

# **Bryan Communications Department**

## ***General Rules and Regulations***

**Bryan Municipal Utilities  
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# **Bryan Communications Utility**

## **I. Cable TV and Internet General Rules and Regulations**

The following Rules and Regulations shall be a part of the contract with every person, firm and corporation who uses Cable TV and Internet service supplied by the Bryan Communications Utility, and every such person, firm or corporation shall be considered as having expressed their consent to be bound.

### **A. General**

The General Rules and Regulations of the City of Bryan, Ohio covering the supply of Cable TV and Internet Service to Consumers in and around the City of Bryan are adopted by the Board of Public Affairs of the City of Bryan, Ohio. When used hereafter, the words "Utility," "Director of Utilities," "Communication Department," "Bryan Communication Utility" or "Board" shall be considered as being the Board of Public Affairs and/or the City of Bryan.

These Rules and Regulations are supplementary and part of the City's Cable TV and Internet Rate Exhibits and are intended to set forth rights and obligations of the City and its Communication Department as well as those of the Consumer or Property Owner with respect to the supply and use of Cable TV and Internet service together with other related matters.

As used, "Consumer," "Applicant," "Customer," "Subscriber" or "Property Owner" shall be construed to be any individual, firm, organization or corporation using the City's Cable TV and Internet Service and all of the following General Rules and Regulations are applicable to all Cable TV and Internet Consumers of the City as well as to all employees of the City's Communication System.

It shall be the responsibility of the Board of Public Affairs through its Director of Utilities and/or City Clerk-Treasurer to enforce these General Rules and Regulations and where "City" or "Utility" is hereafter used it shall also be construed to mean said Board, Director of Utilities and/or City Clerk-Treasurer.

The Director of Utilities and City Clerk-Treasurer are authorized to the extent necessary to prepare such supplementary Administrative Rules, Forms and/or Specifications as may be necessary to properly enforce and carry out the intent of these General Rules and Regulations.

Any additional revisions in the City's Communication Rules and Regulations shall be made as amendments authorized by the Board of Public Affairs.

## B. Definition of Terms And Explanation of Abbreviations

The following words, as used in these General Rules and Regulations, have the following respective meanings:

1. ***Bryan Communication Utility.*** The Board of Public Affairs of the City of Bryan, doing business as Bryan Communication Utility – Cable TV and Internet Division with headquarters located at 841 E. Edgerton St., Bryan, OH 43506.

2. ***Cable TV:*** Community Antenna Television, more commonly referred to as "cable television."

3. ***Set Top Device:*** An electronic device which converts Bryan Communication Utility's incoming signals for use at the subscriber's television receiver.

4. ***Customer, Consumer or Subscriber:*** the person, firm, corporation, governmental agency, or association having interest, whether legal or equitable, sole or only partial, either tenant or owner, in any property which is, or is to be, supplied with Cable TV service, either temporarily or permanently, by the Utility and all those having such interest.

5. ***Month:*** the period between any two consecutive regular billings by the Utility for service rendered to a customer at the premises. Such billings are scheduled at intervals of approximately thirty days.

6. ***Outlet:*** The receptacle through which Cable TV and Internet service is provided to the subscriber's television receiver.

7. ***Premises:*** a dwelling, building, structure or parcel of real estate which is normally supplied through a separate service.

8. ***Service:***

a) ***Basic Cable Service:*** Cable TV service consisting of all off air, governmental, educational and local access programming.

b) ***Extended Basic Service:*** Cable TV service consisting of various television programming for which a single monthly rate is charged to the subscriber.

c) ***Premium Service:*** Also known as Special Packages, optional Cable TV services consisting of one or more television programs for which a single monthly rate is charged to the subscriber in addition to the charge for basic or extended service.

**9. *Service line:*** the Coax or fiber line that runs up to the premise demarcation box on the premises and is installed and maintained by the Utility.

**10. *Premise demarcation box:*** the box mounted on the side of the premises where the service line connects to the premise. It is installed and maintained by the Utility and is the property of the Utility.

**11. *Residential Internet:*** services provided to residential customers or subscribers using a cable modem.

**12. *Commercial Internet:*** services provided to commercial customers or subscribers using a cable modem.

**13. *MAN:*** Metropolitan Area Network Internet services provided to commercial customers or subscribers within the Bryan City limits.

**14. *WAN:*** Wide Area Network Internet services provided to commercial customers or subscribers outside the Bryan City limits.

## **C. Rules and Regulations**

### **1. Rules and Regulations on File**

A copy of all rates, rules and regulations under which Cable TV and Internet service will be rendered is filed for the convenience of the public in the general office of the Utility and the City Clerk-Treasurer's office.

### **2. Written Application of Contract Required**

A written service application or a properly executed contract will be required from a prospective customer (including a contractor or builder) before the Utility will supply service; however, the Utility shall have the right to reject an application for any valid reason. Where unusual construction or equipment expenses will be involved in furnishing the service, the Utility may require the contract to be for an appropriate period of time specified by the Utility when the contract is executed.

### **3. Modification of Contract**

No promises, agreements or representations by any agent of the Utility shall be binding upon the Utility unless they have been incorporated in a written contract signed and approved by an agent of the Utility authorized to sign such contract on behalf of the Utility.

#### **4. Assignment of Contract**

The benefits and obligations under any contract for the supply of Cable TV and/or Internet service by the Utility shall begin when the Utility commences to supply Cable TV and/or Internet service thereunder and shall insure to and be binding upon the successors, assigns, survivors, executors and administrators, as the case may be, of the original parties thereto, respectively, for the full term thereof; provided, that no assignment thereof shall be made by the customer or by any successor, assign, survivor, executor or administrator unless the Utility's written consent to any such assignment is first obtained.

#### **5. Fees and Charges**

Upon acceptance by Bryan Communication Utility of the Customer or Subscriber's application for Cable TV and/or Internet service, the Customer or Subscriber shall pay to Bryan Communication Utility the applicable monthly service fee, all security deposits, any equipment lease fees or purchase costs, installation fees, connection fees, and any other fees or charges due Bryan Communication Utility. Any service, lease maintenance, purchase, installation, security deposits, and other charges for which the Customer or Subscriber is obligated shall be payable as required.

#### **6. Deposits**

A \$100 deposit will be collected from customers who have a past due balance with any City Utility Department, or who have a past history of non-payment with any City Department. Cases of financial hardship will be reviewed by the Communication Superintendent. Security deposits paid to Bryan Communication Utility by the Customer or Subscriber shall be retained by Bryan Communication Utility until termination of service.

#### **7. Equipment Return**

Whenever service is terminated, the Customer or Subscriber shall return any equipment, such as a Set Top Device, or Cable Internet Modem to Bryan Communication Utility's office. If the returned equipment is received by Bryan Communication Utility and is found to be in satisfactory working condition, and Customer or Subscriber has paid all service charges and any other applicable fees or charges, then there will be no further charges. If the returned equipment is received by Bryan Communication Utility and is not found to be in satisfactory working condition, or if said equipment has been opened, tampered with, defaced, or damaged (normal wear and tear excepted), then charges will be assessed toward the cost of its repair or replacement.

The Customer or Subscriber understands, notwithstanding any other provision contained in these rules and regulations to the contrary, that any equipment provided is and shall remain the property of Bryan Communication Utility, and must be returned to Bryan Communication Utility at any time service is terminated or discontinued. Failure to return equipment within fifteen (15) days after service is terminated or discontinued will result in a charge being assessed to Customer's or Subscriber's account. The Customer or Subscriber shall pay to cover the cost of any equipment not returned, as well as any other expense incurred by Bryan Communication Utility resulting from Customer's or Subscriber's failure to return same. Willful failure to return any equipment is also a crime punishable by law.

### **8. Turning On Cable TV or Internet Service**

a) Cable TV or Internet service will not be turned on until a contract for Cable TV or Internet service has been executed and then will be turned on only by a Bryan Municipal Utilities representative.

b) No person except an authorized representative of the Utility shall open the premise demarcation box.

c) Any violation of this rule will subject the offender to the penalty provided in the Bryan Municipal Code.

### **9. Payment of Bills**

a) All bills for Cable TV and Internet service shall be rendered monthly. Bills are payable on or before the date specified on the bill and if so paid, the Net Rates and Charges set forth in the Utility's attached Rate Exhibits shall apply. Failure to receive the bill will not entitle the Consumer to the Net Rates or to the remission of any charge for non-payment within the time specified.

b) For the convenience of the Property Owner or Tenant, the Utility will, at the Property Owner's request, bill the Tenant direct for the Cable TV or Internet service.

c) Neither the Utility or the Consumer shall have the right to challenge any monthly invoice or to back bill for amounts that should have been included in such invoice, or to bring any action before any court or administrative agency of any kind questioning or disputing any charge contained in any such invoice, after a period of one year from the date on which such service is rendered. In the case of an invoice based on estimates, neither the Utility nor the Consumer shall have the right to challenge the



accuracy of such invoice after a period of one year from the date on which the invoice was adjusted to reflect actual amounts due.

## **10. Discontinuance of Service**

a) Whenever a customer voluntarily desires to have Cable TV or Internet service discontinued, the customer shall notify the Utility of such desire and of the date on which service is to be discontinued. All equipment must be returned to the Utility office prior to the date of service to be discontinued.

b) There will be no abatement of charges in whole or in part by reason of the extended absence of the customer for any cause unless the Utility has been notified to turn off the Cable TV or Internet.

c) If the utility is notified, the monthly charges will be prorated to reflect actual days of service supplied.

## **11. Service Connections**

a) The Utility reserves the right to determine the placement of each service connection so that the premise demarcation box will, as a general rule, to be located near the electric meter.

b) The Utility will furnish the materials for and install the service connection.

c) The customer, at their own expense, may install or cause to be installed, the service line beyond the premise demarcation box. The Utility reserves the right to inspect each service run made by a contractor or an individual customer for proper installation and materials. However, the quality of materials and workmanship going into such service run shall be the customer's responsibility. Service may depend on proper installation.

d) All coax lines and appurtenances shall be of type and quality approved by the Utility.

e) The Utility can install or help to install wiring and appurtenances at cost specified in rate sheet.

f) In situation of multiple dwellings, any violation of the rules of the Utility by either or any of the occupants of the said premises shall be deemed a violation as to all, and the Utility may enforce compliance with these rules by shutting off the service to all. The innocent customer not in violation of

the Utility's rules has the opportunity to attach their cable, at their own expense, to a separate service.

g) The Customer or Subscriber, at their option, may choose to install the wiring furnished by Bryan Communication Utility within walls and/or attic spaces at their own expense; but in such instance, the Customer or Subscriber shall install such wiring to specifications and satisfaction of Bryan Communications Utility and the National Electrical Code.

## **12. Maintenance of Service and Premise Demarcation Boxes**

The service connection and its fixtures shall be maintained in good repair at the expense of the Utility.

## **13. Ownership of Equipment and Materials**

All equipment and materials, unless purchased from Bryan Communication Utility, or unless such property is incorporated in, becomes an integral part of, or is permanently attached to the Customer's or Subscriber's premises, shall remain the property of Bryan Communication Utility.

## **14. Warranties and Repairs**

Any equipment or service rendered to the Customer or Subscriber is subject to no warranties from Bryan Communication Utility, either expressed or implied. Customer or Subscriber agrees to pay Bryan Communication Utility for any repairs to its equipment and facilities at Bryan Communication Utility's applicable rates.

## **15. Responsibility for Bryan Cable TV and Internet Property**

The Customer or Subscriber agrees not to tamper with any of Bryan Communication Utility's wiring or equipment, to extend lines, or alter in any manner any Bryan Communication Utility property. The Customer or Subscriber also shall receive Bryan Communication Utility's Cable TV or Internet service with the understanding that he will adequately safeguard all Bryan Communication Utility properties upon the Customer's or Subscriber's premises from alteration and abuse by others, and that he will not hire or permit anyone other than authorized Bryan Communication Utility personnel to perform any work on Bryan Communication Utility's property, equipment, and facilities.

## **16. Right of Access to Premises**

The Customer or Subscriber, upon acceptance of application for Cable TV and/or Internet service by Bryan Communication Utility, grants permission for

Bryan Communication Utility, its agents, servants, and employees, to enter upon the property of the Customer or Subscriber for the purpose of installation, inspection, maintenance, testing, and repair of the cable service to the Customer's or Subscriber's premises, and upon service being cancelled for any reason, the Customer or Subscriber grants permission for Bryan Communication Utility, during reasonable hours, to enter upon the premises and remove all equipment and material belonging to Bryan Communication Utility, and to discontinue service thereto.

### 17. Denial or Discontinuance of Service for Cause

- a) ***Denial of Service:*** The Utility reserves the right to refuse an application for Cable TV or Internet service and shall make known to the applicant the reason for such refusal, including but not limited to:
  - 1) The applicant is indebted to the Utility for service rendered at any location;
  - 2) For non-returned equipment;
  - 3) For delinquent history with the Utility;
  - 4) The Utility deems installation, quality of service and/or maintenance not economically feasible at premises requested
  
- b) ***Discontinuance Without Notice:*** The Utility reserves the right to discontinue service without notice to any customer for the reason, including but not limited to:
  - 1) When an emergency exists;
  - 2) For use of Cable TV or Internet service unauthorized by the Utility;
  - 3) Upon order of any authority having jurisdiction of such matters;
  - 4) For any tampering or knowingly permitting any tampering with any service line, premise demarcation box, or any other appliance or equipment owned by the Utility.

Cable TV or Internet service discontinued for any of the foregoing reasons shall be renewed to a customer upon the correction of the condition causing the discontinuance.

- c) ***Discontinuance Notice:*** The Utility reserves the right to discontinue all Cable TV or Internet service to all or any part of the premises of a customer who has been given notice, either mailed to customer's address as shown on the records of the Utility or delivered personally to him or to persons on the premises, that their cable or Internet service will be

discontinued in whole or in part if any situation as listed below continues:

- 1) Delinquency in the customer's account with the Utility in connection with charges for Cable TV or Internet supplied, service maintenance, service installation or contractual payment for facilities;
- 2) Failure to provide a cash deposit guaranteeing the payment of Cable TV or Internet as may be requested by the Utility;
- 3) Failure to provide free and non-hazardous access to the premises and to the service, appliances and/or other Utility owned equipment so that representatives of the Utility may make all necessary inspections and maintain appliances and/or equipment;
- 4) Vacancy of premises;
- 5) Violation of any of these General Rules and Regulations or any amendments thereto.

Cable TV or Internet service discontinued for one of the foregoing reasons will be renewed by the Utility upon application when the conditions under which such service was discontinued have been corrected, when all charges to the customer have been paid, and when access to the premises may be had on the afternoon of the following business day during regular working hours. A charge commensurate with the cost of turning off and turning on the service may be made. If shutting off or renewing the service involves any excavating, construction or any extra work, the cost of such work shall be an additional charge against the customer.

d) Whenever the Utility has turned off Cable TV or Internet service the customer shall not turn it on nor shall the customer employ any person to turn such service on.

e) The discontinuance of any service shall not terminate a contract between the customer and the Utility nor shall it abrogate any minimum charge which may be effective. The remedies provided the Utility in these General Rules and Regulations shall not be exclusive and shall be in addition to any other remedies which the Utility has at law or in equity.

### **18. Resale of Cable TV or Internet Service**

The Cable TV or Internet service furnished under these rules is for the use of the customer on their own premises only. They shall not resell any service without written consent of the Utility.

### **19. Penalties for Unauthorized Service**

If unauthorized service is discovered by Bryan Communications Utility, the cost will be billed to the Customer or Subscriber for an estimate of Cable TV and Internet services delivered, including the cost of inspection, investigation, re-connection, and cost of repair to Bryan Communications Utility's facilities, all of which must be paid in full before service can be reestablished or restored.

### **20. Monthly Service Charges**

The Customer or Subscriber shall pay Bryan Communications Utility a one-time pro-rated monthly service charge from date of installation to the end of that billing cycle. Final bills will also be prorated.

Thereafter, the Customer or Subscriber shall pay Bryan Communications Utility the full monthly service charge applicable to the service rendered, which amount shall be due as shown on the bill from Bryan Communication Utility each month.

Monthly service charges shall be determined as per the exhibit of rates applicable to the services for which the Customer or Subscriber has applied and received, and is subject to change, pursuant to federal, state and local regulations.

### **21. Premium Service**

The new Customer or Subscriber may elect to receive premium service only after he has submitted an application for local service and premium service.

An existing local service Customer or Subscriber can elect to receive premium service by requesting such service, but in no instance will any Customer or Subscriber be permitted to receive premium service without Bryan Communication Utility's local service or if Customer or Subscriber has a past due account. An existing basic service Customer or Subscriber who elects to receive premium service will be charged for service monthly as provided in Exhibit A.

Some premium service programming cannot be provided to Customer or Subscriber who shall charge any fee for its viewing or in public places for viewing by mass audience.

## **22. Change of Occupancy or Ownership**

The Customer or Subscriber shall notify Bryan Communications Utility of any change of occupancy or ownership of Customer's or Subscriber's premises promptly upon its occurrence. Nothing in these rules and regulations shall be construed to give the Customer or Subscriber the right to sell or assign, or the successor tenant or occupant to acquire, any rights to use any of the equipment or service provided by Bryan Communications Utility.

## **23. Limitation of Bryan Communications Utility's Liability**

The Bryan Communications Utility, its agents, servants, or employees, shall not be held liable or responsible for any damage or injury to the property of the Customer or Subscriber occurring during installation or maintenance of facilities including, but not limited to, outlet, cable, connector, computer, etc., to provide and/or maintain service to Customer or Subscriber.

## **24. Disclaimer Regarding Programming Content or Changes**

The Customer or Subscriber shall not hold Bryan Communications Utility responsible nor liable for programming content, nor for any changes, additions, or deletions in its programming or time schedule associated therewith.

## **25. Scope**

A copy of the rates, rules and regulations under which Cable TV and Internet service will be supplied is open to inspection by the general public at the office of Bryan Communication Utility and on Bryan Communications Utility's website at [www.cityofbryan.net](http://www.cityofbryan.net). A hard copy of Bryan Communication Utility's rules and regulations and applicable rate schedule shall be furnished to each Customer or Subscriber without charge, upon request.

## **26. Communication Line Extension Policy**

All communication line extensions outside of the city limits of Bryan must be approved by the Board of Public Affairs.

***Availability of Cable TV and Internet Service:*** The City of Bryan will furnish Cable TV and Internet service to new locations, providing that the conditions and requirements set forth herein and City's General Rules and Regulations have been complied with.

***Other Conditions:*** Before service is established, each Property Owner involved shall furnish the City such executed right-of-way and/or bill of sale

agreement as City deems necessary.

### **27. Present Rules Supersede Any Prior Rules**

All Rules and Regulations heretofore promulgated by the Utility governing the services supplied by the Utility are superseded and replaced by the foregoing General Rules and Regulations and/or other Regulations referred to herein and thereby made a part hereof.

### **28. Amendments and Revisions**

The Board of Public Affairs of the City of Bryan, Ohio, reserves the right, by appropriate action, to modify, delete, change or otherwise revise these General Rules and Regulations as it may deem, from time to time, to be desirable and/or necessary.

### **29. Interruption or Discontinuance of Service Due to Use of Non-Bryan Communication Utility Facilities**

In order to provide service, Bryan Communication Utility shall occasionally make use of poles owned in whole or in part by other utilities, both power and telephone, the continued use of which is in no way guaranteed. In the event the continued use of such poles is denied for any reason, Bryan Communication Utility will make every reasonable effort to provide service over alternate routes and facilities. The Customer or Subscriber agrees that he will make no claims or undertake any action against any utility, including Bryan Communication Utility, if the service provided to the Customer or Subscriber is interrupted or discontinued for this reason.

### **30. Provision of Service**

Bryan Communication Utility shall make every reasonable effort to provide Cable TV and Internet service to every Customer or Subscriber who applies for such service in the shortest period of time practicable, and where Cable TV and Internet service is readily available. Bryan Communication Utility's Cable TV and Internet services will only be extended into areas where Bryan Communication Utility is duly authorized.

### **31. Outages and Interruptions**

Bryan Communication Utility shall make every reasonable effort to promptly restore Cable TV and Internet service to its Customers or Subscribers in the event of any outage or interruption. Bryan Communication Utility shall also make every reasonable effort to investigate Customer or Subscriber reports of poor Cable TV

reception, Internet service, etc., and to remedy same when found to be the fault of Bryan Communication Utility's system and/or equipment.

In the event Bryan Communication Utility dispatches any of its personnel to investigate any Customer or Subscriber complaint or outage, and the problem is determined to be caused by the Customer or Subscriber's television receiver or other Customer or Subscriber-owned facilities, the Customer or Subscriber may be charged the cost of time and transportation pursuant to rate schedule.

### **32. Reproduction of Programming**

Except for the personal use of the Customer or Subscriber, the Customer or Subscriber shall not record or tape any of the programming provided by Bryan Communication Utility, nor shall the Customer or Subscriber allow any other person to do so.

### **33. Severable Provisions**

In the event any portion of these rules and regulations should be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining portions hereof, which shall continue effective.

## **D. Bryan Municipal Communication Department Special Services Charges**

The charges set forth below are part of the consumer's regular Cable TV and Internet bill and are payable at the same time and if not paid, Cable TV service and Internet is subject to disconnection. The property owner is responsible for the payment of all bills and charges. A deposit does not relieve the property owner of responsibility for bill payment.

### Description of Service Furnished

- |    |  |       |
|----|--|-------|
| 1. | Service charge for initial establishment, reestablishment or reconnecting of Cable TV or Internet services at new or different locations. One fee charged for service at the time of initial connection of main line from the Utility. | \$ 25 |
| 2. | Service Charge: To reconnect Cable TV or Internet service disconnected for non-payment of bill or violation of General Rules and Regulations (Bill is to be paid prior to reconnecting).   | \$ 10 |
|    | Charge for holidays and non-working hours.   | \$ 50 |
| 3. | Cost of Analog Set Top Device if not returned.   | \$ 90 |



	Cost of Digital Set Top Device if not returned.	\$ 90
	Cost of HD Set Top Device if not returned	\$250
	Cost of DVR Set Top Device if not returned	\$350
4.	The utility will turn on and turn off service at customers request once a year at no cost.	
5.	BMU will wire up to 1 outlet at no charge for existing buildings that have no inside wiring.	
	Wiring of new services beyond the premise demarcation box, will be billed at \$40 for the first additional outlet.	\$ 40
	\$30 for each additional outlet and will be collected in advance.	\$ 30
	BMU will provide coaxial cable at no charge to contractors to place in new construction to BMU specifications.	
6.	Return of consumer's check by bank due to insufficient funds.	\$ 25
7.	To upgrade or downgrade optional services is no charge.	\$ 0
8.	Charges for services will be prorated based on dates of usage.	

## **II. Internet Access Services Rules and Regulations**

### **A. Schedule of Rules And Regulations For Residential, Commercial and MAN Services**

#### **1. Service Provided -**

Bryan Communication Utility will furnish and install facilities necessary to provide access to the Internet, through its interactive cable system, to a personal computer or network of computers of Customer or Subscriber equipped with a broadband network interface device. The Bryan Communication Utility assumes no responsibility for installation or assistance with regard to any software currently owned by Customer or Subscriber or purchased by Customer or Subscriber after installation of Internet services. Additionally, service may be temporarily refused, limited, interrupted, or curtailed due to government, regulations or orders, system capacity limitations, limitations imposed by an underlying communications carrier, or because equipment modifications, upgrades, repairs or re-allocations or other similar activities necessary or proper for the operation or improvement of Bryan Communication Utility's system. Service and equipment are furnished for use by Customer or Subscriber for any lawful purpose. Customer or Subscriber warrants that he/she is at least eighteen (18) years old.

#### **2. Installation and Access -**

The initial routing of the cables on Customer or Subscriber's premises necessary for the provision of Internet shall be in a location agreed to between the Bryan Communication Utility and Customer or Subscriber. Any relocation of the Internet cabling or facilities solely for the convenience or at the request of Customer or Subscriber shall be paid for by Customer or Subscriber.

The Customer or Subscriber agrees to furnish necessary right of way upon its premises for the installation of any facilities that may be required to provide Internet to Customer or Subscriber and to confer upon the Bryan Communication Utility the right to enter upon the premises after reasonable notice, for the purposes of installation, maintenance and repair of said facilities and equipment, and that upon termination of the agreement, to permit Bryan Communication Utility to enter the premises for the purpose of removing any additional facilities or lines that may have been required for the original installation.

#### **3. Termination -**

Services to Customer or Subscriber may be discontinued at any time by Bryan Communication Utility upon failure of Customer or Subscriber to pay any

charges due for these services, or, immediately, whenever, in the sole discretion and determination of Bryan Communication Utility, such discontinuance is in the best interest of other Bryan Communication Utility Customers or Subscribers, such as (but not by way of limitation) interference with the system of Bryan Communication Utility caused by the condition or operation of Customer or Subscriber's facilities or system.

Upon termination of services hereunder, for whatever reason, and by whomever, Customer or Subscriber shall promptly deliver back to Bryan Communication Utility any property leased, owned or rented by it from Bryan Communication Utility.

#### **4. Limitation of Bryan Communication Utility's Liability -**

(a) Customer or Subscriber understands that alternative and competing internet communications carriers are available to Customer or Subscriber; occasional interruption or irregularities in the service may occur; any potential harm from interruptions or irregularities in the service is speculative in nature; Bryan Communication Utility cannot offer the service at rates which reflect its value to each Customer or Subscriber; and Bryan Communication Utility assumes no responsibility other than that contained in these Rules and Regulations. Accordingly, Customer or Subscriber agrees that except as limited by law, Bryan Communication Utility's sole liability for loss or damage arising out of mistakes, omissions, interruptions, delays, errors, or defects in the service or transmission of service provided by Bryan Communication Utility or any underlying communications carrier, or for losses or damages arising out of the failure of Bryan Communication Utility or any underlying communications carrier to maintain proper standards of maintenance and operations shall be as follows:

(i) A credit allowance as described in subsection 4(a)(iii) below, will be made at Customer or Subscriber's request in the form of a pro-rata adjustment of the fixed monthly charges billed to Customer or Subscriber. Fixed monthly charges are the monthly charges for access and optional features per access account ID, all as described in the schedule of rates and charges in effect at the time of interruption.

(ii) Such credit allowance will be based upon the period of the time which such mistakes, omissions, delays, errors or defects in the service or its transmission caused interruptions in the rendering of the service. Any such period of time an interruption occurs will be measured from the time it is reported to Bryan Communication

Utility. In the event Customer or Subscriber is affected by such interruption for a period of less than 24 hours, no such adjustment shall be made. When an interruption exceeds 24 hours, the length of the interruption will be measured in 24 hour days. A fraction of a day consisting of less than 12 hours will not be credited, but a period of 12 hours or more will be considered an additional day.

(iii) The credit allowance will be computed by dividing the length of the service interruption by a standard 30 day month and then multiplying the result by Bryan Communication Utility's fixed monthly charges for each interrupted access account ID. In no case will the credit exceed the fixed monthly charges.

(iv) A credit allowance will not be given for mistakes, omissions, interruptions, delays, errors or defects, or curtailments in the service caused by the negligence or willful act of customers, subscribers, or other parties, or mistakes, omissions, interruptions, delays, errors, or defects caused by failure of equipment or service not provided by Bryan Communication Utility.

(v) The service furnished by Bryan Communication Utility, in addition to the limitations set forth preceding, is also subject to the following limitation: The liability of Bryan Communication Utility for loss or damages arising out of mistakes, omissions, interruptions, delays, errors, or defects in the service, its transmission or failures or defects in facilities of the underlying communications carrier, occurring in the course of furnishing service and not caused by the negligence of the authorized user, or the underlying communications carrier in failing to maintain proper standards of maintenance and operation and to exercise reasonable supervision, shall in no event exceed an amount equivalent to the proportionate fixed monthly charge to the authorized user for service during the period of time in which such mistakes, omissions, interruptions, delays, errors, or defects in service, its transmission, or failures or defects in facilities furnished by Bryan Communication Utility or the underlying communications carrier occurred.

(b) Bryan Communication Utility shall in no event be liable for service or equipment interruptions or delays in transmission, errors or defects in service or equipment, when caused by Acts of God, fire, war, riots, government authorities, default of supplier, or other causes beyond Bryan Communication Utility's or any underlying communications carrier's control.

(c) Customer or Subscriber acknowledges that internet systems use public access facilities to transmit voice and data communications and that the service may not be completely private. Bryan Communication Utility is not liable to Customer or Subscriber for any claims, loss, damages or cost which may result from lack of privacy on the system.

(d) Customer or Subscriber acknowledges that internet systems may carry material which may be considered abusive, profane or sexually offensive and that Bryan Communication Utility is not liable to Customer or Subscriber for any claims, loss, damages or cost which may result from such material.

(e) Customer or Subscriber agrees to indemnify and save Bryan Communication Utility harmless against claims for libel, slander, or infringement or copyright from the material in any form over its facilities by Customer or Subscriber or those using Customer or Subscriber's equipment; against claims for infringement of patents arising from combining or using apparatus or systems of Customer or Subscriber with the facilities of Bryan Communication Utility or any communications carrier; and against all other claims arising out of any act or omission of Customer or Subscriber in connection with the facilities or service provided by Bryan Communication Utility.

(f) Bryan Communications Utility will comply with the applicable provisions of Title II of the Digital Millennium Copyright Act, 17 U.S.C. Section 512. It is expected that all Subscribers or Customers of any part of the Bryan Communications Utility Internet system or network will comply with applicable copyright laws. However, if Bryan Communications Utility is notified of claimed copyright infringement, or otherwise becomes aware of facts and circumstances from which infringement is apparent, it will respond expeditiously by removing, or disabling access to, the material that is claimed to be infringing or to be the subject of infringing activity. Bryan Communications Utility may also take further action as provided for in subsection (g) hereto.

(g) Under the appropriate circumstances, Bryan Communications Utility may, in its discretion, terminate authorization of Subscribers or Customers of its Internet system or network who are repeat copyright infringers.

(h) It is the policy of Bryan Communications Utility to accommodate and not interfere with standard technical measures it determines are reasonable under the circumstances, *i.e.*, technical measures that are used

by copyright owners to identify or protect copyrighted works.

**5. Disclaimer of Warranties and Limitation of Remedies -**

- (a) Customer or Subscriber acknowledges and agrees that Bryan Communication Utility is not the manufacturer of equipment and internet package software, and Bryan Communication Utility disclaims all representations and warranties, direct or indirect, express or implied, written or oral, in connection with the equipment or service or internet package software (whether purchased or leased by Customer or Subscriber from Bryan Communication Utility or another), including but not limited to any and all express and implied warranties of suitability, durability, merchantability, and fitness for a particular purpose. Bryan Communication Utility, to the extent permitted by law, assigns to Customer or Subscriber any and all manufacturers' warranties relating to equipment or internet package software purchased by Customer or Subscriber, and Customer or Subscriber acknowledges receipt of any and all such manufacturers' warranties.
  
- (b) Customer or Subscriber acknowledges and agrees that its 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 Bryan Communication Utility shall have no liability to Customer or Subscriber 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 above, Bryan Communication Utility shall have no liability or obligation to Customer or Subscriber, in either contract or tort, for special, incidental, or consequential damages of any kind incurred by Customer or Subscriber, 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 or Subscriber directly or indirectly resulting from or related to any equipment or 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 Subscriber or leased by Customer or Subscriber from Bryan Communication Utility or another Lessor.

## **6. Indemnification and Release -**

Customer or Subscriber agrees to release, defend, indemnify and hold harmless Bryan Communication Utility, its officers, Board members, 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 these Rules and Regulations, including, without limitation, claims for personal injury or wrongful death to Customer or Subscriber or users of the equipment, products or services provided by Bryan Communication Utility or sued in conjunction with such equipment, products or services provided by Bryan Communication Utility 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 Bryan Communication Utility, its Board members, agents or employees.

## **7. Operating Rules -**

Customer or Subscriber agrees not to publish on or over the internet content which violates or infringes upon the rights of any other. If Bryan Communication Utility is challenged by any third party regarding the suitability of Customer or Subscriber's content, Bryan Communication Utility may at Bryan Communication Utility's sole discretion delete Customer or Subscriber's content from the internet service. Customer or Subscriber agrees not to send unsolicited electronic mail to Bryan Communication Utility's customers or subscribers without Bryan Communication Utility's explicit written permission for each instance of communication. Customer or Subscriber agrees to accept electronic mail communications from the Bryan Communication Utility from time to time in the interest of providing timely information about the services provided by Bryan Communication Utility. Customer or Subscriber shall have the right to not have their electronic mail address published on the Bryan Communication Utility's website, but shall not have the right to be excluded from the occasional electronic mail communications from Bryan Communication Utility relative to the status of its services or other information deemed by Bryan Communication Utility to be vital to residents of Bryan.

## **8. Fees and Charges -**

The Customer or Subscriber shall pay Bryan Communication Utility the full monthly service charge applicable to the service rendered, which amount shall be due as shown on the bill from Bryan Communication Utility each month.

Monthly service charges shall be determined as per the schedule of rates applicable to the services for which the Customer or Subscriber has applied and received, and is subject to change with notice by Bryan Communications Utility to the Customer or Subscriber pursuant to federal, state and local regulations.

Neither the Utility or the Consumer shall have the right to challenge any monthly invoice or to back bill for amounts that should have been included in such invoice, or to bring any action before any court or administrative agency of any kind questioning or disputing any charge contained in any such invoice, after a period of one year from the date on which such service is rendered. In the case of an invoice based on estimates, neither the Utility nor the Consumer shall have the right to challenge the accuracy of such invoice after a period of one year from the date on which the invoice was adjusted to reflect actual amounts due.

**9. Severable Provisions -**

If any part of these Rules and Regulations are contrary to or prohibited by or deemed invalid under applicable laws and regulations of any applicable jurisdiction, the remaining provisions and parts thereof shall remain and be construed in full force and effect to the extent permitted by law.