with Exhibit C, Zito's Subscriber Acknowledgement of Limitations Related to Digital Voice Service. Please revise and resubmit.**

**Response:** Attached hereto as **Exhibit C** is the revised mockup of Zito Mifflin County, LLC's Subscriber Acknowledgement of the limitations of Digital Voice Service and eliminating any reference to Zito Media.

2. **Zito Media is referred to in the response to the first data request #14 and response to second data request #13, and in submitted disclosures. What is the relationship between Zito West Holding LLC, Zito Mifflin County and Zito Media?**

**Response:** Zito West Holding, LLC is the parent of Zito Mifflin County, LLC and Zito Media will not be used as for Zito Mifflin County, LLC.

3. **Is Zito Media also known as Zito Media Voice authorized as a competitive local exchange carrier (CLEC) in Pennsylvania at Docket Nos. A-311439F0002, A-311439F0002AMA, and A-311439F0002AMB to operate in the service territories of Verizon Pennsylvania Inc., Verizon North Inc., Windstream Pennsylvania, and Frontier Communications of Oswayo River?BCS will gladly continue to work with Zito Mifflin to develop its biannual bill message and Lifeline marketing material for content that complies with FCC and Commission rules. For instance:**
  - **Zito Mifflin County must be identified as the ETC vs. Zito Media.**
  - **A bill message is to include Lifeline benefit information.**
  - **It is unnecessary to itemize fees and charges.**

**Response:** Attached hereto as **Exhibit A** is the revised mockup of Zito Mifflin County's biannual bill message with the changes requested in the three bullet points above and eliminating any reference to Zito Media. Attached hereto is **Exhibit B** is revised mockup of the marketing material eliminating any reference to Zito Media. Attached

hereto is **Exhibit F** eliminating any reference to Zito Media. Also, the staff contact information is Teddi Kaple, [escCOORDINATORS@zitomedia.com](mailto:escCOORDINATORS@zitomedia.com) and she can be reached at 814-260-9575 ext. 113.

- 4. In response to the second data request, Exhibits A and B, Zito Mifflin indicates it will apply a late payment of \$7.00 per month. Carriers are not prohibited from charging a late payment fee to Lifeline customers if payment is received past the bill due date. However, 52 Pa. Code § 64.16 does limit a late payment charge to 1.25% of the past due amount for voice service as a protected service. Does Zito Mifflin agree to limit the late payment fee to 1.25% per month for past due amounts for voice service.**

**Response:** Yes, Zito Mifflin County, LLC agrees to the limit the late payment fee to 1.25% per month for past due amounts for voice service.

# Exhibit C

## SUBSCRIBER ACKNOWLEDGEMENT OF LIMITATIONS RELATED TO DIGITAL VOICE SERVICE

**I acknowledge the following:**

To help you quickly respond to emergencies, Zito Mifflin County, LLC ("Zito") provides emergency 911 services much like traditional telephone companies. Should you ever need to access emergency services - fire, police, or ambulance - just dial the familiar digits "9-1-1," using your Zito Voice service. Upon calling 911 your call will be routed directly to a public-safety operator, who will dispatch the appropriate services. With Enhanced 911, emergency services will be able to quickly find you - your telephone number and address are electronically sent to the operator the moment your call goes through.

Zito provides Voice service in your home using either a GPON (Gigabit Passive Optical Network) unit or a cable modem, which require electrical power to function and allow you to make calls out, receive calls and call 911. Your Zito Voice service equipment will not work in the event of a power outage unless you have a backup power source on your premises.

Additionally, cordless telephones and other equipment, such as telecommunications devices used to assist with disabilities, will not work without electric power unless you have some sort of batteries capable of allowing them to function without an external source of electricity.

Customers who would like to keep their voice service working and do not already have backup power available, Zito recommends purchasing a UPS (Uninterruptible Power Supply) from a local or national retailer. Please note that when looking to purchase a UPS the FCC recommends having equipment that will keep GPON, modem, cordless or other related voice equipment up for 24 hours (at least 8 hours at a minimum) without commercial power.

As customers are responsible for providing and installing batteries for their cordless telephone and other telecommunications devices to operate during a power outage, they are also responsible for purchasing a UPS for the ONU and modem equipment if they don't already have one.

Below is a recommendation of the size of the UPS system to purchase based upon standard GPON and modem Zito provided for your phone service only. Any other equipment plugged into the UPS will significantly shorten the amount of time the UPS can supply backup power. Other factors that impact the amount of time the UPS can supply power during a power outage is age and if the UPS is fully charged before the power outage starts.

Zito does not have any responsibility for monitoring or maintaining the UPS systems or from where they are purchased. All warranties of the UPS systems are the responsibility of the retailer or manufacturer, not Zito. Sizing and maintaining the UPS systems is the responsibility of the customer or the company or consultant the customer uses to purchase and maintain the system. This includes all necessary power wiring and power outlets in a suitable location and in a safe condition and location within the residence. The customer is also responsible for any environmental requirements the UPS manufacturer recommends. Zito is not liable for any property damage or personal injury, or any other alleged damage or injury, caused by any customer-provided power supply, wiring, or power outlet.

In the event of a power failure, no allowance is made for interruption of service and the Company shall not be held liable for such an interruption of service. Nor shall the company be liable for any property damage or personal injury, or any other alleged damage or injury, caused by any customer-provided power supply, wiring, or power outlet.

Customers who have any questions or concerns with backup power as it relates to Zito equipment can call customer care at 800-365-6988 or email [support@zitomedia.com](mailto:support@zitomedia.com).

#### **UPS Specifications -**

- 8 hour back up for Zito voice equipment (GPON/Modem) only.

*Minimum\* - 120V 1000VA 500W with surge protection*

- 24 hour back up for Zito voice equipment (GPON/Modem) only.

*Minimum\* – 120V 3000VA 2700W with surge protection.*

*\*Any other equipment other than Zito voice equipment connected to the UPS system will significantly impact the UPS's ability to provide back up power. Please consult specific UPS manufacturer tables for possible external battery requirements to achieve extended run times.*

I agree that Zito will not be responsible for any losses or damages arising as a result of the unavailability of the Digital Voice Service, including the inability to reach 911 or other emergency Services, or the inability to contact my home security system or remote medical monitoring service provider. I acknowledge that Zito does not guarantee that the Digital Voice Service will operate with my home security and/or medical monitoring systems, and that I must contact my home security or medical monitoring provider in order to test my system's operation with the Digital Voice Service. I agree that I am responsible for the cost of any such testing or any fees for configuring my home security or medical monitoring system to work with the Digital Voice Service.

The location and address associated with my Digital Voice Service will be the address identified on the Work Order. I acknowledge that, I am not permitted to move Zito Equipment from the location and address in which it has been installed.

**Furthermore, if I move my voice-enabled ONU to an address different than that identified on the Work Order, calls from such ONU to 911 will appear to 911 emergency service operators to be coming from the address identified on the Work Order and not the new address.**

**I acknowledge that the existing voice wiring inside my home may not support both Digital Voice Service and digital subscriber line (DSL) service. Therefore, if I intend to use Digital Voice Service on all of my voice jacks, I may be required to maintain separate wiring, not provided by Zito, within my home specifically for DSL service or to disconnect my DSL service prior to receiving the Digital Voice Service over my existing in-home wiring.**

**I agree to provide Zito and its authorized agents with access to my voice inside wiring at the Network Interface Device or at some other minimum point of entry in order to provide the Digital Voice Service over my existing in-home wiring.**

**I acknowledge that the Digital Voice Service may not be compatible with certain data transmission Services, including but not limited to fax transmissions and dial-up Internet access and that I may be required to maintain a separate voice line, not provided by Zito, in order to access such Services.**

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**Signature of Subscriber**

# Exhibit A

## Lifeline Service Program

Zito Mifflin County, LLC, an Eligible Telecommunications Carrier (ETC) offers a Lifeline Service Program for eligible low income customers with the following discounted service prices:

- \$71.10 per month for our Ultra HSD Service (100x25 Mbps-no usage allowance and includes the Optical Network Unit (a fiber to the home modem)("ONU"))- **a \$9.25 discount from our retail rate of \$80.35.**
- \$25.40 per month for our Digital Voice Service (which includes voicemail, visual voicemail, call waiting, caller id, call forwarding, unlimited local and long distance calling in the United States, Canada, Puerto Rico, the US Virgin Islands, and Guam and excludes other international long distance calling and the ONU)- **a \$5.25 discount from our retail rate of \$30.65.**
- \$83.75 per month for our Ultra HSD Service and Digital Voice Service (100x25 Mbps-no usage allowance and includes the ONU)- **a \$9.25 discount from our retail rate of \$93.00.**

This Lifeline Service is a government assistance program and only eligible customers may enroll in the Lifeline Service Program. Qualifying customers who reside on federally recognized tribal lands may qualify for additional discounts.

You can get one Lifeline Service Program discount (Ultra HSD Service, Digital Voice Service or Ultra HSD Service and Digital Voice Service) per household, not per person, and a household can get a Lifeline Service Program discount from only one provider. You may not transfer this benefit to another person or household.

You may qualify for Lifeline Service Program if your household income is at or below 135% of the Federal Poverty Guidelines 66 C.S. Section 3019(f)(4) or if you participate in one of the following federal assistance programs:

- Supplemental Nutrition Assistance Program (SNAP), formerly known as Food Stamps
- Medicaid
- Supplemental Security Income (SSI)
- Federal Public Housing Assistance (FPHA)
- Veterans Pension and Survivors Benefit
- Tribal Programs (and live on federally-recognized Tribal lands)

You can apply for this benefit online through the National Verifier, found here

<https://nationalverifier.servicenowservices.com/lifeline>

If you would like to learn more about Lifeline Service Program or need assistance, please contact Zito Mifflin County's customer service line at 1-800-365-6988 or *contact the PA PUC Bureau of Consumer Services for help with unresolved questions or complaints at 1-800-692-7380 or <https://www.puc.pa.gov/complaints/informal-complaints/>.*

## Exhibit B

### Zito Mifflin County, LLC is coming to you!

Zito Mifflin County, LLC, an Eligible Telecommunications Carrier (ETC) ("Zito") is pleased to announce that we will be offering a Lifeline Service Program for eligible low income customers with the following discounted service prices:

- \$71.10 per month for our Ultra HSD Service (100x25 Mbps-no usage allowance and includes the Optical Network Unit (a fiber to the home modem)("ONU))- **a \$9.25 discount from our retail rate of \$80.35.**
- \$25.40 per month for our Digital Voice Service (which includes voicemail, visual voicemail, call waiting, caller id, call forwarding, unlimited local and long distance calling in the United States, Canada, Puerto Rico, the US Virgin Islands, and Guam and excludes other international long distance calling and the ONU)- **a \$5.25 discount from our retail rate of \$30.65.**
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Zito is headquartered in Coudersport, Pennsylvania. Zito and its affiliates serve just over 64,000 customers with video, internet and phone service in rural markets in 21 states across the country. Zito has a strong customer service focus, and assistance is available 24 hours a day, every day of the year.

## **Exhibit B**

This letter is meant to introduce you to some of the options for service that come with being a Zito customer.

### **CUSTOMER SUPPORT**

If you have an issue or question about your service or your bill, you can contact us anytime at **1-800-365-6988**. We are open 24 hours/day every day of the year at **1-814-200-0728 (between 9 AM – 9 PM EST daily)**. Our US-based customer service support team does not utilize contractors and are trained to troubleshoot and resolve the issues that you may experience quickly and effectively. We will also have technicians available to restore service when issues arise outside of normal business hours.

### **INVOICE PAYMENT OPTIONS**

For your convenience, you may choose to use Zito's auto pay system with either a credit card or ACH. If you choose ACH with us, you will receive a monthly discount of \$2 on your Zito service. You may also choose to go paperless and have an email bill sent to you every month.

There is also an option to pay through our interactive voice response menu. For your first call, we will need to set up the system with your PIN, but after that payments can be made without speaking with an agent.

Lastly, you can mail your payments to:

**Zito Mifflin County, LLC**  
**PO Box 431**  
**Coudersport, PA 16915**

Zito is looking forward to building a strong and long-standing relationship with you.

Again, if you have any questions or want to sign up for services please call **1-800-365-6988**.

Sincerely,

Your Friends at Zito Mifflin County, LLC



# Exhibit F

## **IMPORTANT INFORMATION ABOUT YOUR ZITO MIFFLIN COUNTY, LLC SERVICES**

### **ZITO MIFFLIN COUNTY, LLC TERMS OF USE SUBSCRIBER AGREEMENT**

The account holder(s) referred to on the accompanying Zito Mifflin County, LLC ("Zito") Work Order or statement ("I," "me" or "my") agrees that the Work Order and this Terms of Use Subscriber Agreement (this "Agreement"), set forth the terms and conditions that govern my receipt of video, high-speed data, voice and other services from Zito.

In consideration of Zito's provision of the Services that I have requested, subject to applicable law, I AGREE AS FOLLOWS:

#### **1. Important Information About This Agreement**

(a) This Agreement and the Work Order, each of which Zito may amend as set forth below, constitute the entire agreement between Zito and me. This Agreement supersedes all previous written or oral agreements between Zito and me. I am not entitled to rely on any oral or written statements by Zito's representatives relating to the subjects covered by these documents, whether made prior to the date of my Work Order or thereafter, and Zito will have no liability to me except in respect of its obligations as described in this Agreement and the other documents referred to above. The use of my Services by any person other than me is also subject to the terms of this Agreement.

(b) Zito has the right to add to, modify, or delete any term of this Agreement and the Zito Policies and Practices at any time. An online version of this Agreement and the Policies and Practices, as so changed from time to time, will be accessible at [www.Zitomedia.com](http://www.Zitomedia.com) or another online location designated by Zito, or can be obtained by calling Zito at 800-365-6988.

(c) Zito will notify me of any significant change(s) in this Agreement and the Policies and Practices. Any such changes shall become effective immediately except where applicable law requires a notice period, in which case the change will become effective at the end of the requisite notice period. Upon effectiveness of any change to any of these documents, my continued use of the Services will constitute my consent to such change and my agreement to be bound by the terms of the document as so changed. If I do not agree to any such change, I will immediately stop using the Services and notify Zito that I am terminating my Services account.

(d) My acceptance of Services constitutes my acceptance of the terms and conditions contained in this Agreement. In the event that a portion of my Services is terminated, or any aspect of it is changed, any remaining service or replacement service will continue to be governed by this Agreement.

#### **2. Payment; Charges; Refunds**

(a) I agree to pay Zito for (i) all use of my Services, (ii) installation and applicable service charges (iii) Zito Equipment, and (iv) all applicable local, state and federal fees and taxes. Charges for the Services are set forth on a separate price list that I have received. I will be billed monthly in advance for recurring monthly charges. Other charges will be billed in the next practicable monthly billing cycle following use, or as otherwise specified in the price list. Zito may change both the fees and the types of charges (e.g., periodic, time-based, use-based) for my Services. If I participate in a promotional offer that requires a minimum time commitment and I terminate early, I agree that I am responsible for early termination fees associated with such promotion.

(b) Charges for installation Services and related equipment available from Zito for a standard Services installation are as described in Zito's list of charges. Non-standard installations, if available, may result

in additional charges as described in Zito's list of charges. In addition, I agree to pay charges for repair service calls resulting from my misuse of Zito Equipment or for failures in equipment not supplied by Zito.

(c) If my Services account is past due and Zito sends a collector to my premises, a field collection fee may be charged. The current field collection fee is on the price list or can be provided on request. I will also be responsible for all other expenses (including reasonable attorneys' fees and costs) incurred by Zito in collecting any amounts due under this Agreement and not paid by me.

(d) All charges are payable on the due date specified, or as otherwise indicated, on my bill. I agree that late charges may be assessed, subject to applicable law, on amounts that are past due. My failure to deliver payment by the due date is a breach of this Agreement. The current late fees are on the price list or can be provided upon request and, if applicable, will not exceed the maximum late fees as set forth by applicable law. Zito reserves the right to change the late fees.

(e) I agree that if my Services account with Zito is past due, Zito may terminate any of my Services or accounts, including Digital Voice Service, in accordance with applicable law. Whether Zito or I terminate my Services, if I have a credit due to me or a deposit is being held on any account with Zito, I agree that the credit or deposit may be used to offset amounts past due on any other account I may have with Zito without notice to me and that the remaining balance owed plus interest will be refunded; installation fees paid are non-refundable. To reconnect any terminated Services, I may be required, in addition to payment of all outstanding balances on all accounts with Zito, to pay reconnect charges or trip charges (where applicable) and/or security deposits before reconnection.

(f) Zito may verify my credit standing with credit reporting agencies and require a deposit based on my credit standing or other applicable criteria. Zito may require a security deposit, or a bank or credit card or account debit authorization from me as a condition of providing or continuing to provide Services. If Zito requires a security deposit, the obligations of Zito regarding such security deposit will be governed by the terms of the deposit receipt provided by Zito to me at the time the deposit is collected. I agree that Zito may deduct amounts from my security deposit, bill any bank or credit card submitted by me, or utilize any other means of payment available to Zito, for any past due amounts payable by me to Zito, including in respect of damaged or unreturned Equipment.

(g) If I have elected to be billed by credit card, debit card or ACH transfer, I agree that I will automatically be billed each month for any amounts due under this Agreement. If I make payment by check, I authorize Zito and its agents to collect this item electronically.

(h) Zito may charge fees for all returned checks and account debit, bank card or charge card chargebacks. The current return/chargeback fees are listed in the list of charges on the price list or can be provided on request. Zito reserves the right to change return/chargeback fees.

(i) All use of my Services, whether or not authorized by me, will be deemed my use and I will be responsible in all respects for all such use, including for payment of all charges attributable to my account (e.g., for VOD movies, merchandise ordered via Internet, international long distance charges, etc.). Zito is entitled to assume that any communications made through my Services or from the location at which I receive the Services are my communications or have been authorized by me. My Services may contain or make available information, content, merchandise, products and Services provided by third parties and for which there may be charges payable to third parties (which may include my OLP and/or entities affiliated with Zito). I agree that all such charges incurred by me or attributed to my account will be my sole and exclusive responsibility and agree to pay the same when due, and shall indemnify and hold harmless Zito and third parties (the "Zito Parties") for all liability for such charges. I agree that Zito is not responsible or liable for the quality of any content, merchandise, products or Services (or the price thereof) made available to me via the Services, for the

representations or warranties made by the seller or manufacturer of any such item, or for damage to or injury, if any, resulting from the use of such item.

(j) I acknowledge that currently, and from time to time, there is uncertainty about the regulatory classification of some of the Services Zito provides and, consequently, uncertainty about what fees, taxes and surcharges are due from Zito and/or its customers. Accordingly, I agree that Zito has the right to determine, in its sole discretion, what fees, taxes and surcharges are due and to collect and remit them to the relevant governmental authorities, and/or to pay and pass them through to me. I further agree to waive any claims I may have regarding Zito's collection or remittance of such fees, taxes and surcharges. I further understand that I may obtain a list of the fees, taxes and surcharges that Zito currently collects or passes through by writing to Zito at the following address and requesting same: Zito, 102 South Main Street, Coudersport, PA 16915; Attention: Subscriber Tax Inquiries.

(k) I agree that it is my responsibility to report Zito billing errors before actual suspension or termination of service, or subject to applicable law, so that service levels and all payments can be verified. If not reported before actual suspension or termination of service, or subject to applicable law, the errors are waived.

### **3. Installation; Equipment and Cabling**

(a) If I am not the owner of the house, apartment or other premises upon which Zito Equipment and Software are to be installed, I warrant that I have obtained the consent of the owner of the premises for Zito personnel and/or its agents to enter the premises for the purposes described in Section 3(d). I agree to indemnify and hold the Zito Parties harmless from and against any claims of the owner of the premises arising out of the performance of this Agreement (including costs and reasonable attorneys' fees).

(b) I authorize Zito to make any preparations to the premises necessary for the installation, maintenance, or removal of equipment. Zito shall not be liable for any effects of normal Services installation and workmanship, such as holes in walls, etc., which may remain after installation or removal of the Zito Equipment, except for damage caused by negligence on the part of Zito.

(c) The Zito Equipment is and at all times shall remain the sole and exclusive personal property of Zito, and I agree that I do not become an owner of any Zito Equipment by virtue of the payments provided for in this Agreement or the attachment of any portion of the Zito Equipment to my residence or otherwise. Upon termination of any Services, subject to any applicable laws or regulations, Zito may, but shall not be obligated to, retrieve any associated Zito Equipment not returned by me as required under Section 3(f) below. Zito will not be deemed to have "abandoned" the ZITO Equipment if it does not retrieve such equipment.

(d) I agree to provide Zito and its authorized agents access to my premises during regular business hours upon reasonable notice during the term of this Agreement and after its termination to install, connect, inspect, maintain, repair, replace, alter or disconnect or remove the Zito Equipment, to install Software, to conduct service theft audits, or to check for signal leakage. I agree that Zito may have reasonable access to easements and Zito Equipment located on my grounds.

(e) Zito shall have the right to upgrade, modify and enhance Zito Equipment and Software from time to time through "downloads" from Zito's network or otherwise. Without limiting the foregoing, Zito may, at any time, employ such means to limit or increase the throughput available through individual ONUs whether or not provided by Zito.

(f) If the Services are terminated, I agree that I have no right to possess or use the Zito Equipment related to the terminated Services. As required under Section 10(b), I agree that I must arrange for the return of Zito Equipment to Zito, in the same condition as when received (excepting ordinary wear and tear), upon termination of the Services. If I do not promptly return the Zito Equipment or

schedule with Zito for its disconnection and removal, Zito may enter any premises where the Zito Equipment may be located for the purpose of disconnecting and retrieving the Zito Equipment subject to applicable law. I will pay any expense incurred by ZITO in any retrieval of the unreturned Zito Equipment. Zito may charge me a continuing monthly fee until any outstanding Zito Equipment is returned, collected by Zito or fully paid for by me in accordance with Section 3(g). The current fee is listed in the list of charges on the price list or can be provided on request.

(g) I agree to pay Zito liquidated damages in the amount demanded by Zito, but not to exceed that specified in the then-current price list, for the replacement cost of the Zito Equipment without any deduction for depreciation, wear and tear or physical condition of such Zito Equipment if (i) I tamper with, or permit others to tamper with, Zito Equipment, (ii) the Zito Equipment is destroyed, lost, or stolen, whether or not due to circumstances beyond my reasonable control, and even if I exercised due care to prevent such destruction, loss, or theft, or (iii) the Zito Equipment is damaged (excluding equipment malfunction through no fault of my own) while in my possession, whether or not due to circumstances beyond my reasonable control, and even if I exercised due care to prevent such damage. I agree that these liquidated damages are reasonable in light of the problem of theft of cable Services; the existence of a "black market" in Zito Equipment; the ability of third parties to steal Services with unlawfully obtained Zito Equipment, causing loss of revenues for installation and service fees; and the difficulty in determining the actual damages that arise from the unauthorized tampering with, loss, destruction, or theft of Zito Equipment. I agree to return any damaged Zito Equipment to Zito.

(h) I agree that Zito may place equipment and cables on my premises to facilitate the provision of Services to me and to other locations in my area. The license granted under this Section 3(h) will survive the termination of this Agreement until the date that is one year from the date on which I first notify Zito in writing that I am revoking such license.

#### **4. Use of Services; Zito Equipment and Software**

(a) I agree that Zito has the right to add to, modify, or delete any aspect, feature or requirement of the Services (including content, price, equipment and system requirements). I further agree that Zito (and, if applicable, OLP) has the right to add to, modify, or delete any aspect, feature or requirement of the HSD Service (including content, price and system requirements). If Zito changes its equipment requirements with respect to any Services, I acknowledge that I may not be able to receive such Services utilizing my then-current equipment. Upon any such change, my continued use of Services will constitute my consent to such change and my agreement to continue to receive the relevant Services, as so changed, pursuant to this Agreement. If I participate in a promotional offer for any Service(s) that covers a specified period of time, I agree that I am assured only that I will be charged the promotional price for such Service(s) during the time specified. I agree that Zito shall have the right to add to, modify, or delete any aspect, feature or requirement of the relevant Service(s), other than the price I am charged, during such promotional period.

(b) I agree that the Services I have requested are residential Services, offered for reasonable personal, non-commercial use only. I will not resell or redistribute (whether for a fee or otherwise) the Services, or any portion thereof, or charge others to use the Services, or any portion thereof. If I receive Video Service, I agree not to use the Services for the redistribution or retransmission of programming or for any enterprise purpose whether or not the enterprise is directed toward making a profit. I agree that, among other things, my use of the Services to transmit or distribute the Video Service, or any portion thereof, to (or to provide or permit access by) persons outside the location identified in the Work Order (even if to a limited group of people or to other residences that I own or have the right to use), will constitute an enterprise purpose. I acknowledge that programs and other materials that I receive as part of the Video Service remain part of the Video Service even if I record or capture all or a portion of any such program or material in a data file or on a hard drive, DVR or

similar device. If I receive Digital Voice Service, I agree not to use the Services for telemarketing, call center, medical transcription or facsimile broadcasting Services or for any enterprise purpose whether or not the enterprise is directed toward making a profit. I agree that, among other things, my use of the Services to make available my Digital Voice Service, or any portion thereof, to (or to provide or permit access by) persons outside the location identified in the Work Order (even if to a limited group of people or to other residences that I own or have the right to use), will constitute an enterprise purpose. If I receive HSD Service, I agree not to use the HSD Service for operation as an Internet service provider, for the hosting of websites (other than as expressly permitted as part of the HSD Service) or for any enterprise purpose whether or not the enterprise is directed toward making a profit. I agree that, among other things, my use of any form of transmitter or wide area network that enables persons or entities outside the location identified in the Work Order to use my Services, whether or not a fee is sought, will constitute an enterprise purpose. Furthermore, if I use a wireless network within my residence, I will limit wireless access to the HSD Service (by establishing and using a secure password or similar means) to the members of my household.

(c) Theft or willful damage, alteration, or destruction of Zito Equipment, or unauthorized reception, theft or diversion of Services, or assisting such theft, diversion, or unauthorized reception is a breach of this Agreement and potentially punishable under law (including by way of statutory damages, fine and/or imprisonment). Nothing in this Agreement, including, Section 3(g) above, shall prevent Zito from enforcing any rights it has with respect to theft or unauthorized tampering of Services or Zito Equipment under applicable law.

(d) I will not, nor will I allow others to, open, alter, misuse, tamper with or remove the Zito Equipment as and where installed by Zito or use it contrary to this Agreement. I will not, nor will I allow others to, remove any markings or labels from the Zito Equipment indicating Zito ownership or serial or identity numbers. I will safeguard the Zito Equipment from loss or damage of any kind, including accidents, breakage or house fire, and will not permit anyone other than an authorized representative of Zito to perform any work on the Zito Equipment.

(e) I agree that to the extent any Software is licensed (or sublicensed) to me by Zito, such Software is provided for the limited purpose of facilitating my use of the Services as described in this Agreement. I will not engage in, or permit, any additional copying, or any translation, reverse engineering or reverse compiling, disassembly or modification of or preparation of any derivative works based on the Software, all of which are prohibited. I will return or destroy all Software provided by Zito and any related written materials promptly upon termination of the associated Services to me for any reason. Software licensed to me by my OLP, for instance my OLP's client or browser software, is licensed under the OLP Terms and is not the responsibility of Zito.

(f) I agree that I will use the Services for lawful purposes only, and in accordance with this Agreement.

(g) I agree to be responsible for protecting the confidentiality of my screen names, passwords, personal identification numbers (PINs), parental control passwords or codes, and any other security measures made available, recommended or required by Zito . I also acknowledge that Zito's Services may from time to time include interactive features, the use of which may result in the transmission to, and use by, Zito or certain third parties of information that may constitute personally identifiable information (as such term is used in the Federal Communications Act of 1934) about me and for which Zito may be required, under the Federal Communications Act of 1934, to obtain my consent. I agree that Zito may seek such consents (or indications of my election to "opt in" to certain Zito programs) electronically, including through the use of a "click through" screen, and that Zito is entitled to assume that any such consent or opt-in election communicated through my Services or from the location at which I receive the Services is my consent or opt-in election or has been authorized by me.

(h) I agree that Zito has no liability for the completeness, accuracy or truth of the programs or information it transmits.

#### **5. Special Provisions Regarding Digital Voice Service**

**(a) I acknowledge that the voice-enabled fiber to the home modem ("ONU") used to provide the Digital Voice Service is electrically powered and that the Digital Voice Service, including the ability to access 911 Services and home security and medical monitoring Services, may not operate in the event of an electrical power outage or if my broadband cable connection is disrupted or not operating. I acknowledge that, in the event of a power outage in my home, any battery included in my voice-enabled ONU may enable back-up service for a limited period of time or not at all, depending on the circumstances, and that inclusion of the battery does not ensure that Digital Voice Service will be available in all circumstances. I also acknowledge that, in the event of a loss of power that disrupts the Zito cable system, the battery in my voice-enabled ONU will not provide back-up service and the Digital Voice Service will not be available.**

**(b) I agree that Zito will not be responsible for any losses or damages arising as a result of the unavailability of the Digital Voice Service, including the inability to reach 911 or other emergency Services, or the inability to contact my home security system or remote medical monitoring service provider. I acknowledge that Zito does not guarantee that the Digital Voice Service will operate with my home security and/or medical monitoring systems, and that I must contact my home security or medical monitoring provider in order to test my system's operation with the Digital Voice Service. I agree that I am responsible for the cost of any such testing or any fees for configuring my home security or medical monitoring system to work with the Digital Voice Service.**

**(c) The location and address associated with my Digital Voice Service will be the address identified on the Work Order. I acknowledge that, under Section 4(d) of this Agreement, I am not permitted to move Zito Equipment from the location and address in which it has been installed. Furthermore, if I move my voice-enabled ONU to an address different than that identified on the Work Order, calls from such ONU to 911 will appear to 911 emergency service operators to be coming from the address identified on the Work Order and not the new address.**

**(d) I acknowledge that the existing voice wiring inside my home may not support both Digital Voice Service and digital subscriber line (DSL) service. Therefore, if I intend to use Digital Voice Service on all of my voice jacks, I may be required to maintain separate wiring, not provided by Zito, within my home specifically for DSL service or to disconnect my DSL service prior to receiving the Digital Voice Service over my existing in-home wiring.**

**(e) I agree to provide Zito and its authorized agents with access to my voice inside wiring at the Network Interface Device or at some other minimum point of entry in order to provide the Digital Voice Service over my existing in-home wiring.**

**(f) I acknowledge that the Digital Voice Service may not be compatible with certain data transmission Services, including but not limited to fax transmissions and dial-up Internet access and that I may be required to maintain a separate voice line, not provided by Zito, in order to access such Services.**

#### **6. Special Provisions Regarding HSD Service**

**(a) Tiers of Service. I acknowledge that the HSD Service is offered on a tiered basis and that each tier has "throughput" limits (i.e., limits on the maximum rate at which I may send and receive data at any**

time), "consumption" limits (i.e., limits on the amount of data that I may send or receive during the course of a month or over shorter periods) and other similar limits, all as set forth in the price list or this Agreement. I agree that Zito may change the throughput, consumption and other applicable limits of any tier(s) by amending the price list or Terms of Use. My continued use of the HSD Service will constitute my acceptance of any new limits. I also agree that Zito may use technical means, including but not limited to suspending or reducing the speed of my service, to ensure compliance with these limits, and that Zito may move me to a higher tier of HSD service (which may result in higher monthly charges) or impose other charges and fees if my use exceeds these limits. I further agree that Zito has the right to monitor my usage patterns to facilitate the provision of the HSD Service and to ensure my compliance with this Agreement. Zito may take such steps as it determines appropriate in the event my usage of the HSD Service does not comply with this Agreement, including applicable consumption limits. The usage cap for the High Speed Internet is 250 GB of downloaded data each month; for the Super Speed Internet product is 400GB; for the Ultra Speed Internet product is 750GB

(b) Republication. (i) I acknowledge that material posted or transmitted through the HSD Service may be copied, republished or distributed by third parties, and that the Zito Parties will not be responsible for any harm resulting from such actions. (ii) I grant to Zito, and I represent, warrant and covenant that I have all necessary rights to so grant, the non-exclusive, worldwide, royalty-free, perpetual, irrevocable, right and license to use, reproduce, modify, adapt, publish, translate, distribute, perform and display in any media all material posted on the public areas of the HSD Service via my account and/or to incorporate the same in other works, but only for purposes consistent with operation and promotion of the HSD Service. (iii) I agree that unsolicited email, or "spam," is a nuisance and that Zito and my OLP are entitled to establish limits on the volume of email that I send. Such volume limits may be set by reference to a number of emails per day, week, month or year.

(c) Unfiltered Internet Access. I acknowledge that the HSD Service provides a connection to the Internet that may be unfiltered, and that the Zito Parties neither control nor assume responsibility for any content on the Internet or content that is posted by a subscriber. Although Zito or my OLP may make available certain parental control features, I acknowledge that such parental control features may not be entirely effective or foolproof and that, notwithstanding such features, I or members of my household may be exposed to unfiltered content.

(d) Use of OLP Service. I agree that Zito and/or my OLP has the right, but not the obligation, to edit, refuse to post or transmit, request removal of, or remove or block any material transmitted through, submitted to or posted on the HSD Service, if it determines in its discretion that the material is unacceptable or violates the terms of this Agreement, any Zito consumption limits or any other terms of this Agreement. Such material might include personal home pages and links to other sites. In addition, I agree that, under such circumstances, Zito may suspend my account, take other action to prevent me from utilizing certain account privileges (e.g., home pages) or cancel my account without prior notification. I also agree that Zito and/or my OLP may suspend or cancel my account for using all or part of the HSD Service to post content to the Internet or to engage in "peer to peer" file exchanges or other forms of file exchanges that violate this Agreement.

(e) Responsibility for HSD Service. Zito has responsibilities for the HSD Service. This Agreement does not cover any OLP features or Services that are not dependent upon distribution over Zito's cable system (for example, dial up access or my use of the OLP software that enables access to the OLP features or Services through non-Zito access means) or that may otherwise be provided to me by my OLP separately from the HSD Service under the OLP terms. In the event of termination of the HSD Service, I must also contact my OLP to ensure that these other features or Services (such as dial-up access) are properly continued or discontinued.

(f) Computer Requirements. I agree that each Computer will need to meet certain minimum hardware and software requirements that will be specified for the HSD Service, and that such requirements may be changed from time to time by Zito or my OLP.

## **7. Support; Service and Repairs**

(a) My Services include the right to request reasonable service and maintenance calls to check and correct problems with the Services. Zito will, at its own expense, repair damage to or, at Zito's option, replace Zito Equipment, and otherwise attempt to correct interruptions of the Services, due to reasonable Zito Equipment wear and tear, or technical malfunction of the system or network operated by Zito. The Subscriber Materials contain details on contacting Zito for this support.

(b) Unless I have obtained a Zito service protection plan (if available in my area), I agree that I am responsible for all wiring, equipment and related software installed in my residence that is not Zito Equipment or Zito-licensed Software and ZITO will have no obligation to install, connect, support, maintain, repair or replace any Computer, television, voice or voice answering device, audiovisual recording or playback device (e.g., VCR, DVR, DVD), audio equipment, any software, or any ONU, cabling or other equipment (other than Zito Equipment or Zito-licensed Software). Zito will not support, repair, replace, or maintain any Network Interface Card, regardless of whether provided and installed by Zito.

(c) I agree that Zito has no responsibility for the operation of any equipment, software or service other than the Services, the Zito Equipment and the Zito-licensed Software. For instance, I acknowledge that certain commercially available televisions, converter boxes and recording devices, which may be identified by their manufacturers as "cable ready" or "digital cable ready," may not be able to receive or utilize all available Services without the addition of Zito Equipment for which a fee may be charged. If I receive HSD Service, ZITO has no responsibility to support, maintain or repair any equipment, software or service that I elect to use in connection with the HSD Service. For assistance with technical problems arising from such equipment, software or Services, I should refer to the Subscriber Materials for information regarding the technical support provided by my OLP or to the support area of the OLP or to the relevant third party's material.

(d) If Zito determines that non-Zito cabling or equipment connecting my residence to Zito Equipment installed on the side of or adjacent to my residence (i.e., at a ground block) is the cause of a service problem, I agree that Zito may charge me to resolve such service problem. If available from Zito in my area, I may subscribe to a ZITO service protection plan that covers service related calls within my residence. If any other support Services are available from Zito, such Services will be at additional charges as described in Zito's price list.

## **8. Service Interruptions; Force Majeure**

(a) I agree that Zito has no liability for delays in or interruption to my Services, except that if for reasons within Zito's reasonable control, for more than twenty-four (24) consecutive hours, (i) service on all cable channels is interrupted, (ii) there is a complete failure of the HSD Service or (iii) there is a complete failure of the Digital Voice Service, Zito will give me a prorated credit for the period of such interruption or failure if I request one within 30 days of the interruption or failure. In no event shall Zito be required to credit me an amount in excess of applicable service fees. Zito will make any such credit on the next practicable bill for my Services. State and local law or regulation may impose other outage credit requirements with respect to some or all of my Services. In such event, the relevant law or regulation will control.

(b) I acknowledge that Zito may conduct maintenance from time to time that may result in interruptions of my Services.



(c) The Zito Parties shall have no liability, except as set forth in Section 8(a), for interruption of the Services due to circumstances beyond its reasonable control, including 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.

## **9. Review and Enforcement**

(a) Zito may suspend or terminate all or a portion of my Services without prior notification if Zito determines in its discretion that I have violated this Agreement, even if the violation was a one-time event. If all or a portion of my Services are suspended, I will not be charged for the relevant Services during the suspension.

(b) If I receive HSD Service, I acknowledge that Zito has the right, but not the obligation, to review content on public areas of the HSD Service, including chat rooms, bulletin boards and forums, in order to determine compliance with this Agreement.

(c) I agree that Zito shall have the right to take any action that Zito deems appropriate to protect the Services, Zito's facilities or Zito Equipment.

## **10. Termination of Service and Refunds**

(a) Either Zito or I may terminate all or any portion of my Services at any time for any or no reason, in its sole discretion, in accordance with applicable law. If my account is terminated by Zito or by me, I agree that I will be refunded any pre-paid fees minus any amounts due Zito and that the remaining balance owed plus interest will be refunded; installation fees paid are non-refundable.

(b) If I am moving or wish to terminate all or any portion of my Services for any reason, I will notify Zito by voice or by mail as instructed in the Subscriber Materials in order to set up a disconnect appointment and provide Zito with access to my premises to disconnect the relevant Services and recover the Zito Equipment specified on the Work Order on a DATE PRIOR TO the last day of residency. This also applies if I am receiving a period of free or discounted Services. In other words, at the end of the free or discounted period, Zito is entitled to begin billing me for the usual charges associated with the relevant Services unless I take the appropriate steps to terminate the Services as described in this Section 10(b).

(c) I cannot terminate my Services by writing "Canceled" (or any other messages) on my bill or check, or by making a disconnect appointment that does not result in Zito's physical recovery of the Zito Equipment. In addition, I agree that any restrictive endorsements (such as "paid in full"), releases or other statements on or accompanying checks or other payments accepted by Zito shall have no legal effect.

(d) If I subscribe to HSD Service, I acknowledge that notice given by me to Zito of termination of my HSD Service may not be sufficient to terminate billing by my OLP for additional or continuing Services under the OLP terms (for example, "dial up" access). I agree that I am solely responsible for contacting my OLP in addition to ZITO to ensure that all such Services are terminated in accordance with the OLP terms.