

NextG Networks of NY, Inc.  
1759 South Main Street, Suite 128  
Milpitas, CA 95035

NY PSC No. 1 – Telephone

Original Title Page

Tariff Schedule  
Applicable to  
INTRASTATE TELECOMMUNICATIONS SERVICES  
of  
**NEXTG NETWORKS OF NY, INC.**

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Issued: **April 4, 2003**

*Issued By:*  
**Robert L. Delsman**  
*Tariff Manager*

Effective: **April 4, 2003**

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**CHECK SHEET**

The Title Sheet and Sheets 1 through 29 inclusive of this tariff are effective as of the date shown at the bottom of the respective sheet(s).

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**PRELIMINARY STATEMENT**

This tariff contains all effective rates and rules together with information relating, and applicable to NextG Networks of NY, Inc. (“NextG” or “Company”).

The Company has been authorized by the New York Public Service Commission (“NYPSC”) to provide competitive intrastate telecommunications services throughout the State of New York.

The rates and rules contained herein are subject to change pursuant to the rules and regulations of the NYPSC.

**EXPLANATION OF SYMBOLS**

- (C) To signify **changed** listing, rule or condition which may affect rates or charges.
- (D) To signify **deleted or discontinued** rate, regulation or condition.
- (I) To signify a change resulting in an **increase** to a Customer’s bill.
- (L) To signify that material has been **relocated to** another tariff location.
- (N) To signify a **new** rate, regulation, condition or sheet.
- (R) To signify a change resulting in a **reduction** to a Customer’s bill.
- (T) To signify a change in **text** but no change to rate or charge.

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**SERVICE AREA MAP**

The Company's service is available statewide. The obligation of the Company to provide service is dependent upon its ability to procure, construct, and maintain facilities that are required to meet the Customer's Service Order.

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### **APPLICABILITY**

This tariff sets forth the service offerings, rates, terms, and conditions applicable to the furnishing of intrastate communications services by the Company within the State of New York.

This tariff applies only for the use of the Company's services for communications between points within the State of New York; this includes the use of the Company's network to complete an end to end intrastate communication.

### **AVAILABILITY OF THE COMPANY'S TARIFF**

Complete copies of the Company's advice letters and current tariff are maintained at the Company's business offices located at:

NextG Networks of NY, Inc.  
2033 Gateway Place, Suite 500  
San Jose, CA 95110

This tariff is also available for public inspection at the New York Public Service Commission.

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**1.0 RATES AND CHARGES**

**Schedule 1: RF Transport Services**

1. Application of rates

RF Transport Services rates apply to service furnished to business customers. RF Transport Services are not available to residential customers.

2. RF Transport Service

(A) General service offerings and limitations

RF Transport Services utilize optical technology, including multi-wavelength optical technology over dedicated transport facilities to provide Customers with links to radiate RF coverage.

RF Transport Services connect Customer-provided wireless capacity equipment to Customer-provided or Company provided bi-directional RF-to-optical conversion equipment at a hub facility. The hub facility can be Customer or Company provided. The conversion equipment allows the Company to accept RF traffic from the Customer and then send bi-directional traffic transmission across the appropriate optical networks. At the remote end, Customer or Company provided RF-to-optical conversion equipment allows bi-directional conversion between optical signals and RF signals. RF signals can be received and radiated at this remote node. Hence the Company provides optical transit services for RF signals.

The furnishing of RF Transport Services requires certain physical arrangements of equipment and facilities of the Company and other entities and is subject to the availability of such equipment and facilities and the economic feasibility of providing such necessary equipment and facilities and the RF Transport Services.

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**1.0 RATES AND CHARGES**

**Schedule 1: RF Transport Services (continued)**

2. RF Transport Services (continued)

(A) General service offerings and limitations (continued)

The specific limitations applicable to RF Transport Services are as follows:

- All optical services are provided on single mode optical fiber.
- Some optical services may be of a multi-wavelength nature.
- Current wireless standards limit the distance between a hub site and a remote node to 20km.
- The optical loss between a hub site and a remote node must not exceed 18 dB.

(B) Recurring and nonrecurring charges

The monthly recurring rates and nonrecurring charges for RF Transport Services are as follows:

Description	Fee per Segment
Nonrecurring connection charge	\$100,000
Monthly recurring charge	\$15,000

For purposes of this Tariff, Segment shall mean a one-way optical carrier between one (1) Customer hub site or remote node and another Customer hub site or remote node. The optical carrier is a single optical wavelength. The optical fiber can carry more than one wavelength.

(C) Minimum Term

The minimum service term for RF Transport Service is five (5) years.

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**1.0 RATES AND CHARGES**

**Schedule 2: Residential Exchange Service**

The Company does not offer Residential Exchange Service at this time. Prior to initiating such service, the Company will revise this tariff according to the NY PSC's procedures to include rates for such service.

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## **1.0 RATES AND CHARGES**

### **Schedule 3: Business Exchange Service**

The Company does not offer Business Exchange Service at this time. Prior to initiating such service, the Company will revise this tariff according to the NYPSC's procedures to include rates for such service.

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*Issued By:*  
**Robert L. Delsman**  
*Tariff Manager*

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**1.0 RATES AND CHARGES**

**Schedule 4: Universal Lifeline Telephone Service (ULTS)**

The Company does not offer Residential Exchange Service at this time. Prior to initiating such service, the Company will revise this tariff according to the NYPSC's procedures to include the terms under which Universal Lifeline Telephone Service (ULTS) would be made available.

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## **1.0 RATES AND CHARGES**

### **Schedule 5: Directory Services**

The Company does not offer Business or Residential Exchange Service at this time. Prior to initiating either of such services, the Company will revise this tariff according to the NY PSC's procedures to include the terms under which Directory Services would be made available.

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**1.0 RATES AND CHARGES**

**Schedule 6: Taxes and Surcharges**

Appropriate federal, state, local and municipal taxes and surcharges will be charged on Services and are in addition to the rates for Service set forth in this tariff unless otherwise stated.

Customers shall pay all sales, use, gross receipts, excise, access, bypass, or other local, state and Federal taxes, charges, or surcharges, however designated, imposed on or based upon the provision, sale or use of the services (excluding taxes on the Company's net income). Such taxes shall be separately stated on the applicable invoice.

When a municipal corporation or other political subdivision of the state collects from the Company a license tax, privilege tax, street use tax, franchise fee, permit fee, or any tax, exaction, or fee measured by poles, guys, wires, conduits, manholes, telephones, other units of plant, income or activities as a public service corporation, such taxes, exactions and fees shall, insofar as practicable, be billed *pro rata* to the exchange Customers receiving service within the territorial limits of the municipal corporation or political subdivision.

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**2.0 DEFINITIONS**

Channel:

A communications path between two or more points of termination.

Commission:

New York Public Service Commission

Company:

NextG Networks of NY, Inc.

Customer:

The person, firm, corporation or other entity that orders or uses service and is responsible for payment of charges and compliance with tariff regulation.

Customer Designated Premises:

The premises specified by the Customer for origination or termination of services.

Dedicated Access:

Non-switched access between a Customer's premises and the point of presence of the Company's underlying carrier.

Facilities

Any cable, poles, conduit, carrier equipment, wire center distribution frames, central office switching equipment, etc., used to provide services offered under this tariff.

Holidays:

The Company observes the following Holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, Christmas Day.

Premises:

A building or buildings on contiguous property, not separated by a public highway or right-of-way.

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Transmission Path:

An electrical path capable of transmitting signals within the range of the service offering. A transmission path is comprised of physical or derived facilities consisting of any form or configuration of plant used in the telecommunications industry.

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SECTION 3 – GENERAL RULES AND REGULATIONS

3.1 — Undertaking of Company

The Company's services are furnished for telecommunications services originating and/or terminating in any area within the State of New York.

The Company is a facilities-based and resale provider of telecommunications to Customers for the direct transmission and reception of voice, data, and other types of communications. Services are offered via the Company's facilities (whether owned, leased, or under contract) in combination with resold services provided by other certificated carriers. The Company is responsible under this tariff only for the services and facilities the Company provides hereunder.

Subject to availability, the Customer may use account codes to identify the users or user groups on an account. The numerical composition of the codes shall be set by Company to assure compatibility with the Company's accounting and billing systems and to avoid the duplication of codes.

The Company's services are provided on a monthly basis unless otherwise provided, and are available twenty-four (24) hours per day, seven (7) days per week, subject to the availability of necessary service, equipment and facilities and the economic feasibility of providing such necessary service, equipment, and facilities.

3.2 — Application for Service

Service may be initiated only based on a written agreement between the Company and the Customer. To initiate a service request, the Customer must provide the following information: the Customer's name; an address to which the Company shall provide service; and a billing address (if different). The service application does not itself bind either the Customer to subscribe to the service or the Company to provide the service.

Request for service under this Tariff will authorize the Company to conduct a credit search on the Customer. The Company reserves the right to refuse service on the basis of credit history, and to refuse further service due to late payment or nonpayment by the Customer. Potential customers who are denied service must be given the reason for the denial in writing within 10 days of service denial.

3.3 — Contract or Agreements

Rates for ICB arrangements will be developed on a case-by-case basis in response to a bona fide request from a customer or prospective customer for services which vary from tariffed arrangements. Rates quoted in response to such requests may be different for tariffed services than those specified for such services. ICB rates will be offered to customers in writing and will be made available to similarly situated customers. A summary of each ICB contract pricing arrangement offered pursuant to this paragraph

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will be filed as an addendum to this tariff within 30 days after the contract is signed by both the Company and the customer. The following information will be included in the summary:

- 1) Service description.
- 2) Rates and charges.
- 3) Quantity.
- 4) Length of the agreement.

#### 3.4— Deposits

The Company may, at its sole discretion, require a deposit or usage prepayment as a condition to receiving service or additional service. The Company reserves the right to review an applicant's or a Customer's credit history at any time to determine if a deposit is required.

In the event the Customer fails to establish a satisfactory credit history, deposits are a form of security that may be required from Customers to ensure payment of bills.

Deposits shall be no greater than twice the estimated average monthly bill for the class of service applied for.

Deposits will be refunded with interest within 30 days after discontinuance of service or after 12 months of service, whichever comes first. Interest will accrue on the amount deposited. The interest rate to be applied shall be a composite yield of intermediate term, A-rated corporate bonds, as reported in financial publications, less costs of administering deposits of 1.75% per year. The rate will be updated effective January 1<sup>st</sup> each year and the NY PSC will issue an advisory letter announcing the interest rate. The Company will credit such interest to each depositor by paying such interest in cash or deducting it from the amount of a bill for service.

#### 3.5 — Notices

Notices provided to the Customer by the Company shall be as follows:

##### A. Rate Information

- (1) Rate information and information regarding the terms and conditions of service will be provided upon request by a current or potential Customer. Notice of major increases in rates will be provided in writing to Customers and postmarked at least 30 days prior to the effective date of the change. No Customer notice is required for minor rate increases or for rate decreases. Customers will be advised of optional service plans in writing

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as they become available. In addition, Customers shall be advised of changes to the terms and conditions of service no later than the Company's next periodic billing cycle.

- (2) When Company provides information to a Customer that is in conflict with its tariffs, the Customer shall have the right to bring a complaint against the Company.

B. Discontinuance of Service Notice

- (1) Notice by Customers

Customers are responsible for notifying the Company of their desire to discontinue service on or before the date of disconnection. Such notice must be in writing.

- (2) Notice by Company

Notices to discontinue service for nonpayment of bills will be provided in writing by first class mail to the Customer not less than 7 calendar days prior to termination. Each notice will include all of the following information:

1. The name and address of the Customer whose account is delinquent.
2. The amount that is delinquent.
3. The date when payment or arrangements for payment are required in order to avoid termination.
4. The procedure the Customer may use to initiate a complaint or to request an investigation concerning service or charges.
5. The telephone number of a representative of the Company, who can provide additional information or institute arrangements for payment.

C. Change in Ownership or Identity Notice

Company shall notify Customers in writing of a change in ownership or identity of the Customer's service provider on the Customers' next monthly billing cycle.

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D. Rules for Company Notices

Notices the Company sends to Customers, or the Commission, will be a legible size and printed in a minimum point size type of 10 and are deemed made on date of presentation.

3.6 — Rendering and Payment of Bills

- (a) Charges for service are applied on a recurring basis. Service is provided and billed on a monthly (30 day) basis. Months are presumed to have 30 days. The billing date is dependent on the billing cycle assigned to the Subscriber. Service continues to be provided for the minimum service term.
- (b) The Customer is responsible for the payment of all charges for services furnished to the Customer. Charges are billed monthly in advance. The Company is not responsible for any telephone charges that may be incurred by the Customer in gaining access to the Company's network.
- (c) Billing is payable upon receipt and past due thirty (30) days after issuance and posting of invoice. Bills not paid within thirty-one (31) days after the date of posting are subject to a 1.5 percent late payment charge for the unpaid balance, or the maximum allowable under state law. The late payment date will be prominently displayed on the Customer's bill. Company shall endeavor to credit payments within 24 hours of receipt to avoid assessing late payment charges incorrectly.
- (d) The name(s) of the Customer(s) desiring to use service must be set forth in the application for service.

3.7 — Disputed Bills

Billing disputes should be addressed to Company's customer service organization via telephone to \_\_\_\_\_. Customer service representatives are available from 8:30 AM to 5:59 PM Eastern Time. Messages may be left for Customer Services from 6:00 PM to 8:29 AM Eastern Time, which will be answered on the next business day, except in the event of an emergency which threatens customer service, in which case Customer Service Staff may be paged.

In case of a billing dispute between the Customer and the Company as to the correct amount of a bill that cannot be adjusted with mutual satisfaction, the Customer can make the following arrangement:

Prior to suspension or termination of service by the Company, the Customer may request, either orally or in writing, that the Company investigate and review the disputed amount. The Company will comply with such request. The undisputed portion of the bill must be paid by the due date shown on the bill or the service will be subject to

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suspension/termination if the Company has notified the Customer by written notice of such delinquency and impending suspension/termination. Company will also advise the Customer in writing of the Commission's formal and informal complaint procedures and that, if there is still disagreement after the investigation and review by the Company and the Company's written findings to the Customer, the Customer may appeal to the Commission within 10 days of the date the Company mailed its findings to the Customer.

The Company will not suspend/terminate the Customer's service for nonpayment as long as the Customer complies with the procedures of this section.

In order to avoid suspension of service and late payment charges, the disputed amount must be paid within fourteen (14) calendar days after the date the Company notifies the Customer that the investigation and review are completed and that such payment must be made or service will be interrupted. However, the Company will not suspend service prior to the payment due date as shown on the bill.

A customer may dispute charges and seek a credit for bills paid to the Company within two years of billing, commencing five (5) days after remittance of the bill.

### 3.8 — Cancellation of Service by Company

(a) The Company may discontinue service under the following circumstances:

1. Nonpayment of any sum due to the Company for service more than 30 days beyond the date of the invoice for such service. In the event the Company terminates service for nonpayment, the Customer may be liable for all reasonable court costs and attorneys fees as determined by the NYPSC or by the Court; or
2. In the event of a condition determined to be hazardous to the Customer, to other Customers of the utility, to the utilities equipment, the public or to employees of the utility; or
3. By reason of any order or decision of a court or any other governmental authority which prohibits the Company from furnishing such service; or
4. If the Company deems such refusal necessary to protect itself or third parties against fraud or to otherwise protect its personnel, agents, facilities or services without notice; or
5. For unlawful use of the service or use of the service for unlawful purposes; or
6. Failure to post a required deposit or guarantee; or

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7. A violation of, or failure to comply with, any regulation or condition governing the furnishing of service; or
  8. If the Customer provides false information to the Company regarding the Customer's identity, address, creditworthiness, or past, current or planned use of Company's services.
- (b) The Company will provide the following notice of disconnection:
1. Written notice of the pending disconnection will be rendered not less than 7 days prior to the disconnection. Notice shall be deemed given upon deposit, first class postage prepaid, in the U.S. Mail to the Customer's last known address.
  2. Service may be discontinued during business hours on or after the date specified in the notice of discontinuance. Service will not initially be discontinued on any Saturday, Sunday, legal holiday, or any other day Company service representatives are not available to serve Customers.
- (c) Restoration of service

The Customer may restore service by full payment in any reasonable manner including by personal check. However, the Company may refuse to accept a personal check if a Customer's check for payment of service has been dishonored, excepting bank error, within the last twelve months. There is a \$35.00 charge for restoration of service after disconnection; if, however, the equipment necessary for service has been removed, the non-recurring fee will apply.

### 3.9 — Cancellation of Service By Customer

Customer may cancel service by providing written notice to Company thirty (30) days prior to cancellation. However, Customer may not cancel service prior to expiration of the initial five (5) year term

Customer is responsible for charges while still connected to the Company's service and the payment of associated local exchange company charges, if any, for service charges.

Any non-recoverable cost of Company expenditures shall be borne by the Customer if:

- A. The Customer orders service requiring special facilities dedicated to the Customer's use and then cancels the order before such service begins, before completion of the minimum period or before completion of some period mutually agreed with the Customer for the non-recoverable portions of expenditures; or
- B. Liabilities are incurred expressly on behalf of the Customer by Company and not fully reimbursed by installation and monthly charges; and

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- C. Based on an order for service and construction has either begun or has been completed, but no service provided.

3.10 — Special Information Required on Forms

A. Customer Bills

The Company shall be identified on each bill. Each bill will prominently display a toll-free number for service or billing inquiries, along with an address where the Customer may write. If the Company uses a billing agent, it will also include the name of the billing agent it uses. Each bill for telephone service will contain notations concerning the following areas:

- (1) When to pay your bill;
- (2) Billing detail including the period of service covered by the bill;
- (3) Late payment charge and when applied;
- (4) How to pay your bill;
- (5) Questions about your bill;
- (6) Network access for interstate calling;
- (7) In addition to the above, each bill shall include the following statement:

‘This bill is now due and payable; it becomes subject to a late payment charge if not paid within 30 calendar days of presentation date. Should you question this bill, please request an explanation from NextG Networks of NY, Inc.

Company will also advise the Customer in writing of the Commission’s formal and informal complaint procedures and that, if there is still disagreement after the investigation and review by the Company and the Company’s written findings to the Customer, the Customer may appeal to the Commission within 10 days of the date the Company mailed its findings to the Customer.

B. Deposit Receipts

The Company shall provide the Applicant or Customer with a Deposit Receipt for any deposit received. The receipt shall show the Customer’s name, service address, type of service, amount of deposit, rate of interest on deposit, date received, Company’s name, and a statement of the conditions under which the

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deposit will be refunded. The Company will refund the Customer's deposit even if the Customer has lost the receipt.

3.11 — Credit Establishment

Each applicant for service shall provide credit information satisfactory to the Company or pay a deposit. Deposits may be avoided if the applicant:

- A. Provides credit history acceptable to the Company. Credit information contained in the applicant's account record may include, but shall not be limited to, account established date, 'can-be-reached' number, billing name, and location of current and previous service.
- B. A cosigner or guarantor may be used providing the cosigner or guarantor has acceptable credit history with the serving Company or another acceptable local carrier.
- C. Company cannot refuse a deposit to establish credit for service. However, it may request the deposit to be in cash or other acceptable form of payment (e.g., cashier's check, money order, bond, letter of credit).

3.12 — Prorating of Bills

Any prorated bill shall use a 30-day month to calculate the pro-rata amount. Prorating shall apply only to recurring charges. All nonrecurring and usage charges incurred during the billing period shall be billed in addition to prorated amounts.

3.13 — Change of Service Provider

Prior to initiation of Residential or Business Exchange Service, the Company shall revise this tariff according to the NYPSC's procedures to include (a) the terms under which solicitations of Customers to initiate, terminate or transfer service may be made, and (b) remedies for unauthorized service terminations or transfers ("slamming").

3.14 — Blocking Access to 900 and 976 Information Services

Prior to initiation of Residential or Business Exchange Service, the Company shall revise this tariff according to the NYPSC's procedures to include the terms under which the Customer can block access to 900 and 976 pay-per call telephone information services.

3.15 — Information to Be Provided to the Public

A copy of this tariff schedule will be available for public inspection in the Company's business office during regular business hours.

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Copies of the Company's tariff schedules are available to the public at nominal costs to recover photocopying, postage and/or transmission expenses.

3.16 — Continuity of Service

In the event of prior knowledge of an interruption of service for a period exceeding one day, the Customers will, if feasible, be notified in writing, by mail, at least one week in advance.

3.17 — Use of Service

Service may not be used for any unlawful purpose or for any purpose for which any payment or other compensation is received by the Customer, except when the Customer is a duly authorized and regulated common carrier. This provision does not prohibit an arrangement between the Customer, authorized user or joint user to share the cost of service.

The Company strictly prohibits use of the Company's services without payment or an avoidance of payment by the Customer by fraudulent means or devices including providing falsified calling card numbers or invalid calling card numbers to the Company, providing falsified or invalid credit card numbers to the Company or in any way misrepresenting the identity of the Customer.

3.18 — Limitations of Service

Service is offered subject to the availability of the necessary facilities and/or equipment and subject to the provisions of this tariff. Company reserves the right not to provide service to or from a location where the necessary facilities or equipment are not available.

Company reserves the right to discontinue furnishing the service upon its written notice, when necessitated by conditions beyond its control or when Customer is using the service in violation of the provisions of this tariff, or in violation of the law, pursuant to Section 19 of this tariff.

Title to all facilities provided by Company under these regulations remains in Company's name.

3.19 — Interconnection

Service furnished by Company may be interconnected with services or facilities of other authorized communications common carriers and with private systems, subject to the technical limitations established by Company. Any special interface of equipment or facilities necessary to achieve compatibility between the facilities of Company and other participating carriers shall be provided at the Customer's expense.

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Interconnection between the facilities or services of other carriers shall be under the applicable terms and conditions of the other carriers' tariffs. The Customer is responsible for taking all necessary legal steps for interconnecting Customer-provided terminal equipment or communications equipment with Company's facilities. The Customer shall secure all licenses, permits, rights-of-way and other such arrangements necessary for interconnection.

### 3.20 — Liability of the Company

- A. The provisions of this rule do not apply to errors and omissions caused by willful misconduct, fraudulent conduct or violations of law.
- B. In the event an error or omission is caused by the gross negligence of the Company, the liability of the Company shall be limited to and in no event exceed the sum of \$10,000.
- C. The liability of the Company for damages arising out of mistakes, omissions, interruptions, delays, or errors, or defects in any of the services or facilities furnished by the Company up to and including its Local Loop Demarcation Point, including exchange, toll, private line, supplemental equipment, alphabetical directory listings (excluding the use of bold face type) and all other services, shall in no event exceed an amount equal to the pro rata charges to the Customer for the period during which the services or facilities are affected by the mistake, omission, interruption, delay, error or defect, provided, however, that where any mistake, omission, interruption, delay, error or defect in any one service or facility affects or diminishes the value of any other service said liability shall include such diminution, but in no event shall the liability exceed the total amount of the charges to the Customer for all services or facilities for the period affected by the mistake, omission, interruption, delay, error or defect.
- D. Prior to initiation of Directory Services, the Company shall revise this tariff according to the NYPSC's procedures to include the limits of its liability relating to errors or omissions in telephone numbers and directories.
- E. Errors in Transmitting, Receiving or Delivering Oral Messages by Telephone

The Company shall not be liable for errors in transmitting, receiving or delivering oral messages by telephone over the lines of the Company and connecting utilities.

### 3.21 — Measurement of Service

Charges for service are without regard to mileage.

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3.22 — Responsibilities of the Customer

- (a) The Customer is responsible for: placing any necessary service orders; complying with tariff terms and conditions; for assuring that users comply with tariff regulations; and for payment of charges for calls originated from the Customer's telephone lines.
- (b) The Customer is responsible for arranging access to its premises at times mutually agreeable to Company and the Customer when required for installation, repair, maintenance, inspection or removal of equipment associated with the provision of Company services.
- (c) The Customer is responsible for maintaining its terminal equipment and facilities in good operating condition. The Customer is liable for any loss, including loss through theft, of any Company equipment installed at the Customer's premises.

3.23 — Special Construction

Special construction charges apply where the Company furnishes a facility or service for which a rate or charge is not specified in the Company's tariffs. Charges will be based on the costs incurred by the Company (including return) and may include:

- 1. non-recurring charges;
- 2. recurring charges;
- 3. termination liabilities; or
- 4. combinations of the above.

3.24 — Demarcation Points

Services shall be provided to mutually agreeable points of demarcation.

3.25 — Force Majeure

The Company will not be liable for any failure of performance due to causes beyond its control, including but not limited to cable dig-up by third party, acts of God, civil disorders, actions of governmental authorities, actions of civil or military authority, labor problems, national emergency, insurrection, riots, war, fire, flood, and atmospheric conditions or other phenomena of nature, such as radiation. In addition, the Company will not be liable for any failure of performance due to necessary network reconfiguration, system modifications for technical upgrades, or actions taken by any court or government agency having jurisdiction over the Company..

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3.26 — Disclaimer of Warranties

THE COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN.

NextG Networks of NY, Inc.  
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Milpitas, CA 95035

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#### **4.0 PROMOTIONS**

##### 4.1 Promotional Offerings – General

Reserved for future use.

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## **5.0 INDIVIDUAL CASE BASIS ARRANGEMENTS**

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