



# **SERVICE AGREEMENT**

EFFECTIVE 6/6/2017

These Terms of Service (the "Agreement") govern the provision of the Optic Communications Service Protection Plan (the "Services"). This Agreement is made between you as our customer ("you," "your," or "Customer") and Optic Communications ("Optic," "We," "Our," or "Us"). This Agreement governs your use of the Optic Communications service plan that includes wire repair, education and issue isolation services, all as more fully described at [www.optic-communications.com](http://www.optic-communications.com) (the "Services Website"), provided by Optic Communications. The Services do not include the provision of any other Optic Communication service, such as cable television service, High Speed Internet service, and/or Digital Voice service, all of which have their own terms of service and policies that are available at [www.optic-communications.com](http://www.optic-communications.com). The Services also do not include computer hardware or related equipment service or repair.

By ordering, subscribing or accessing the Services, you agree to the terms of this Agreement, including the terms of any policies referenced and incorporated herein and available at [www.optic-communications.com](http://www.optic-communications.com). IF YOU DO NOT AGREE TO BE BOUND BY THESE TERMS OR ANY OF THE POLICIES RELATING TO THE SERVICES, YOU SHOULD IMMEDIATELY STOP USE OF THE SERVICES AND NOTIFY US BY CALLING 1-855-806-7325 SO THAT YOUR ACCOUNT MAY BE CLOSED.

From time to time, we may make revisions to this Agreement and the policies relating to the Services. We will provide notice of such revisions either by posting revisions at [www.optic-communications.com](http://www.optic-communications.com), by sending an email to the email address you provide to us and/or including such notice in your monthly bill. You agree that it is your responsibility to visit the website periodically to review any such revisions. Changes to this Agreement shall be effective on the date noted in the posting and/or email we send you. By continuing to use the Services after revisions are effective, you accept and agree to abide by them.

NOTE: THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION THAT AFFECTS YOUR RIGHTS UNDER THIS AGREEMENT.

## **1. DESCRIPTION AND SCOPE OF SERVICES; EFFECTIVE DATE OF SERVICES.**

For so long as you subscribe to the Services, when you notify us of a Services problem, Optic Communications will identify whether the problem is with the inside wire or equipment related to a Optic Communications Service (voice, video or Internet service), or whether the problem may be resolved by providing technology assistance, typically via remote access.

In the event Optic Communications determines that the problem is with the inside wire or equipment related to a Optic Communications Service, unless excluded in this Agreement, the Services cover wiring located on the Customer's side of the Demarcation Point to the telephone jack, Internet modem, or video receiver in Customer's premises. The Demarcation Point is defined as the wall-mounted NIU/NID Unit on the outside of the Customer's premises. If the Services cover the problem, Optic Communications will repair or correct the trouble consistent with industry standards

Optic Communications deems applicable. The Services cover a significant reduction in the service visit charge that would typically apply for a service visit made by an Optic Communications representative to your home to identify and/or address certain product or service-related issues. The Services are only available to Customers who subscribe to Optic Communications Residential Services. For Customers residing in Multiple Dwelling Units (MDU) such as apartments, condominiums, dormitory, co-op, or other group facilities, the Demarcation Point is the wall jack or outlet where the Optic Communications Service enters your individual unit.

The Services are offered on a per residence basis and are not transferrable. This Agreement and the Services will become effective and billing will commence upon your subscription to the Services. Pre-existing conditions are not covered and no claims will be accepted within the first thirty (30) days following such subscription. Charges for the Services are billed one month in advance.

The following wiring, education and issue isolation services are *INCLUDED* as part of the Services:

Repair and replacement of wire from the Demarcation Point to the telephone jack, Internet modem or video receiver.

Replacement of fittings, splitters, amplifiers and outlets installed or existing in accordance with accepted industry standards, as determined by Optic Communications, regardless of installer or vendor.

Optic Communications-supplied wiring which is installed the time of installation of a Optic Communications Service.

Wiring damaged by animal chews.

Wiring and customer premise equipment (CPE) damaged by Acts of God, such as lightning strikes and floods.

Customer education as it relates to Optic Communications Services and Optic Communications-provided equipment.

Trouble shoot and isolate problems with Optic Communications Service or Optic Communications-provided equipment.

Provide analysis on Customer-owned equipment that may be impeding Optic Communications Service.

Identification and verification that Optic Communications -owned equipment and Optic Communications Services are working properly.

Identification of incorrect Customer connections.

Identification of unauthorized outlets or jacks.

Problems existing prior to establishing Optic Communications Service.

The following are *EXCLUDED* from coverage and are not part of the Services:

Fees associated with installation, removal, relocation of, or change to, Optic Communications Services.

Failed Self-Installation.

Installation or relocation of jacks or outlets.

Wiring panels (Smart Homes) or complex wiring.

New wall fishing or wall hole punches.

Wiring that supports a competitor's service offering, or wire signal interference in internal wiring caused by competitor's equipment.

Repair or replacement of Customer-owned equipment (equipment may be covered by a warranty if purchased from Optic Communications) and wire that connects such equipment.

Truck roll charge for swapping or changing out Optic Communications equipment.

Truck rolls outside of Optic's stated regular business hours.

Maintenance or repair of Category 5 cable unless installed by Optic Communications.

Computer configuration assistance.

Wiring repair or replacement due to remodeling of the premises.

Installation of home entertainment systems and related equipment.

Wiring damage caused by vandalism, gross negligence or willful damage.

In the event Optic Communications determines that the problem may be resolved by providing technology assistance, we will use commercially reasonable efforts to answer your technology questions and resolve your technology problems, typically via remote access to your computer, telephone, online chat or other means of communication offered by us.

The Services are available on a subscription basis, which provides Services over a period of time for a recurring fee. The Services may be subject to additional requirements, limitations, and restrictions depending on the level of service. Except where expressly stated, the Services are intended for, and limited to, personal non-commercial residential use, and do not cover business or commercial use.

We may, in our sole discretion, refuse to provide the Services to you for any reason including, without limitation, if your technical needs are beyond the scope of the intended Services. The Services may not be available due to system maintenance, Internet service disruptions, availability of personnel, natural disasters or other factors outside our control. The Services do not support all possible computers, operating systems, software, hardware, peripheral devices, applications or features, and are subject to minimum system specifications, requirements and other limitations. Other than as set forth in the warranty section below, you agree that Optic Communications has no responsibility or liability under any circumstance at any time for any loss or harm that may arise from or be related to the Services.

## **2. MODIFICATIONS TO THE SERVICES.**

Subject to this Agreement and applicable law, we reserve the right, for any reason, in our sole discretion and without notice to you, to modify, change, suspend or discontinue any and all aspects of the Services, including Software, features and/or hours of availability.

### **3. TERMS OF USE.**

We will provide you with access to the Services subject to your compliance with this Agreement. We reserve the right to refuse to provide the Services to anyone at any time. You represent and warrant to us that (a) you are at least 18 years old; (b) you have the necessary authority to legally bind yourself to this Agreement and you own or otherwise have the legal right to grant access to the computer data and equipment you identify to us for Services; (c) you have read and agree to the Agreement and terms of our Privacy Policy located at [www.optic-communications.com](http://www.optic-communications.com); (d) you will comply with all treaties, laws, rules and regulations applicable to your use of the Services; and (e) any information you submit to us is correct and complete. You agree that you are responsible for all use on your account, including any secondary accounts or sub-accounts registered to your primary account. You understand that this means you accept full liability and responsibility for the actions of anyone who uses a Service via your account, or any secondary accounts, with or without your permission.

### **4. AUTHORIZATION TO ACCESS YOUR COMPUTER.**

You acknowledge that you are authorizing us to access and control your computer as required to provide the Services you request. In order to provide the Services to you, we may download and use software, analyze system data, perform maintenance tasks, provide you with notices or information requests, and take remote control of your computer and access or modify your computer settings to diagnose, optimize and repair supported devices. By accepting these terms, you hereby grant us the right to connect to your computer and supported devices to accomplish these tasks.

### **5. ON-SITE SERVICES.**

We may determine that an on-site visit is required to resolve your wiring problem. If you schedule on-site service, you or an authorized representative over the age of 18 must be present during the entire period the Services are provided. If you or your representative is not present when we arrive at your designated address or if you fail to cancel your appointment at least 24 hours prior to the scheduled time, the provision of Services may be denied and a cancellation fee may apply. You agree to allow us the right to enter your property at which the Services will be provided (the "Premises") at reasonable times, for purposes of providing the Services. You warrant that you are either the owner of the Premises or that you have the authority to give us access to the Premises.

### **6. MONITORING OF THE SERVICES.**

We may, but have no obligation to, monitor and record telephone calls and online sessions for purposes of improving customer service, internal training and business purposes. You hereby grant permission to us to monitor and record each session during which we are providing the Services to you, and to use or disclose any information we obtain in relation to providing the Services as necessary or appropriate to (1) satisfy any law, regulation or other governmental request; (2) provide the Services to you; (3) verify the content of our communications with you; and (4) enhance the types of Services we may provide to you in the future. You also grant us permission to aggregate your information with that of others in such a way that removes your personally identifiable information for training and other business purposes. Please see our Privacy Policy for further details.

### **7. DATA BACKUP.**

THE SERVICES DO NOT INCLUDE DATA BACKUP OR RESTORATION SERVICES. YOU ARE SOLELY RESPONSIBLE FOR MAINTAINING AND BACKING UP ALL INFORMATION, DATA, TEXT OR OTHER MATERIALS (COLLECTIVELY "CUSTOMER DATA") AND SOFTWARE STORED ON YOUR COMPUTER AND STORAGE MEDIA BEFORE ORDERING THE SERVICES. YOU ACKNOWLEDGE AND AGREE THAT WE HAVE NO RESPONSIBILITY OR LIABILITY UNDER ANY

CIRCUMSTANCE AT ANY TIME FOR ANY LOSS OR CORRUPTION OF CUSTOMER DATA, SOFTWARE OR HARDWARE THAT MAY ARISE OUT OF USE OF THE SERVICES.

WE DO NOT PROVIDE BACKUP COPIES OR SUPPORT INSTALLATION OF UNLICENSED SOFTWARE FOR CUSTOMERS. PLEASE ENSURE THAT YOU HAVE A LICENSED COPY OF ALL NECESSARY SOFTWARE AND LICENSE KEYS OR ANY OTHER PROOF-OF-PURCHASE REQUIRED TO INSTALL OR RE-INSTALL YOUR LICENSED SOFTWARE.

## **8. USE OF SOFTWARE AND TOOLS.**

We may need to download and run software on your computer to help diagnose and resolve your technology problem (the "Software"). We use several types of Software: the first type provides computer system information to us which helps us diagnose and resolve your technology problem, the second type allows us to remotely control your computer and modify its settings or software, and the third type generally consists of utilities and other tools to improve computer performance and provide updates.

You must cooperate with us and promptly respond to our requests for information and comply with our requests to take actions to resolve your technology problem. In order to help resolve your technology issue, you may be required to consent to the downloading and use of Software on your computer and accept all applicable license agreements for the Software. Optic Communications may terminate this Agreement if you do not agree to installation of the Software on your computer; or if you alter, modify or disable the Software, or its settings or configurations.

You acknowledge and agree that use of all Software and tools accessed, downloaded or otherwise provided or made available with the Services are subject to the license agreements that may appear or be referenced when you access or download the Software, and that you may not access, download or use any Software without agreeing to the terms and conditions of the license agreements without modification. You may use the Software only in connection with the Services and for no other purpose. You are not granted any title or rights of ownership in the Software. You may not copy, modify, distribute or otherwise transfer the Software or permit others to access or use the Software. You may not de-compile, reverse engineer, disassemble, attempt to discover any source code or underlying ideas or algorithms of the Software, or otherwise reduce the Software to a human readable form. You agree that we may, but are not obligated to, remove any Software downloaded to your computer during the Services after we have completed or terminated the Services.

## **9. FEES AND PAYMENT.**

You agree to pay any applicable charges associated with the Services, including recurring service charges and applicable federal, state, and local taxes and fees (however designated). The applicable fees for the Services you order will be supplied to you during the ordering process and are set forth at Optic Communications Website. Charges for the Services will be billed directly to your monthly bill (if you are an existing Optic Communications customer)

You will generally be billed monthly, in advance, for recurring service charges and fees. Your first bill may include pro-rated charges from the date you first begin receiving your Services, as well as monthly recurring charges for the next month. The Services will automatically renew on a month-to-month basis at the then-prevailing rate for such Services until you notify us to cancel your Service by contacting 1-855-806-7325. If you cancel in the middle of a month, we will refund a pro-rata portion of any fees that you have prepaid.

Subject to applicable law, if you intend to dispute a charge or request a billing credit, you must contact Optic Communications within sixty (60) days of the date on the bill. You waive any disputes or credits that you do not report within sixty (60) days.

**10. RESTRICTIONS.**

Your use of the Services is only for your personal use on your technology, and not for commercial use, including resale or transfer to others. You may not sell, lease or rent access to or use of the Services. You may not allow manufacturers, suppliers or vendors of your technology or providers of services relating to such technology, to access or use the Services.

**11. CANCELLATION.**

This Agreement is automatically renewable on a month-to month basis and can be canceled by you at any time for any reason.

You may cancel this Agreement at any time by calling Optic Communications at 1-855-806-7325. Optic Communications may terminate this Agreement at any time by providing notice to you.

You will be responsible for paying for the Services received and all other charges and fees that you incur prior to your cancellation of the Services.

We reserve the right to cease providing the Services for any reason at any time and instead, as your sole and exclusive remedy, refund the fees paid for the Services for the time period for which you have paid, if any, after termination of the Services. If you breach the terms of this Agreement, no refund will be provided. Other than providing a refund when we terminate for our convenience, we will not be liable to you or any third-party for termination of the Services for any reason.

You acknowledge and agree that upon termination we may immediately deactivate or delete your user account and all related information and files in your user account and/or bar any further access to the Services. Fees for Services will be pro-rated based upon the date of termination. You understand and agree that your right to possess or use Software provided as part of the Services will terminate and such Software may cease to operate, update or function properly after termination of the Services.

**12. LIMITED WARRANTY.**

We will use commercially reasonable efforts to troubleshoot, analyze, assess, correct or otherwise resolve your computer or network problems. This is not a contract of insurance.

This limited warranty does not create an obligation for us to correct problems caused by defective products or any modifications of the completed installation set-up (example: movement or set-up or addition of more components by anyone not deployed by Optic Communications or to assist you in the additional calibration of installation settings beyond initial set-up). No warranty is made hereunder for the hardware, software, or consumer electronic products associated with the Services. Furthermore, no warranty is made for any repeat occurrence caused by you of a virus or spyware infection that was previously removed in connection with the Services. Products shall be covered by the terms of any manufacturers' warranties or extended service plans ("Third Party Plans and Warranties") purchased by you. You agree to make any claims that you have related to your product warranty and any warranty period only to the providers of Third Party Plans and Warranties. No other warranties, expressed or implied, are made hereunder relating to the Services.

As set forth below, there are no other warranties for the Services.

WE DO NOT WARRANT THAT THE SERVICES WILL BE TIMELY, SECURE, UNINTERRUPTED, ERROR FREE, OR SUCCESSFUL IN RESOLVING YOUR QUESTION OR COMPUTER PROBLEM. NO ADVICE OR MATERIALS OBTAINED BY YOU FROM USE OF THE SERVICES SHALL CREATE ANY WARRANTY. ANY CONTENT OR SOFTWARE THAT YOU ACCESS, DOWNLOAD OR USE WITH THE

SERVICES IS DONE AT YOUR OWN DISCRETION AND RISK AND YOU AGREE THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE THAT RESULTS FROM SUCH ACTIVITIES.

**13. DISCLAIMER OF ADDITIONAL WARRANTIES.**

Neither Optic Communications nor its affiliates, subsidiaries, suppliers, employees, agents, or contractors warrant that the Services will meet your requirements or expectations. REPRESENTATIONS AND WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF PERFORMANCE, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, ARE HEREBY DISCLAIMED AND EXCLUDED UNLESS OTHERWISE PROHIBITED OR RESTRICTED BY APPLICABLE LAW.

**14. INDEMNITY.**

You agree that you shall be responsible for and shall defend, indemnify, and hold harmless Optic Communications and its employees, affiliates, suppliers, agents and contractors and shall reimburse us for any damages, losses or expenses (including without limitation, reasonable attorneys' fees and costs) incurred by us in connection with any claims, suits, judgments, and causes of action arising out of (a) any violation of applicable laws or regulations by you (or any parties who use your account, with or without your permission, to access the Services); (b) your use of the Services; (c) violation or infringement of contractual rights, privacy, confidentiality, copyright, patent, trademark, trade secret, or other intellectual property and proprietary rights arising from your use of the Services; and (d) your breach of any provision of this Agreement.

**15. LIMITATION OF LIABILITY.**

To the extent permitted by applicable law, our liability shall be limited to the total Service charges paid for the Services performed. Your sole and exclusive remedies under this Agreement are as expressly set forth in this Agreement.

EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, NEITHER OPTIC COMMUNICATIONS NOR ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS, OR CONTRACTORS SHALL UNDER ANY CIRCUMSTANCES OR UNDER ANY LEGAL THEORY (INCLUDING, BUT NOT LIMITED TO, TORT OR CONTRACT) HAVE ANY LIABILITY TO THE CUSTOMER OR TO ANY OTHER PERSON OR ENTITY FOR THE FOLLOWING LOSSES, DAMAGES, OR COSTS:

a. ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL LOSSES OR DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF EARNINGS, LOSS OF BUSINESS OPPORTUNITIES, PERSONAL INJURIES, OR DEATH) THAT RESULT DIRECTLY OR INDIRECTLY FROM OR IN CONNECTION WITH YOUR RELIANCE ON OR USE OF THE SERVICES (INCLUDING, BUT NOT LIMITED TO, CUSTOMER'S USE OR INABILITY TO USE THE WIRING WHETHER COVERED BY THE SERVICES OR OTHERWISE, ANY MISTAKES, OMISSIONS, INTERRUPTIONS, COMPUTER OR OTHER HARDWARE OR SOFTWARE BREACH, FAILURES OR MALFUNCTIONS, DELETION OR CORRUPTION OF FILES, WORK STOPPAGE, ERRORS, DEFECTS, DELAYS IN OPERATION, DELAYS IN TRANSMISSION, OR FAILURE OF PERFORMANCE OF THE SERVICE OR THE CUSTOMER EQUIPMENT, OR ANY OTHER MISTAKES, OMISSIONS, LOSS OF E-MAIL OR OTHER INFORMATION OR DATA).

b. ANY LOSSES, CLAIMS, DAMAGES, EXPENSES, LIABILITIES, LEGAL FEES, OR OTHER COSTS THAT RESULT DIRECTLY OR INDIRECTLY FROM OR IN CONNECTION WITH ANY ALLEGATION, CLAIM, SUIT, OR OTHER PROCEEDING BASED UPON A CONTENTION THAT THE USE OF THE SERVICES BY YOU OR ANY OTHER PERSON OR ENTITY INFRINGES UPON THE CONTRACTUAL RIGHTS, PRIVACY, CONFIDENTIALITY, COPYRIGHT, PATENT, TRADEMARK, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS OF ANY

## THIRD PARTY.

c. EXCEPT FOR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER OPTIC COMMUNICATIONS NOR ANY OF ITS AFFILIATES, SUPPLIERS, EMPLOYEES, AGENTS, OR CONTRACTORS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY DAMAGE, LOSS, OR DESTRUCTION TO YOUR CUSTOMER EQUIPMENT. IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT BY OPTIC COMMUNICATIONS, SUPPLIERS, EMPLOYEES, AGENTS, OR CONTRACTORS, WE SHALL PAY AT OUR SOLE DISCRETION FOR THE REPAIR OR REPLACEMENT OF THE DAMAGED CUSTOMER EQUIPMENT UP TO A MAXIMUM OF \$500. THIS SHALL BE YOUR SOLE AND EXCLUSIVE REMEDY RELATING TO SUCH ACTIVITY.

Certain of the above limitations may not apply if your state does not allow the exclusion or limitation of implied warranties or does not allow the limitation or exclusion of incidental or consequential damages. In those states, the liability of Optic Communications and its employees, affiliates, suppliers, agents, and contractors is limited to the maximum extent permitted by law. All limitations and disclaimers stated in this Agreement also apply to Optic Communications' third party contractors, as third party beneficiaries of this Agreement.

All representations, indemnifications, and limitations of liability contained in this Agreement shall survive the termination of this Agreement; any other obligations of the parties hereunder shall also survive, if they relate to the period before termination or if, by their terms, they would be expected to survive such termination.

You acknowledge that certain third party equipment or software warranties may limit or void the remedies that they offer if unauthorized persons perform support service on the equipment or software. It is your responsibility to ensure that any impact that delivery of the Services might have on third party warranties is acceptable to you and you assume the risk of any and all such adverse impact on any third party warranties.

## **16. ELECTRONIC COMMUNICATIONS.**

You agree that we may communicate electronically by e-mail and/or may make communications available to you by posting them on the Optic Communications website, and that such communications, as well as notices, disclosures, agreements and other communications that we provide to you electronically, are equivalent to communications in writing and shall have the same force and effect as if they were in writing and signed by us.

## **17. DISPUTE RESOLUTION.**

YOU MUST CONTACT US WITHIN ONE (1) YEAR OF THE DATE OF THE OCCURRENCE OF THE EVENT OR FACTS GIVING RISE TO A DISPUTE (EXCEPT FOR BILLING DISPUTES WHICH ARE SUBJECT TO LATE OR NON-PAYMENTS SECTION ABOVE), OR YOU WAIVE THE RIGHT TO PURSUE ANY CLAIM BASED UPON SUCH EVENT, FACTS OR DISPUTE.

You and Optic Communications agree that you will try to resolve disputes informally before resorting to arbitration. If the dispute cannot be resolved by telephone, you agree to notify Optic Communications of the dispute by sending a written description of your claim to Optic Communications, ATTN: General Manager, 224 S. Kansas Avenue, Columbus Kansas, 66725 so that Optic Communications can attempt to resolve it with you. If Optic Communications does not satisfactorily resolve your claim within 30 calendar days of receiving notice of it, then you may pursue the claim in arbitration. Neither you nor Optic Communications may initiate arbitration without first providing the other notice of the claim and following the informal dispute resolution procedure provided in this paragraph.



**18. ENTIRE AGREEMENT.**

This Agreement, the Arbitration Provisions and any other documents incorporated by reference (including hyperlinks) constitute the entire agreement and understanding between you and us with respect to the subject matter of this Agreement, and replace any and all prior written or verbal agreements. If any portion of this Agreement is held to be unenforceable, the unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties, and the remainder of the provisions shall remain in full force and effect. We do not waive any provision or right we fail to insist upon or enforce strict performance of any provision of this Agreement. You may not assign this Agreement to a third party. We may freely assign all or any part of this Agreement and you agree to make all subsequent payments as directed. Neither the course of conduct between you and us nor trade practice shall act to modify any provision of this Agreement.

**19. ARBITRATION PROVISIONS.**

**a. DEFINITIONS.**

The term "Arbitration Provision" means all the terms in the sections following the Arbitration Provisions heading. As used in the Arbitration Provision, the term "Dispute" means any dispute, claim or controversy between you and Optic Communications regarding any aspect of your relationship with Optic Communications that has accrued or may hereafter accrue, whether based in contract, statute, regulation, ordinance, tort (including, but not limited to, fraud, misrepresentation, fraudulent inducement, negligence or any other intentional tort), or any other legal or equitable theory, and includes the validity, enforceability or scope of this Arbitration Provision (with the exception of the enforceability of the class action waiver clause provided in the Restrictions section below). "Dispute" is to be given the broadest possible meaning that will be enforced. As used in the Arbitration Provision, "Optic Communications" means, its officers, directors, employees and agents, authorized agents, and its parents, subsidiaries and affiliated companies.

**b. BINDING ARBITRATION.**

If you have a Dispute with Optic Communications that cannot be resolved through the informal dispute resolution processes described in this Agreement, you or Optic Communications may elect to arbitrate that Dispute in accordance with the terms of this Arbitration Provision rather than litigate the Dispute in court. Arbitration means you will have a fair hearing before a neutral arbitrator instead of in a court by a judge or jury. In arbitration, there is no judge and no jury, and review of arbitration decisions in the courts is very limited. Instead, our disputes will be resolved by an arbitrator, whose authority is governed by the terms of this Agreement. You and Optic Communications agree that an arbitrator may only award such relief as a court of competent jurisdiction could award, limited to the same extent as a court would limit relief pursuant to the terms of this Agreement. An arbitrator may award attorneys' fees and costs if a court would be authorized to do so, and may issue injunctive or declaratory relief if that relief is required or authorized by the applicable law, but that injunctive or declaratory relief may not extend beyond you and your dealings with Optic Communications. Discovery may be limited in arbitration, and procedures are more streamlined than in court. Notwithstanding this arbitration agreement, you and Optic Communications may bring appropriate claims against each other in small claims court, if the claims fall within the small claims court's jurisdiction, or before the Federal Communications Commission, the relevant state public utilities commission, or any other federal, state, or local government agency authorized by law to hear your claims.

**c. RIGHT TO OPT OUT OF ARBITRATION.**

You may opt out of this Arbitration Provision (except for the section entitled Jury Trial Waiver) by notifying Optic Communications of that intent within 30 days of the date of this Agreement for

current customers. For new customers activating Service after the date of this Agreement, you may opt out by notifying Optic Communications of that intent within 30 days of the date you subscribe to the Service. You may opt out through either of the following options (please include your name, address, and Optic Communications account number on the communication) by sending a letter stating your intent to reject this dispute resolution provision for Optic Communications Protection Plan Services to Optic Communications, Attn: General Manager, 224 S. Kansas Avenue, Columbus, Kansas 66725. Exercising this right, should you choose to do so, will not affect any of the other terms of this Agreement or other contracts with Optic Communications and you may remain a Optic Communications customer. If you opt out of the dispute resolution provision, you will not be required to do so again if Optic Communications modifies this section in the future or you agree to a new term of service.

**d. ARBITRATION PROCEDURES.**

All arbitrations shall be conducted by the American Arbitration Association ("AAA"). The AAA's rules are available on its website at [www.adr.org](http://www.adr.org) or by calling 1-800-778-7879. If the claim asserted in arbitration is for less than \$75,000, the AAA's Supplementary Procedures for Consumer-Related Disputes will apply. If the claim asserted is for \$75,000 or more, the Commercial Arbitration Rules will apply. If there is a conflict between the AAA's rules and this dispute resolution agreement, this dispute resolution agreement shall control. To initiate arbitration, you must send a letter requesting arbitration and describing your claims to Optic Communications, Attn: General Manager, 224 S. Kansas Avenue, Columbus, Kansas 66725. You must also comply with the AAA's rules regarding initiation of arbitration. Optic Communications will pay all filing fees and costs for commencement of an arbitration, but you will be responsible for your own attorneys' fees and costs unless otherwise determined by the arbitrator pursuant to the terms of this agreement or applicable law. Optic Communications will not seek to recover its fees and costs from you in the arbitration unless your claim has been determined to be frivolous. If you are successful in the arbitration, Optic Communications will pay your reasonable attorney's fees and costs. If you obtain an award from the arbitrator greater than Optic Communications last written settlement offer, Optic Communications will pay you \$5,000 in addition to what you have been awarded in the arbitration. The arbitration will be held in a mutually convenient location. If you seek less than \$10,000, then you may choose to hold the arbitration in person, via phone, or to have it decided based on written submissions.

If an award granted by the arbitrator exceeds \$75,000, either party can appeal that award to a three-arbitrator panel administered by the same arbitration organization by a written notice of appeal filed within thirty (30) days from the date of entry of the written arbitration award. The members of the three-arbitrator panel will be selected according to the rules of the arbitration organization. The arbitration organization will then notify the other party that the award has been appealed. The three-arbitrator panel will issue its decision within one hundred and twenty (120) days of the date of the appealing party's notice of appeal. The decision of the three-arbitrator panel shall be final and binding, except for any appellate right which exists under the FAA.

**e. CLASS ACTION WAIVER.**

You and Optic Communications agree that all claims or disputes between you and Optic Communications will be arbitrated individually, and that there will be no class, representative, or consolidated actions in arbitration. If you or Optic Communications brings a claim in small claims court, the class action waiver will apply, and neither of us can bring a claim on a class or representative basis. Furthermore, neither you nor Optic Communications may participate in a class or representative action as a class member if the class action asserts claims that would fall within the scope of this arbitration agreement if they were directly asserted by you or Optic Communications. Notwithstanding the foregoing, this arbitration agreement shall not prohibit you or Optic Communications from participating in any judgment or settlement in any litigation brought by a federal, state, or local government on behalf of you or us, excluding litigation brought by any relator or party in its capacity as a private attorney general. We both agree that this class action waiver is

an essential part of our arbitration agreement and that if this class action waiver is found to be unenforceable by any court or arbitrator then the entire Arbitration Provision will not apply to any claim or dispute between you and Optic Communications, except for the section entitled Jury Trial Waiver. This class action waiver may not be severed from our arbitration agreement.

**f. JURY TRIAL WAIVER.**

If for any reason the Arbitration Provisions are found to be unenforceable, including without limitation, that the class waiver is found unenforceable, or if you opt out of this dispute resolution agreement, you and Optic Communications expressly and knowingly WAIVE THE RIGHT TO TRIAL BY JURY. This means that a Judge rather than a Jury will decide disputes between you and Optic Communications if, for any reason, the arbitration agreement is not enforced.

**g. SEVERABILITY.**

If any clause within this Arbitration Provision (other than the class action waiver clause identified in the Restrictions section above) is found to be illegal or unenforceable, that clause will be severed from the Arbitration Provision, and the remainder of the Arbitration Provision will be given full force and effect. If the class action waiver clause is found to be illegal or unenforceable, the entire Arbitration Provision will be unenforceable, and the dispute will be decided by a court. If this entire Arbitration Provision is determined to be illegal or unenforceable for any reason, or if a claim is brought in a Dispute that is found by a court to be excluded from the scope of this Arbitration Provision, you and Optic Communications have each agreed to waive, to the fullest extent allowed by law, any trial by jury.

**h. CONTINUATION.**

This Arbitration Provision shall survive the termination of your service with Optic Communications. If you bring a claim against Optic Communications after termination of your contract that is based in whole or in part on events or omissions that occurred while you were a Optic Communications' customer, this Arbitration Provision shall apply.