

## 1 Overview

**BPM, Inc. dba Noxapater Telephone Company, Inc. (NTC)** General Terms of Service are established in this document, which includes by reference the **NTC** Acceptable Use Policy as well as the **NTC** Privacy Policy. Together these detail mutual rights, terms, conditions and obligations between the **NTC** customer ("You or you") and **BPM, Inc. dba Noxapater Telephone Company, Inc.**, its officers, agents, employees, contractors, vendors and affiliates ("Company or **BPM, Inc. dba Noxapater Telephone Company, Inc.** or we or us or **NTC** or **NTC** Affiliated Parties").

These General Terms of Service (Agreement) supersede any prior General Terms of Service. By using any Service currently provided by **NTC** or **NTC** Affiliated Parties including, but not limited to, this website, our telephone service, long distance service, or Internet service (the "Service" or "Services"), you agree to be bound by these terms and conditions, and should take the time to understand them completely. This Agreement also applies to any dispute between you and **NTC**, regardless of when that dispute arose, and contains a binding arbitration provision.

You have the right to decide within the first 30 days after these General Terms of Service are first offered to you to either continue Service or to notify the Company you are terminating the Service and make payment for the days Service was used.

If the rates, terms and conditions of your Service are to change, you will receive notice at least 30 days before changes are effective. You may choose to terminate your Service before the effective date or accept the changes by continuing the Service after the effective date.

This Agreement is effective from your acceptance, which is indicated by your initial or continued use of the Service. If you do not agree to these terms, you should not use the Service. Please read everything here carefully, and contact us if you have any questions.

By accepting these General Terms of Service, you confirm you have read and concurred with this Agreement and that you are the owner of the property where Service is to be installed or have permission from the property owner to have the Service installed.

## 2 Availability of Services

Services are available where compliance with regulatory, technical, and billing requirements all exist. Services may not be available at all locations. NTC may extend service to new locations on a case by case basis and may require additional payments or minimum service periods to do so. The Company assumes no duty to provide uninterrupted Service.

Unless otherwise required under applicable law, or by the Federal Communications Commission (FCC), NTC is not required to provide Service to anyone for any reason, and reserves the right to terminate Service at any time.

## 3 Service Location Conditions

Customer warrants that they are legally authorized to enter into this agreement and are the property owner or otherwise legally authorized to permit Company to enter the property and premises where Service is provided in order to install all required facilities and equipment to effect the Service and to repair, maintain, relocate and remove these facilities and equipment during and after the Service term as appropriate and necessary. These facilities and equipment may include, without limit, transmission lines under or above ground, ground mounted pedestals, interior wiring, and building interior or exterior mounted electronic devices or enclosures.

Customer will provide environmentally conditioned space and electrical power necessary to place and operate Service devices. Customer acknowledges that electrical power is necessary at the Customer's premises to operate the Service and that Service may be impaired or inoperable during an electrical service outage. Voice telephone service may be useful only for emergency calling during an electrical power outage.

## 4 Use of Services

Service is furnished subject to the condition that it will not be used for an unlawful purpose. Service will not be furnished if any law enforcement agency, acting within its jurisdiction, advises that such Service is being used or will be used in violation of the law, or if NTC receives other evidence that such Service is or will be used for such purposes.

In order to maintain an account with NTC, you must be 18 years of age or older. By accepting this Agreement, you certify you meet this minimum age requirement. Minors are permitted to use NTC Services

with the express permission of an adult customer. The actions of that minor while using the account are the sole responsibility of the adult to whom the account is registered.

You are responsible for the security and legal use of all Services provided to you by **NTC**. Because **NTC** holds you responsible for the activity on your account, you will also be held responsible for actions on your account performed by others who have acquired your passwords or access to your systems without your knowledge.

## 5 Services and Rates

Service descriptions and pricing are presented in the **Services and Pricing section of [www.noxapatertelephonecompany.com](http://www.noxapatertelephonecompany.com)** and are included by reference in this Agreement. Residential and business telephone and broadband (Internet) service offerings are included in this resource.

Business Data Services are provided either per NECA FCC Tariff No. 5 or by individual contract and are included by reference in this Agreement. See the **Business Data Services** section on [www.noxapatertelephonecompany.com](http://www.noxapatertelephonecompany.com) for more information.

Fees, taxes and assessments are placed on billing statements in addition to the Company's Service charges.

## 6 Services and Rate Changes

Notice will be given of any material changes to rates, terms, or conditions of currently subscribed Service offerings at least 30 days in advance of the changes. Notices made by bill insert or messages will be considered to satisfy this 30-day requirement if placed one monthly billing interval in advance. Changes to Services with no subscribers, changes that provide added features at unchanged prices, changes giving better performance at unchanged prices, or unchanged services at lower prices do not require this advance notice.

## 7 Customer Service Requests

You may start or subscribe to Services by calling **662-724-2192**; or by sending an email message to **[custserv@noxapatertel.net](mailto:custserv@noxapatertel.net)**. In most cases you will have to complete an application when you first become a customer of **NTC**.

## 8 Changes or Cancellation by Customer

You may change or cancel your Service by the following means: (1) first-class mail addressed to **BPM, Inc. dba Noxapater Telephone Company, Inc., Bay Springs, MS 39422**; (2) by calling the telephone number on your monthly statement; or (3) by email message to **custserv@noxapatertel.net**.

Subject to payment of any applicable early termination or equipment charges, you shall have the right to terminate this Agreement at any time with or without cause upon notice to **NTC** as described above. Charges to your account will stop accruing the day of receipt of notice of cancellation by **NTC**. You will still be responsible for any outstanding charges (including any applicable fees and surcharges) for Services provided by **NTC** prior to notice of cancellation. If you cancel Service before expiration of the term of Service you originally ordered, you may be required to pay an early termination charge. The early termination charge will be an amount equal to the applicable charge for Service as if you had initially ordered the Service at the most recently expired term offered for Service. Any refund due you will be adjusted to reflect the higher service charge applicable to the shorter term.

## 9 Charges and Payments

You agree to provide **NTC** with accurate and complete billing information including your legal name, address, and a contact telephone number. All changes to this information must be reported to **NTC** within 30 days of the change. Customer authorizes **NTC** to obtain credit, employment or trade information to verify creditworthiness.

Payment is due to Company on the 15th of each month upon receipt of bill by the Customer. When the 15th is on a weekend or holiday, the due date will be the next business day. Payment is to be made through a check, draft, or cash. Payments received after the due date may incur a late payment charge of \$4.75 plus tax for each month where the unpaid balance is greater than \$10.00.

You agree to pay **NTC** all fees and charges for the Service(s) associated with your account by the due date. Such fees and charges may include, but are not limited to, Service fees, setup fees, monthly or yearly usage fees, early termination charges, late payment fees, invoice

surcharges, cashier's check fees, returned check fees, other special money transfer fees, deposits, if applicable, or software purchases. Otherwise, Service fees to be paid by you to NTC for the Service shall be established at the published rate and terms and by local tariffs, where applicable. Setup fees are non-refundable

You agree to pay all sales and use taxes, duties, or levies which are required by law as well as all attorney and collection fees arising from efforts to collect any unpaid balance on your account. NTC shall have the right to bill and collect any applicable taxes where required by law.

If you do not pay the full balance due on your account by the due date printed on your bill, you agree to pay a late payment fee plus taxes per month, but not to exceed to the maximum allowable rate permitted by applicable state law. The late payment fee will be applied to your account each month that your account is delinquent, in addition to all other applicable fees and charges. The late payment fee shall not be considered an interest charge, finance charge, or penalty. You can avoid any late payment fees by paying your monthly bill on time.

If any instrument received in payment is returned to NTC unpaid, your account will be considered to be in default, and in addition to the amount past due and any late payment fees due, you will be subject to the bank's current returned check charge and any applicable NTC returned check charge. When payment for Service or equipment is made by check, draft, or other negotiable instrument, a charge of forty dollars (\$40.00) may be assessed by Company for each time such item is returned unpaid to Company for any reason, except to the extent limited by law.

In addition, if you default on your account, you shall also be subject to pay to NTC its reasonable expenses, including attorneys' fees and collection agency fees, incurred in enforcing its rights under this Agreement, or the Acceptable Use Policy.

If credit card payments are accepted and you pay by credit card, you expressly authorize NTC to charge the credit card account number associated with your account for any Service charges. If you choose recurring credit card payment, you reauthorize NTC to charge your designated credit card account each time you use the Service. This authorization will remain valid until you terminate your authorization in

writing. If your credit card is declined, you will be subject to a non-sufficient funds fee of up to **\$40**. In addition, unless prohibited by law, **NTC** may terminate your account, in its sole discretion, for recurring declined credit cards, returned checks, or any other failure to pay account charges in full and on time.

You must contact **NTC** at the phone number provided on your monthly statement within 60 days of the invoice or transaction date of any charge if you believe **NTC** has made a billing error. Refunds, credits or adjustments may not be given for any charges which are more than 60 days old.

You are responsible for all financial transactions made between your account and third parties using **NTC** Services, knowingly *or* unknowingly. Please keep your account information and passwords confidential, and ensure you know of all activity that takes place on your account. Use caution when providing personal information while connected to the Internet, as **NTC** cannot protect you from potential fraud or charges occurring through third party vendors with whom you may be in contact through your Service.

**NTC** is not responsible for any long-distance or toll charges incurred by you through your use of the service. You are solely responsible for all telecommunications charges including local and long-distance telephone charges for connection to the Service by you and by those who access the Service through your account.

#### 10 Deposits

**BPM, Inc. dba Noxapater Telephone Company, Inc.** may require a deposit upon initial application of service or upon application to reconnect a discontinued service. The amount charged will be due upon submission of the application for service. The Company may return this deposit within twelve (12) months in consideration of a favorable payment history. If the Company does not refund the deposit within twelve (12) months, it will be returned upon discontinuance of service, minus any outstanding balance due, and with an additional interest component of 4.0% compounded annually.

## 11 Default and Waiver

In the event Customer defaults in the payment when due of any sum due hereunder, or in the event of any default or breach of the terms and/or conditions of this Agreement, or if any proceeding in bankruptcy, receivership or insolvency or petition for receivership shall be instituted by or against Customer, Company, at its option, may:

(1) Proceed by appropriate court action or actions to enforce performance by Customer of the applicable covenants and terms of this Agreement or to recover damages for the breach thereof; and/or

(2) Terminate this Agreement, whereupon all rights and interests of Customer shall terminate and Customer shall remain liable for all Services provided.

Customer shall pay to Company on demand any and all past due amounts which Company may sustain by reason of such default or breach by Customer, together with all other charges as provided by this Agreement, reasonable attorney's fees incurred by Company in connection with such breach or default by Customer and all other costs and expenses incurred by Company in collecting such amounts. All amounts shall be payable by Customer without set off or deduction of any kind.

The remedies provided in favor of Company in the event of default shall not be deemed to be exclusive, but shall be in addition to all other remedies in its favor existing at law.

No failure on the part of Company to exercise any right or remedy arising directly or indirectly under this Agreement shall operate as a waiver of any right or remedy Company may have, nor shall an exercise of any right or remedy by Company preclude any other right or remedy Company may have.

## 12 Termination

Violations of this Agreement or others included by reference may result in suspension or termination of the Service without notice to you. If you do not agree to comply with this Agreement, you must immediately stop all use

of the Service and notify **BPM, Inc. dba Noxapater Telephone Company, Inc.** to close your account.

**NTC** may terminate or suspend Service for any delinquent account. In the case of suspension, standard charges (including any applicable fees and surcharges) for the Service shall continue to accrue until the account is cancelled by you. Reactivation fees may apply if your Service has been terminated or suspended.

**NTC** may immediately terminate or suspend Service at any time for a violation by you of our Acceptable Use Policy. In addition, **NTC** may remove or refuse material posted by you if we believe, in our sole discretion, that it infringes on another's property rights.

### 13 Equipment and Network Changes

The Company is continually updating and improving its Services as well as upgrading equipment to meet both evolving regulatory requirements and new technological standards. These changes may occasionally modify, degrade or interrupt Services, and you may be required to take action to accommodate these changes and upgrades. When possible, we will communicate information about planned modifications, interruptions and other Services impacts through our notice process. Your initial or continuing use of the Services accepts these changes and impacts.

### 14 Required Reporting

Customer acknowledges that regulatory authorities with appropriate jurisdiction, including but not limited to the Federal Communications Commission, may require Company to make measurements and provide reports about the existence and characteristics of the Service and that Customer will provide access and accommodate Company's necessary actions to respond to these requirements. You agree that changes or additions to Service equipment or devices may be necessary. Customer acknowledges that the locations and characteristics of service, including geographical coordinates, address information, and performance measures may be made public by these regulatory authorities as a matter of public policy. Your initial or continuing use of the Services accepts these requirements.



## 15 Agreement Revisions

The Company reserves the right to revise from time to time, and in its sole discretion, the rates, terms, and conditions of this or any Agreement with Customer by posting a new version of the Agreement on its website at <http://www.noxapater.net> or any successor URL or by providing the new version to Customer by other means. Company will use reasonable efforts to make Customers aware of any changes to the Agreement by posting notices about such changes to the Company's webpages, by email, by billing messages or inserts, on social media or by conventional mail. Revised versions of the Agreement are effective as described in the Notices section of this Agreement. Customers should regularly visit Company's website and review changes to ensure that their Service use conforms to the most recent version of the Agreement.

## 16 Notices

The Company may provide notice to you by electronic mail (email) addressed to your email account; bill messages or inserts included in or with your monthly invoice; by social medial posts; by U.S. Mail or courier service to the address you provided when you registered for the Service; and by notices on the Company's website or websites.

Unless otherwise stated in any such notice or communication, all notices or other communications to you shall be deemed effective on the date of electronic mailing or posting or on the third (3rd) calendar day following the date of first class mailing or deposit with a commercial courier service.

Customers may receive announcements from time to time from **BPM, Inc. dba Noxapater Telephone Company, Inc.** via email or other means regarding various aspects of the Service, including, without limitation, notices of feature upgrades or changes, Service-affecting issues or events, or special offers for Service users from **BPM, Inc. dba Noxapater Telephone Company, Inc.** distribution partners or other parties.

## 17 Equipment and Software

Customer acknowledges and agrees that Company is not the manufacturer of equipment and software, and Company hereby disclaims all representations and warranties, direct or indirect, express or implied, written or oral, in connection with the equipment or software (whether purchased or leased by customer from Company or another), including, but not limited to,

any and all express and implied warranties of suitability, durability, merchantability, and fitness for a particular purpose. Company, to the extent permitted by law, assigns to customer any and all manufacturers' warranties relating to equipment or software purchased by customer, and customer acknowledges receipt of any and all such manufacturers' warranties.

Customer acknowledges and agrees that Customer's sole and exclusive remedy in connection with any defects in the equipment or software, including manufacture or design, shall be against the manufacturer of the equipment or software under the manufacturer's warranties and that Company shall have no liability to customer in any event for any loss, damage, injury or expense of any kind or nature related directly or indirectly to any equipment or software or service provided hereunder. Without limiting the foregoing, Company shall have no liability or obligation to customer, in either contract or tort, for special, incidental or consequential damages of any kind incurred by customer, such as, but not limited to, claims or damages for personal injury, wrongful death, loss of use, loss of anticipated profits, or other incidental or consequential damages or economic losses of any kind incurred by customer directly or indirectly resulting from or related to any equipment, service or software described hereunder, whether or not caused by Company's negligence, to the full extent same may be disclaimed by law.

Any references to equipment or software in this paragraph shall be deemed to apply to all equipment or software purchased by customer or leased by customer from Company or another lessor.

## 18 Indemnification

You agree to defend, indemnify, and hold **NTC** and **NTC** Affiliated Parties harmless from any and all liabilities, costs, and expenses, including reasonable attorneys' fees, related to or arising from: any violation of this Agreement by you or those who access the Service(s) through your account, and the use of the Service or the Internet and the placement or transmission of any message, information, software, or other materials on the Internet by you or by those who have access to the Service(s) through your account.

Customer agrees to release, defend, indemnify and hold harmless Company, its officers and employees, to the full extent permitted by law, from and against any and all claims, damages, liabilities and expenses, including legal and attorney fees, of any nature arising directly or indirectly out of this Agreement, including, without limitation, claims for personal injury or wrongful death to Customer or users of the equipment, products or services provided by Company or sued in conjunction with such equipment, products or services provided by Company and arising out of the manufacture, purchase, operation, condition, maintenance, installation, return or use of the equipment or Service, or arising by operation of law, whether the claim is based in whole or in part on negligent acts or omissions of Company, its agents or employees.

Customer hereby agrees to indemnify and save Company harmless against claims for libel, slander or infringement or copyright from the material transmitted in any form over its facilities by Customer or those using Customer's equipment; against claims for infringement of patents arising from combining or using apparatus or systems of Customer with the facilities of Company or any communications carrier; and against all other claims arising out of any act or omission of Customer in connection with the facilities or Service provided by Company. Your indemnification will survive any termination of this Agreement.

## 19 Force Majeure

You agree that we will not be responsible for any services or failure to meet any of these terms and conditions that may be temporarily interrupted, delayed, fail, or become limited due to transmission limitations, equipment modifications, upgrades, relocations, failures, repairs, or similar activities. The Company shall have no liability, and no credits shall be given to the customer, for interruptions, delays, or failures in transmission arising out of any of the above referenced conditions, and the Company shall not have any liability or responsibility to grant credits for interruptions, delays, or failure in transmission arising out of: (1) negligent or willful acts by any party; (2) the failure of equipment or service not provided through the Company; or (3) acts of God, fire, riots, acts of government authorities, or other causes beyond the control of the Company.

## 20 Warranties Disclaimer

The service and all information you receive from or through the service are provided "as-is," "as available," and all warranties, express or implied, are disclaimed (including but not limited to any implied warranties of merchantability and fitness for a particular purpose, course of dealing or usage of trade). The information and service may contain errors, problems or other limitations. NTC and NTC affiliated parties have no liability whatsoever for your use of the service, inability to use the service or your reliance on or use of information from the service or through the service that results from mistakes, omissions, interruptions, deletions of files, errors, defects, delays in operation or any failure of performance. In particular, but not as a limitation of the provisions above, NTC and its affiliated parties are not liable for any indirect, special, incidental or consequential damages, including damages for loss of business, loss of profits, litigation or the like, whether based on breach of contract, breach of warranty, tort (including negligence), product liability or otherwise, even if advised of the possibility of such damages. The negation of damages set forth above is a fundamental element of the basis of the bargain between NTC and you. The service would not be provided without those limitations. No action, regardless of form, arising out of the provision of services or its performance may be brought by you more than six (6) months after the cause of action has accrued.

## 21 Liability Limitation

If you are dissatisfied with the Service or any of its terms, conditions, rules, policies, guidelines, or practices, your sole and exclusive remedy against NTC or the NTC Affiliated Parties is to terminate this Agreement, discontinue using the Service and cancel your account by following the procedures described in this Agreement.

## 22 Dispute Resolution

Most concerns about your Service or any other issues can be resolved quickly by contacting our customer service representatives at 662-724-2192, or by email to [custserv@noxapatertel.net](mailto:custserv@noxapatertel.net). If we are unable to resolve your complaint about the Service or any other dispute the Company has with you informally, then we agree to resolve these disputes in small claims court in Jasper County, Mississippi or by using binding arbitration as described below.

Disputes concerning the terms and conditions for Services that were previously regulated by the Mississippi Public Service Commission (PSC) and that are no longer regulated may also first be brought by you to the PSC, but only for interpretation and enforcement of those terms and conditions.

Except as provided above, any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement or interpretation thereof, or related to any other disputes, shall be submitted to the American Arbitration Association (AAA) for arbitration. The arbitrator's decision will be final and legally binding.

Both parties agree that they will pay their individual costs of arbitration.

Both parties acknowledge that this Agreement is a transaction involving interstate commerce, and is therefore governed by the Federal Arbitration Act.

By agreeing to arbitration, both parties are waiving their right to litigate in court including any right to a jury trial. The parties agree that all claims, whether in arbitration or in a small claims court with applicable jurisdiction, shall be treated individually and there shall be no consolidation of claims, class actions, representative actions or private attorney general actions.

**NTC** expressly rejects and does not consent to any consolidation of claims or class action in the arbitration.

This arbitration agreement survives the termination of this Agreement. For additional information on commencing arbitration and about the AAA arbitration process, you may visit the website at <https://adr.org/arbitration>.

Disputes about residential Services that are intended for personal or household use or other disputes with non-business Services customers, will follow the process and requirements of the current AAA Consumer Arbitration Rules located at <https://adr.org.consumer>.

### 23 Assignment

This Agreement shall be binding on your successors and assigns and may not be assigned by you to another party except with Company's approval which shall not be unreasonably withheld or delayed. This Agreement shall be deemed automatically assigned to any successor to **BPM, Inc. dba**

**Noxapater Telephone Company, Inc.** or its affiliates created by merger, acquisition, consolidation, spin-off or divestiture.

#### 24 Entire Agreement

Customer acknowledges that this Agreement contains the entire agreement between the parties relating to the services and/or equipment described herein and that Company and its employees have not made orally or in writing any representations, warranties or agreements inconsistent with the terms of this Agreement. No modification, change or alteration of any of the terms of this Agreement shall be valid unless in writing, except as otherwise proved herein. This Agreement supersedes all prior agreements and understandings, both oral and written, with respect to the subject matter hereof.

#### 25 Survivability

The following provisions of this Agreement shall survive its termination or expiration: Services Classification and Rates; Dispute Resolution; Liability Limitation; and any other provision which by its terms or by any reasonable interpretation thereof is intended to survive termination or expiration.

#### 26 Severability

Any provision of this Agreement held or determined by a court (or other legal authority) of competent jurisdiction to be illegal, invalid, or unenforceable in any jurisdiction shall be deemed separate, distinct and independent, and shall be ineffective to the extent of such holding or determination without (1) invalidating the remaining provisions of this Agreement in that jurisdiction or (2) affecting the legality, validity or enforceability of such provision in any other jurisdiction.

The failure of **BPM, Inc. dba Noxapater Telephone Company, Inc.** or its suppliers to enforce any provision of this Agreement, for whatever reason, shall not be construed as a waiver of Company's right to do so at any time. You agree that if any portion of this Agreement is held invalid or unenforceable, that portion will be construed consistent with applicable law as nearly as possible, and the remaining portions will remain in full force and effect.

#### 27 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Mississippi where the Services are performed,

without giving effect to conflicts of law except to the extent the law is preempted by or conflicts with applicable federal law.