

INSIGHT MIDWEST HOLDINGS, LLC
INSIGHT PHONE
Business Phone Services Agreement
for
State-to-State and International Long Distance Services
January 1, 2005

Your use of the Insight Business Phone Services under this Agreement constitutes your acceptance of the terms of this Agreement. In this Agreement (the “Agreement”), the terms “You” and “Your” mean You, the customer, your parent company, successors, affiliates, subsidiaries and assigns, and its and their respective officers, directors, employees, agents, and shareholders who use the Services. Insight or Insight Phone means Insight Midwest Holdings, LLC (doing business as Insight Phone) and any affiliates authorized to provide the Services. IF YOU DO NOT AGREE WITH THE TERMS OF THIS AGREEMENT, DO NOT USE THE SERVICES AND IMMEDIATELY CONTACT THE INSIGHT CUSTOMER CARE CENTER OR SALES REPRESENTATIVE AT THE NUMBER ON YOUR BILL.

1. INSIGHT SERVICES

a. Services Covered. “Service” or “Services” means Insight business domestic interstate and international long distance telecommunications services (“Services”) that You are currently enrolled in, use, or pay for that Insight provides to You pursuant to the terms and conditions contained in the Insight Service Guides. This Agreement does not apply to other Insight services that you purchase under a separate contract or Tariff.

This Agreement does not cover local services, in-state long distance services, Internet services, and video services. The Services covered in this Agreement are subject to billing availability and may not be available at all locations.

b. Additional Terms. “Insight Service Guides” contain the specific prices and charges, service descriptions and other terms and conditions not set forth in this Agreement that apply to each of Your Services and are incorporated into this Agreement by reference and is considered part of this Agreement. You can review the Insight Service Guides on our web site at www.insight-com.com/tariffs or request a copy by calling us toll free at 1-866-422-0228.

2. CHANGES

a. Changes To Agreement. Insight may from time to time change the prices and other terms of this Agreement. Changes will be posted at the Insight internet site specified above before the billing period in which the changes become effective. You may also request a copy of the revised Agreement by calling Insight toll free at 1-866-422-0228. Increases to the prices are effective no sooner than fifteen (15) days after they are posted on the Insight web site. Insight may decrease prices without providing direct notices or advance web site postings.

Increases to charges that recover Insight costs associated with government programs are effective no sooner than three days after we post the increases on the web site (excluding taxes and surcharges). Insight will provide further notices of increases to the prices and charges as follows: For the Services covering direct-dialed calls under the state-to-state basic schedule and the state-to-state and international calling plans, Insight will notify You of these increases by bill message or other notice; and post them on our website at www.insight-com.com/tariffs.

For the following types of calls, Insight will provide You the prices and charges if You request this information at the time You make a call: Insight collect calls; Insight person-to-person calls; calls made with a commercial credit card or local phone company calling card; calls billed to a third party; and other types of operator-assisted calls.

b. Changes to Insight Service Guides. Insight may change the Insight Service Guides from time to time. Revised Service Guides will be posted at www.insight-com.com/tariffs. You may also request a copy of the Insight revised Service Guides by calling us toll free at 1-866-422-0228. The changes (including price increases) will become effective no sooner than fifteen (15) days after they are posted on the Insight web site.

c. YOUR USE OF THE SERVICES AFTER THE CHANGES ARE EFFECTIVE CONSTITUTES YOUR ACCEPTANCE OF THEM.

3. RESPONSIBILITIES OF THE PARTIES

a. Insight. Insight agrees to provide Services to you subject to the availability of the required service components and in accordance with this Agreement.

b. Customer. You warrant that use of the Services by You and those who access or use the Services purchased by You (“Users”) will at all times comply with all applicable laws, regulations and instructions for use. You are responsible for ensuring that all of the equipment that you and Users use is compatible with the Services.

c. Fraudulent Use. If You suspect that the Services provided to You have been fraudulently used, You must immediately notify Insight.

d. Indemnity. Insight grants to You the right to permit Users to access and use the Services, provided that You shall remain solely responsible for the access and use by any User of the Services. You shall defend, indemnify and hold harmless Insight from and against all damages arising out of third party claims relating to Your or Users’ use of the Services or performance of the Service.

4. CHARGES / PAYMENT

a. Generally. You agree to pay Insight for Your and Users’ use of the Services at the charges specified in the Insight Service Guide, as amended from time to time, without deduction, setoff or delay for any reason. The prices and charges for any particular call may depend on a number of factors listed in the Insight Service Guides, including but not limited to, the duration of the call, the time of day and day of week, the distance called, and the type of service. Service types include such services as direct dial calls, operator-assisted or calling card calls. At any time, Insight may require you to pay a deposit or increase an existing deposit as a condition of providing Services. You authorize Insight to investigate your credit history at any time and to share credit information about you with credit reporting agencies.

b. Taxes / Regulatory Surcharges. Charges as stated in the Insight Service Guide are exclusive of any applicable taxes. You are responsible for all taxes, gross receipts taxes, fees and surcharges relating to the sale, transfer of ownership, installation, license, use or provision of the Services, except to the extent that you provide Insight with a valid tax exemption certificate before Insight provides Services to you. You are responsible for payment of all surcharges specified in the Insight Service Guide.

c. Payment. Payment of all charges is due within thirty (30) days after the date of invoice, in U.S. currency. Restrictive endorsements or other statements on checks accepted by Insight will not apply. You will be responsible for reimbursing Insight for all costs (including reasonable attorney fees) associated with collecting delinquent or dishonored payments. If Insight does not receive payment by the due date, You may be charged interest on any unpaid balances at the rate of up to 1½ % per month or the maximum rate allowed by state law where the Services are rendered. When payment is made by credit card, payment may also be subject to terms and conditions required by the credit card issuer.

d. Billing Disputes. IF YOU DISPUTE CHARGES ON YOUR BILL, YOU MUST NOTIFY INSIGHT IN WRITING OF THE DISPUTE WITHIN NINETY (90) DAYS OF THE DATE ON THE AFFECTED BILL, OR ELSE YOU WAIVE THE DISPUTE. YOU AGREE THAT ALL DISPUTES THAT CANNOT BE RESOLVED WITH INSIGHT SHALL BE RESOLVED BY BINDING ARBITRATION AS SET FORTH HEREIN.

i. Binding Arbitration. The arbitration process established by this section is governed by the Federal Arbitration Act (“FAA”), 9 U.S.C. §§ 1–16. Disputes arising out of or related to this Agreement (whether based in contract, tort, statute, fraud, misrepresentation or any other legal or equitable theory) must be resolved by final and binding arbitration. This includes any disputes based on any product, service or advertising having a connection with this Agreement. The arbitration will be conducted by one arbitrator using the procedures described by this Section. If any portion of this Dispute Resolution Section is determined to be unenforceable, then the remainder shall be given full force and effect.

The arbitration shall be conducted in accordance with the Arbitration Rules of the American Arbitration Association (“AAA”), as modified by this Agreement, which are in effect on the date a dispute is submitted to the AAA. For disputes involving amounts of \$10,000 or less, either party may elect to have the matter arbitrated in accordance with the Consumer Arbitration Rules of the AAA. The AAA’s Commercial Arbitration Rules and fee schedules will apply to any disputes in excess of \$10,000. Both parties have the right to be represented by counsel in arbitration. In conducting the arbitration and making any award, the arbitrator shall be bound by and strictly enforce the terms of this Agreement and may not limit, expand, or otherwise modify its terms.

NO DISPUTE MAY BE JOINED IN AN ARBITRATION WITH A DISPUTE OF ANY OTHER PERSON OR ARBITRATED ON A CLASS ACTION BASIS. THE

ARBITRATOR CANNOT AWARD DAMAGES IN CONNECTION WITH ANY DISPUTE THAT ARE NOT EXPRESSLY AUTHORIZED BY THIS AGREEMENT AND CANNOT AWARD PUNITIVE DAMAGES OR ATTORNEYS' FEES UNLESS SUCH DAMAGES ARE EXPRESSLY AUTHORIZED BY A STATUTE THAT GOVERNS THE DISPUTE. BOTH PARTIES WAIVE ANY CLAIMS FOR AN AWARD OF DAMAGES THAT ARE EXCLUDED UNDER THIS AGREEMENT.

ii. Arbitration Information and Filing Procedures. Before You take a dispute to arbitration, You agree to first contact Insight's customer account representatives at the customer service number on Your bill for the Services, and give Insight an opportunity to resolve the dispute. Similarly, before Insight takes a dispute to arbitration, we must first attempt to resolve it by contacting You. If the dispute cannot be satisfactorily resolved within sixty days from the date either party is notified by the other of a dispute, then either party may then contact the AAA in writing at AAA Service Center, 134555 Noel Road, Suite 1750, Dallas, Texas 75240-6620 and request arbitration of the dispute. Information about the arbitration process and the AAA's Arbitration Rules and its fees are available from the AAA on the Internet at <http://www.adr.org>, or by contacting AAA at the above address. The arbitration will be based solely on written submissions of the parties and the documents relating to the dispute, unless either party requests that the arbitration be conducted using the AAA's telephone or in-person procedures. No discovery shall be conducted by either party in any arbitration proceeding. Additional charges may apply for these procedures. Any in-person arbitration will be conducted at a location that the AAA selects in the state in which you obtain the Services. Any arbitration shall remain confidential. Neither party may disclose the existence, content or results of any arbitration or award, except as may be required by law, or to confirm and enforce an award.

iii. Fees and Expenses of Arbitration. Each party who request arbitration must pay the applicable AAA filing fee when it submits a written request for arbitration to the AAA. The AAA's filing fee and administrative expenses for a document arbitration will be allocated according to the AAA's Rules. If a party elects an in-person arbitration process, that party shall pay its share of the higher administrative fee and the additional costs for this process. Unless applicable substantive law provides otherwise, each party will pay its own expenses to participate in the arbitration, including attorneys' fees and expenses for witnesses, document production and presentation of evidence. The prevailing party may, however, seek to recover the AAA's fees and the expenses of the arbitrator from the other party.

5. DEFAULT/TERMINATION

You may terminate this Agreement at any time by giving Insight notice and Insight may terminate Service to You in the same manner. You are responsible for payment of all charges due under this Agreement through the effective date of termination. Additionally, Insight may immediately terminate, restrict or suspend Your Services without notice to You if: You fail to pay Insight any charges when due; You make any

false statement to Insight; Insight suspects fraud, abuse or misuse by You, Users or third parties; Insight believes Your or Users' use may violate this Agreement or any laws or regulations or interferes in any way with Insight's provision of its services to its customers or its business operations; or, You become insolvent or are subject to any proceeding under bankruptcy or similar laws.

6. LIMITATIONS OF LIABILITY

a. EITHER PARTY'S ENTIRE LIABILITY, AND THE OTHER PARTY'S EXCLUSIVE REMEDIES, FOR ANY DAMAGES CAUSED BY ANY SERVICE DEFECT OR FAILURE, OR FOR OTHER CLAIMS ARISING IN CONNECTION WITH ANY SERVICE OR PERFORMANCE OR NON-PERFORMANCE OF OBLIGATIONS UNDER THIS AGREEMENT SHALL BE:

(i) FOR BODILY INJURY OR DEATH TO ANY PERSON OR REAL OR TANGIBLE PROPERTY DAMAGE NEGLIGENTLY CAUSED A PARTY, OR FOR ANY DAMAGES ARISING FROM THE WILLFUL MISCONDUCT OF PARTY., THE OTHER PARTY'S RIGHT TO PROVEN DIRECT DAMAGES;

(ii) FOR INDEMNITY, THE REMEDIES STATED IN SECTIONS 3.d. AND 9;

(iii) FOR ALL OTHER DAMAGES OTHER THAN THOSE SET FORTH ABOVE AND NOT EXCLUDED UNDER THIS AGREEMENT, EACH PARTY'S LIABILITY SHALL BE LIMITED TO PROVEN DIRECT DAMAGES NOT TO EXCEED IN THE AGGREGATE DURING ANY TWELVE (12) MONTH PERIOD AN AMOUNT EQUAL TO THE TOTAL NET PAYMENTS PAYABLE BY YOU FOR THE AFFECTED SERVICE DURING THE ONE (1) MONTH PRECEDING THE MONTH IN WHICH THE DAMAGE OCCURRED. THIS DOES NOT LIMIT YOUR RESPONSIBILITY FOR THE PAYMENT OF ANY AND ALL PROPERLY DUE CHARGES UNDER THIS AGREEMENT.

b. EXCEPT FOR SECTIONS 3.d. and 9.a., IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, ADVANTAGE, SAVINGS OR REVENUES OF ANY KIND OR INCREASED COST OF OPERATIONS, WHETHER OR NOT EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

c. INSIGHT ALSO SHALL NOT BE LIABLE FOR ANY DAMAGES ARISING OUT OF OR RELATING TO: INTEROPERABILITY OR INTERCONNECTION PROBLEMS WITH SERVICES AND/OR EQUIPMENT NOT PROVIDED BY INSIGHT; SERVICE INTERRUPTIONS (EXCEPT TO THE EXTENT CREDIT ALLOWANCES ARE SPECIFIED IN THE INSIGHT SERVICE GUIDE); OR, UNAUTHORIZED ACCESS TO OR THEFT, ALTERATION, LOSS OR DESTRUCTION OF YOUR, USERS' OR THIRD PARTES' EQUIPMENT.

d. The limitations of liability set forth in this Section 6 shall apply: (i) regardless of the form of action, whether in contract, tort, strict liability, equity or otherwise; and (ii) whether or not damages were foreseeable. These limitations of liability shall survive failure of any exclusive remedies provided in this Agreement.

7. WARRANTIES

EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, INSIGHT MAKES NO EXPRESS OR IMPLIED WARRANTY AND DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. INSIGHT DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT THE SERVICES WILL MEET YOUR REQUIREMENTS OR THAT THE SERVICES WILL PREVENT UNAUTHORIZED ACCESS. ANY EQUIPMENT PROVIDED BY INSIGHT IN CONJUNCTION WITH A SERVICE IS PROVIDED ON AN “AS IS” BASIS. INSIGHT DOES NOT AUTHORIZE ANYONE TO MAKE A WARRANTY OF ANY KIND ON ITS BEHALF AND YOU SHOULD NOT RELY ON ANYONE MAKING SUCH STATEMENTS.

8. CREDIT ALLOWANCES FOR INTERRUPTIONS

If an interruption or failure of Services is caused solely by Insight and not by You, Users or a third party or other causes beyond Insight’s reasonable control, you may be entitled to a Credit Allowance as specified in the Insight Service Guide.

9. INFRINGEMENT INDEMNITY

a. Insight agrees to indemnify and hold You harmless against any claim against You and to pay all damages that a court may award against you in any suit alleging that a Service furnished under this Agreement infringes any United States patent, trademark, copyright or trade secret, except where the claim or suit arises out of or results from: Your or User’s modifications to the Service made by or combinations of the Service with services or products provided by You or others; or, use of the Service in violation of this Agreement. You agree to defend or settle at Your own expense all claims or suits against Insight covered by the exceptions in the preceding sentence and to immediately cease any activity which gives rise to the alleged infringement.

b. In the event of a claim of infringement for which Insight is the indemnifying party under Section 9.a., Insight may at its option either procure the right to continue using, or replace or modify, the alleged infringing Service so that the Service becomes noninfringing and substantially compliant with the requirements in this Agreement. Upon inability to reasonably perform either of the foregoing options, Insight may terminate this Agreement, without liability other than as stated in Section 9.a.

c. With respect to the indemnification obligations in this Section 9: (i) You agree to notify Insight in writing promptly upon learning of any claim or suit for which indemnification may be sought; (ii) Insight shall have control of the defense or settlement, provided that You shall have the right to participate in such defense or settlement with counsel of Your own selection and at Your expense; and (iii) You shall reasonably cooperate with the defense, at the Insight’s expense.

10. GENERAL PROVISIONS

a. Acts Beyond Control. NEITHER YOU NOR INSIGHT SHALL BE LIABLE FOR ANY DELAY, FAILURE IN PERFORMANCE, LOSS OR DAMAGE DUE TO: FIRE, EXPLOSION, POWER BLACKOUT, EARTHQUAKE, VOLCANIC ACTION, FLOOD, THE ELEMENTS, STRIKE, EMBARGO, LABOR DISPUTES, ACTS OF CIVIL OR MILITARY AUTHORITY, WAR, ACTS OF GOD, ACTS OR OMISSIONS

OF CARRIERS OR SUPPLIERS, ACTS OF REGULATORY OR GOVERNMENTAL AGENCIES, OR OTHER CAUSES BEYOND THEIR REASONABLE CONTROL, EXCEPT THAT YOUR OBLIGATION TO PAY FOR CHARGES INCURRED FOR SERVICES RECEIVED BY YOU SHALL NOT BE EXCUSED.

b. No Third Party Rights. This Agreement does not provide any third party, including Users, with any remedy, claim, liability, reimbursement, cause of action or other right or privilege.

c. Assignment. This Agreement may not be assigned by You without Insight's prior written consent. Insight may assign all or part of its rights and duties under this Agreement to a present or future affiliate or successor.

d. Notices. Notices from You to Insight shall be made by following the customer service instructions on your bill. You are responsible for notifying Insight of any changes in Your authorized billing address and other contact information.

e. Severability. If any part of this Agreement is found invalid, the rest of the Agreement remains enforceable.

f. Governing Law. This Agreement shall be governed by the substantive laws of the state of New York, excluding its choice of law rules.

g. Publicity and Marks. No public statements or announcements relating to this Agreement shall be issued by either You or Insight without the prior written consent of the other. You and Insight agree not to display or use, in advertising or otherwise, any trade names, logos, trademarks, service marks or other indicia of origin (collectively "Marks") belonging to the other without obtaining the other's prior written consent, provided that such consent may be revoked at any time.

h. Waiver of Rights. Insight may from time to time waive the enforcement of any of the provisions of this Agreement, but this will not affect Insight's ability to enforce that provision, nor shall it be considered an amendment of this Agreement.

i. Survival of Obligations. The respective obligations of you and Insight, which by their nature would continue beyond the termination of this Agreement, such as the obligations regarding limitations of liability, shall survive termination.

j. Entire Agreement. This Agreement, which incorporates the Insight Service Guides, constitutes the entire agreement between you and Insight with respect to the Services provided hereunder. In the event of any inconsistencies between this Agreement and the Insight Service Guides, this Agreement will govern. This Agreement supersedes all prior agreements, proposals, representations, statements or understandings, whether written or oral, concerning the Services or the rights and obligations relating to those Services. This Agreement shall not be contradicted, explained or supplemented by any written or oral statements, proposals, representations, advertisements or service descriptions not expressly set forth in this Agreement.