

World Surfer Inc. dba World Surfer Long Distance  
Terms of Service

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**I. TERMS OF SERVICE**

**THANK YOU FOR USING World Surfer Inc. dba World Surfer Long Distance.** In this Agreement (“Agreement”), “you” and “your” mean the customer of the World Surfer Inc. dba World Surfer Long Distance defined below, and “World Surfer LD,” “we,” “our,” and “us” mean World Surfer Inc. dba World Surfer Long Distance.

**BY ENROLLING IN, USING, OR PAYING FOR THE SERVICES, YOU AGREE TO THE PRICES, CHARGES, TERMS AND CONDITIONS IN THIS AGREEMENT. IF YOU DO NOT AGREE TO THESE PRICES, CHARGES, TERMS AND CONDITIONS, DO NOT USE THE SERVICES, AND CANCEL THE SERVICES IMMEDIATELY BY CALLING WORLD SURFER LD AT 800-700-9911 INSIDE NH OR 800-201-5388 OUTSIDE NH FOR FURTHER DIRECTIONS.**

“Service” or “Services” means: (1) the World Surfer LD state-to-state and international consumer telecommunications services you are enrolled in, use, or pay for that World Surfer LD provides to you.

This Agreement does not cover World Surfer LD in-state long distance services that are provided pursuant to state Tariffs or any local, internet, video or wireless services provided by World Surfer LD or its affiliates. Some of these services, however, may be included by reference in the plans provided herein. The Services covered in this Agreement are subject to billing availability and may not be available at all locations.

The World Surfer LD website ([www.bwtc.net](http://www.bwtc.net)) contains the specific prices and charges, service descriptions and other terms and conditions not set forth here that apply to each of your Services.

**THIS AGREEMENT INCORPORATES BY REFERENCE THE PRICES, CHARGES, TERMS AND CONDITIONS INCLUDED IN THIS DOCUMENT.**

**1. Charges and Payment.**

- a. General.** You agree to pay us for the Services at the prices and charges listed in this document. The prices and charges for any particular call may depend on a number of factors listed, which include, for example, the duration of a call, the time of day and day of week, the distance called, and the type of service. Service types include, direct-dialed from home, operator-assisted, or calling card calls. The prices and charges for the Services may also include, for example, monthly fees, monthly minimums, or connection charges. Some service options require the purchase of additional services and features as contained herein.
- b. Price Changes.** We may change the prices and charges for the Services from time to time. We may decrease prices without providing advance notice. Increases to the prices or charges for the Services are effective no sooner than fifteen days for domestic services and 5 days for international services after we post them on our web site at [www.bwtc.net](http://www.bwtc.net). Increases to charges that recover our costs associated with government programs are effective no sooner than three days after we post the increases on our web site (excluding taxes and surcharges under Section 1.e.). We will provide further notices of increases to domestic prices and charges by bill message or other notice. International changes may occur weekly and prior notice is not typically provided but will be reflected in rates posted on our website.
- c. Payments.** You must pay all bills or invoices on time (on or before the due date) and in U.S. money. We do not waive our right to collect the full amount due if you pay late or you pay part of the bill, even if you write the words “Paid in Full” (or similar words) on any correspondence to us.

If your check, bank draft or electronic funds transfer is returned for insufficient funds, and we bill you for the Services, we will charge you an additional \$30. If the state law where you receive the Services requires a lower fee, we will charge you that amount. If a local telephone company or other entity bills

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you for the Services on our behalf, that company's returned check charge and policy will apply. When payment is made by credit card, payment will also be subject to terms and conditions required by the credit card issuer.

- d. Charges and Billing.** Charges accrue through a full billing period. We may prorate or adjust a bill if the billing period covers less than or more than a full month. (For this purpose, each month is considered to have 30 days.) To determine the charge for each call, we round up to the next full minute or applicable billing fraction. Charges will be rounded up to the nearest whole cent. We will determine the format of the bill and the billing period, and we may change both the bill format and the billing period from time to time.

You are responsible for preventing the unauthorized use of the Services, and you are responsible for payment for any such unauthorized use.

- e. Taxes and Other Charges.** You must pay all taxes, fees, surcharges and other charges that we bill you for the Services, unless you can show documentation satisfactory to us that you are exempt. Taxes and surcharges will be in the amounts that federal, state and local authorities require us to bill you. We will not provide advance notice of changes to taxes and surcharges, except as required by applicable law.
- f. Credit Check and Deposits.** You give us permission to obtain your credit information from consumer credit reporting agencies at any time. If we bill you for the Services and we determine that you may be a credit risk for (1) unsatisfactory credit rating; (2) insufficient credit history; (3) fraudulent or abusive use of any World Surfer LD services within the last five years; or (4) late payments for current or prior bills, we may require a deposit (or an advance payment as permitted by state law) to ensure payment for the Services. The amount of the deposit will be no more than any estimated one-time charges required for the Services, plus three months of the estimated average usage variable charges and/or monthly fees for the Services. We will pay simple interest at the annual rate of 2.75% on the deposit, subject to the state law where you receive the Services. If you fail to pay for the Services when due, we may use the deposit without giving notice to you. If you pay undisputed bills by the due date for twelve consecutive billing months, we will credit the deposit to your account. If a credit balance remains on your account, we will refund or credit that amount.
- g. Credit Limits.** If we bill you for the Services, we may set a credit limit based on your payment history or your credit score from consumer credit reporting agencies. If we do this, we will notify you of your initial credit limit and all changes to your credit limit. If you exceed your credit limit, we will restrict your access to our Services, including direct-dialed, operator-assisted, and credit card calls. Access to emergency services (9-1-1) and services of other carriers will not be affected by this restriction. If you fail to make timely payments, we may also lower your credit limit.

**2. Suspending and Canceling the Services**

- a. Your Cancellation of the Services.** If you use more than one Service, you may change or cancel individual Services by calling the World Surfer LD customer service number on your World Surfer LD bill, subject to the applicable terms and conditions on the World Surfer LD website. This Agreement remains in effect for any Services that you continue to be enrolled in, use, or pay for. If you want to cancel all of the Services, discontinue your use of all the Services and call us at 800-700-9911 inside NH or 800-201-5388 outside NH for further instructions.
- b. Fraudulent Use.** You will not use the Services for any unlawful, abusive, or fraudulent purpose, including, for example, using the Services in a way that (1) interferes with our ability to provide Services to you or other customers; or (2) avoids your obligation to pay for the Services. If World Surfer LD has reason to believe that you or someone else is abusing the Services or using them fraudulently or unlawfully, we can immediately suspend, restrict, or cancel the Services without advance notice.

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- c. **Failure to Pay.** Upon advance notice, we may suspend, restrict, or cancel the Services and this Agreement, if you do not make payments for current or prior bills by the required due date, including payments for late fees or any other required additional charges.
- d. **Other.** World Surfer LD may from time to time discontinue certain Services, subject to applicable law and regulation.
- e. **Outstanding Charges.** If Services are suspended, restricted, or cancelled, any charges will accrue through the date that World Surfer LD fully processes the suspension, restriction or cancellation. You must pay all outstanding charges for these Services, including payment of any bills that remain due after the date of cancellation. Subject to Section 7 and applicable state law, you must reimburse us for any reasonable costs we incur, including attorneys' fees, to collect charges owed to us. If you want us to renew the Services, we may require that you pay a deposit and/or service restoral fee.

**3. Indemnification**

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

**4. Limitations of Liability**

NOTHING IN THIS AGREEMENT LIMITS OUR LIABILITY, IF ANY, FOR OUR WILLFUL OR INTENTIONAL MISCONDUCT. IF OUR NEGLIGENCE CAUSES DAMAGE TO PERSON OR PROPERTY, WE WILL BE LIABLE FOR NO MORE THAN THE AMOUNT OF DIRECT DAMAGES TO THE PERSON OR PROPERTY. IF OUR NEGLIGENCE CAUSES DAMAGE OF ANY OTHER SORT, WE WILL BE LIABLE FOR NO MORE THAN THE AMOUNT OF OUR CHARGES FOR THE SERVICES DURING THE AFFECTED PERIOD. FOR ALL CLAIMS THAT ARE NOT THE RESULT OF World Surfer LD'S WILLFUL OR INTENTIONAL MISCONDUCT, WE WILL NOT BE LIABLE FOR PUNITIVE, RELIANCE, OR SPECIAL DAMAGES (UNLESS AN APPLICABLE STATUTE EXPRESSLY AUTHORIZES SUCH DAMAGES), AND WE WILL NOT BE LIABLE FOR INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR REVENUE OR INCREASED COSTS OF OPERATION. THESE LIMITATIONS APPLY EVEN IF THE DAMAGES WERE FORESEEABLE OR WE WERE TOLD THEY WERE POSSIBLE, AND THEY APPLY TO ANY NEGLIGENCE CLAIM THAT DOES NOT INVOLVE WILLFUL MISCONDUCT OR INTENTIONAL MISCONDUCT, NO MATTER HOW THAT CLAIM IS STYLED OR ON WHAT LEGAL GROUNDS (SUCH AS CONTRACT, TORT, STATUTE, MISREPRESENTATION) IT IS BASED. WE WILL NOT BE LIABLE FOR ANY DAMAGES — AND WILL BE LIABLE ONLY FOR THE AMOUNT OF OUR CHARGES FOR THE SERVICES DURING THE AFFECTED PERIOD — IF SERVICES ARE INTERRUPTED, OR THERE IS A PROBLEM WITH THE INTERCONNECTION OF OUR SERVICES WITH THE SERVICES OR EQUIPMENT OF SOME OTHER PARTY. THIS SECTION WILL CONTINUE TO APPLY AFTER THE AGREEMENT ENDS.

**5. Warranties**

EXCEPT AS THIS AGREEMENT EXPRESSLY STATES, WE MAKE NO EXPRESS WARRANTY REGARDING THE SERVICES AND DISCLAIM ANY IMPLIED WARRANTY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. WE ALSO MAKE NO WARRANTY THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE. WE DO NOT AUTHORIZE ANYONE, INCLUDING, BUT NOT LIMITED TO, World Surfer LD EMPLOYEES, AGENTS OR REPRESENTATIVES, TO MAKE A WARRANTY OF ANY KIND ON OUR BEHALF AND YOU SHOULD NOT RELY ON ANY SUCH STATEMENT.

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**6. Credit Allowances for Interruptions**

If an interruption or failure of Services is caused solely by World Surfer LD and not by you or a third party or other causes beyond our reasonable control, you may be entitled to a credit allowance for fixed fees based on the duration of the outage. Such credit will only be provided if you request unless you specifically enroll in a service contract that permits the automatic issuing of outage credits. No credit applies for usage based charges.

**7. Dispute Resolution**

**a. Informal Resolution of Disputes.** It is our belief that any dispute you have with our service can best be addressed between us in a professional, business manner. Should you have a dispute with our service, you agree to first inform us of your dispute including all available support documentation so that we may attempt to resolve your issue. In the event that such resolution fails the terms of this section will govern.

**b. Jury Trial Waiver.** We mutually, expressly, irrevocably and unconditionally waive trial by jury and any right to proceed as lead plaintiff, class representative, or other representative capacity for any class action proceedings arising out of or relating to the Agreement or an Order. This subsection survives the termination of the Agreement.

**c. Binding Arbitration.** The arbitration process established by this section is governed by the Federal Arbitration Act ("FAA"), 9 U.S.C. §§ 1–16. You have the right to take any dispute that qualifies to small claims court rather than arbitration. All other 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 dispute based on any product, service or advertising having a connection with this Agreement and any dispute not finally resolved by a small claims court. The arbitration will be conducted by one arbitrator using the procedures described by this Section 7. 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 of any dispute shall be conducted in accordance with the American Arbitration Association's ("AAA") Supplementary Procedures for Consumer-Related Disputes, as modified by this Agreement, which are in effect on the date a dispute is submitted to the AAA. You have the right to be represented by counsel in an 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. Any arbitration will take place in Concord, New Hampshire unless otherwise agreed to by the Parties.

NO DISPUTE MAY BE JOINED WITH ANOTHER LAWSUIT, OR IN AN ARBITRATION WITH A DISPUTE OF ANY OTHER PERSON, OR RESOLVED ON A CLASS-WIDE BASIS. THE ARBITRATOR MAY NOT AWARD DAMAGES THAT ARE BARRED BY THIS AGREEMENT AND MAY NOT AWARD PUNITIVE DAMAGES OR ATTORNEYS' FEES UNLESS SUCH DAMAGES OR FEES ARE EXPRESSLY AUTHORIZED BY A STATUTE. YOU AND World Surfer LD BOTH WAIVE ANY CLAIMS FOR AN AWARD OF DAMAGES THAT ARE EXCLUDED UNDER THIS AGREEMENT.

**8. Miscellaneous.**

**a. No Third Party Rights.** This Agreement does not provide any third party with a remedy, claim, or right of reimbursement.

**b. Acts beyond Our Control.** Neither you nor we will be responsible to the other for any delay, failure in performance, loss or damage due to fire, explosion, power blackout, earthquake, volcanic action, flood, the weather elements, strike, embargo, labor disputes, 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 our reasonable control, except that you must pay for any Services used.

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**c. Assignment.** We can assign all or part of our rights or duties under this Agreement without notifying you. If we do that, we have no further obligations to you. You may not assign this Agreement or the Services without our prior written consent.

**d. Notices.** Notices from you to World Surfer LD must be provided as specified in this Agreement. Notice from you to World Surfer LD made by calling World Surfer LD is effective as of the date that our records show that we received your call.

World Surfer LD'S notice to you under this Agreement will be provided by one or more of the following: posting on our web site, recorded announcement, bill message, bill insert, newspaper ad, postcard, letter, call to your billed telephone number, or e-mail to an address provided by you.

**e. Separability.** If any part of this Agreement is found invalid, the rest of the Agreement will remain valid and enforceable.

**f. Governing Law.** This Agreement is governed by the Federal Communications Act to the full extent applicable and otherwise by the law of the State of New Hampshire without regard to its choice of law rules. The arbitration provisions in Section 7 are also governed by the Federal Arbitration Act. This governing law provision applies no matter where you reside, or where you use or pay for the Services.

**g. Entire Agreement.** This Agreement (which incorporates by reference the World Surfer LD website) constitutes the entire agreement between us and supersedes all prior agreements, understandings, statements or proposals, and representations, whether written or oral. This Agreement can be amended only as provided in Section 9 below. No written or oral statement, advertisement, or service description not expressly contained in the Agreement will be allowed to contradict, explain, or supplement it. Neither you nor World Surfer LD is relying on any representations or statements by the other party or any other person that are not included in this Agreement.

**h. Customer Proprietary Network Information.** In the course of providing products and services to you, World Surfer LD develops information about the quantity, technical configuration, type and destination of Products and Services you use, and other information found on your bill ("Customer Proprietary Network Information" or "CPNI"). Under federal law, you have a right, and we have a duty, to protect the confidentiality of CPNI. For example, to safeguard your CPNI, we use authentication procedures when you contact us. For some business accounts with a dedicated representative, we may replace standard authentication measures with a pre-established point of contact for that Customer.

**9. Changes to this Agreement.**

This Agreement may only be changed in the manner provided for in this Section 9. We may change this Agreement, including the incorporated World Surfer LD website, from time to time. If we make any changes to the prices or charges, we will comply with our notice commitments described in Section 1 of this Agreement. With respect to all other changes to this Agreement, we will notify you of the changes, and they will be effective no sooner than fifteen days after we post them at [www.bwtc.net](http://www.bwtc.net). You may also request a copy of the revised Agreement, including revised World Surfer LD website for the services you are enrolled in, by calling World Surfer LD at 800-700-9911 inside NH or 800-201-5388 outside NH.

**IF YOU CONTINUE TO BE ENROLLED IN, USE, OR PAY FOR THE SERVICES AFTER ANY CHANGES IN THE PRICES, CHARGES, TERMS OR CONDITIONS, YOU AGREE TO THE CHANGES.**

**10. Enrollment in another World Surfer LD Service**

To enroll in an additional Service, or to switch from your existing Service to a different Service, you must notify us by: (1) returning an enrollment form provided in World Surfer LD marketing materials; (2) calling the World Surfer LD customer service number on your World Surfer LD bill; (3) calling the

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World Surfer LD customer service number provided in World Surfer LD marketing materials; or (4) going to our web site at [www.bwtc.net](http://www.bwtc.net) and following any further instructions provided for enrollment. The terms and conditions of this Agreement, including those in the incorporated World Surfer LD Service Guides, will apply to the new or additional World Surfer LD Service.

**BY ENROLLING IN, USING, OR PAYING FOR THESE NEW OR ADDITIONAL SERVICES, YOU AGREE TO THE PRICES, CHARGES, TERMS AND CONDITIONS IN THIS AGREEMENT.**

## **II. DESCRIPTION OF SERVICE**

### **1. Availability of Service**

The Service is available only in areas in which the Company provides service at the rates listed in this section, through subscription to any of the long distance message telecommunication service offerings available from the Company. Services may have varying rate levels and billing increments as noted in each service rate description. Each of these offerings is subject to restrictions indicated.

### **2. Timing of Calls**

Unless otherwise indicated in this Agreement, the Company times calls in six (6) second increments. "Ring-busy" and "ring-no-answer" calls will not knowingly be charged to the Customer and if charged in error, will be credited by the Company to the Customer. Timing begins at the "starting event" and ends at the "terminating event," unless otherwise specified. Time between the starting event and the terminating event is the call duration. The minimum call duration for a completed domestic call is six (6) seconds, unless otherwise specified. International calls have a minimum duration of 30-seconds.

The starting event occurs when the Company's terminal experiences an "Incoming Signaling Protocol Successful," i.e., upon the seizure of an inbound trunk.

The terminating event occurs when the Company's terminal receives a signal from the Local Exchange Carrier that either the calling party or the called party has hung up.

The Company shall not knowingly bill for unanswered calls. Some international locations, however, may automatically generate a billable call record for such unanswered traffic. Upon receiving reasonable and adequate notice of billing from a Customer for any such call, the Company may issue a credit in an amount equal to the charge for the call. Calls that are in progress longer than one minute will be presumed to have been answered.

Long Distance Message Telecommunications Service rates are quoted in terms of initial and additional periods. The initial period is the first stated timed increment or any fraction thereof after connection is made. The additional period is each stated timed increment or any fraction thereof after the initial period. Timing increments for billing are shown in rate schedules in this Agreement.

### **2. Method of Applying Rates**

Calls that begin in one rate period and terminate in another will be billed for the entire call duration at the rate applicable at the commencement of the call.

Unless specified otherwise in this Agreement, the duration of each call for billing purposes will be rounded off to the nearest higher billing increment.

### **3. Dialed Long Distance Message Telecommunications Services (Domestic and international)**

Dialed Long Distance Message Telecommunications Services are measured use, full time services and are offered on a monthly basis, utilizing communications facilities. These switched services are available on a presubscription (equal access) basis. International services will be presubscribed on the same basis as domestic, interstate services.

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Depending upon the service option chosen by the Customer, the charges for the use of such Long Distance communications facilities may be based upon the time of day, the total minutes of use and /or the distance of each call.

All Customers shall be charged the rates and applicable terms and conditions identified in this Agreement.

**4. Dialed Long Distance Message Telecommunications Services (Additional international provision)**

International calls are generally measured in 30-second minimal increments. Some international points will incur an additional fee for calls to international CMRS locations. These locations vary by country and due to number portability it may not always be possible for the Company to notify customers prior to the completion of such calls if an international CMRS surcharge applies. In some instances, the surcharge for call completion to international CMRS provider may be billed separately and as much as two billing cycles following the completion of such calls.

All International charges, including applicable surcharges are contained in Section IV of this Agreement.

**5. Calling Card Service**

Calling Card Service permits Customers that have arranged for a Company-issued Calling Card to make Calling Card calls throughout the domestic United States through the use of a specific toll free telephone number provided by the Company. Calls may only be completed to locations that participate in the North American Numbering Plan.

**6. Toll-free Service**

Toll-free Service is a one-way inbound service originating on feature group facilities provided by the Company and terminating on a regular telephone line. Calls to the number will appear as regular inbound POTs traffic. The Customer is responsible for payment of all charges associated with such terminating calls terminated rather than the calling party. References to "800" or "1-800" shall include any future toll-free designation provided for such services by the North American Numbering Plan Administrator.

**7. Directory Assistance Service**

The Company will provide its customers with directory assistance for obtaining listed telephone numbers. Access to Company directory information services will be provided by dialing an NPA plus 555-1212. No additional measured service charges apply.

**III. DOMESTIC RATES**

See rates posted on the Company website at [www.bwtc.net](http://www.bwtc.net).

**IV. INTERNATIONAL RATES**

To protect customers against fraud, World Surfer LD limits international calling to Canada only unless otherwise requested. Rates to Canada will be billed at interstate domestic rates found in Section III.

Rates for international calling will be provided for those customers requesting broader international calling capability by calling 800-700-9911 inside NH or 800-201-5388 outside NH