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October 15, 1999

Writer's Direct Contact  
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mtobey@mof.com

***By Overnight Delivery***

William Talbott  
Executive Director  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

ORIGINAL  
991618-TI

Re: Notification of Transfer of Control of Econophone Services, Inc. to  
Viatel, Inc. and Request for Name Change

Dear Mr. Talbott:

By this letter, Viatel, Inc. ("Viatel") and Econophone Services, Inc. ("Econophone") hereby notify the Commission of a transaction pursuant to which Viatel will acquire control of Econophone, an authorized reseller of interexchange telecommunications services in Florida. In addition, the applicants request that the Commission amend Interexchange Telecommunications ("IXC") Certificate No. 4726 Certificate to reflect Econophone's new corporate name: Destia Communications Services, Inc. ("DCS").<sup>1</sup>

As described more fully below, the transfer of control will be accomplished through a transaction pursuant to which Viatel will acquire all of the outstanding capital stock of Destia Communications, Inc. ("Destia"), the parent of Econophone, through a merger of Viatel Acquisition Corp., a Delaware corporation and a wholly-owned subsidiary of Viatel ("Viatel Acquisition"), with and into Destia. Thereafter, Econophone will become an indirect, wholly-owned subsidiary of Viatel.

Following the merger, Econophone will continue to provide service to its current Florida customers under existing service arrangements pursuant to its IXC Certificate and tariff, as amended to reflect Econophone's name change, such that the transfer of

<sup>1</sup> For ease of reference, this entity will be referred to herein as Econophone.

# MORRISON & FOERSTER LLP

Mr. William Talbott  
October 15, 1999  
Page Two

control will be virtually transparent to Econophone's Florida customers. A revised tariff, reflecting the name change, is attached.<sup>2</sup>

## DESCRIPTION OF THE COMPANIES

Econophone, a Delaware corporation, is a wholly-owned operating subsidiary of Destia. Its headquarters are located at 95 Route 17 South, Paramus, New Jersey, 07652. Econophone is authorized by this Commission to resell interexchange telecommunications services in the State of Florida, pursuant to IXC Certificate No. 4726.<sup>3</sup> Econophone also provides resold interstate and intrastate interexchange services in 47 other states and the District of Columbia. In addition, Econophone has an application pending in the State of New York to provide facilities-based competitive local exchange and interexchange services.

Destia is a Delaware corporation publicly traded on the Nasdaq National Market under the stock symbol "DEST." Destia is a facilities-based provider of domestic and international telecommunications services in North America and Europe. Destia's extensive international telecommunications network allows it to provide services in many of the largest metropolitan markets in the United States, Canada, the United Kingdom, Belgium, France, Germany and Switzerland. Destia currently offers a broad array of telecommunications services primarily to retail customers, including international and domestic long distance, calling card and prepaid card services and Internet access.

Viatel is a Delaware corporation, publicly traded on the Nasdaq National Market under the stock symbol "VYTL." Viatel's headquarters are located at 685 Third Avenue, 24th Floor, New York, New York 10017. Viatel is a rapidly growing international communications company providing high quality, competitively priced, long distance communication and data services to end-users, carriers and resellers. Viatel currently operates one of Europe's largest pan-European networks, with points of presence in 45 cities. Currently, Viatel is constructing the Circe Network, a series of interconnected state-of-the-art, high quality, high capacity, self-healing fiber optic rings utilizing the synchronous digital hierarchy standard for digital transmission, which will connect major cities in six Western European countries. The Federal Communications Commission, pursuant to Section 214 of the Communications Act of 1934, has approved

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<sup>2</sup> In addition to the name change, the revised tariff also amends the rounding provision.

<sup>3</sup> *In re: Request for Assignment Of and Name Change on Interexchange Telecommunications Certificate No. 4726 from Econophone, Inc. to Econophone Services, Inc.*, Order No. PSC-98-1261-FOF-TI, Docket No. 980910-TI (issued Sept. 22, 1998).

## MORRISON & FOERSTER LLP

Mr. William Talbott  
October 15, 1999  
Page Three

authorizations for Viatel to provide facilities-based and resale services to all permissible international points. In the United States, Viatel is authorized to resell intrastate long distance communication and data services only in New York, but currently does not offer such services in that state.

### DESCRIPTION OF THE TRANSACTION

On August 27, 1999, Viatel, Viatel Acquisition and Destia executed an Agreement and Plan of Merger (the "Merger Agreement"). The transaction is structured as a merger of Viatel Acquisition, a wholly-owned subsidiary of Viatel created specifically for the purposes of consummating the transaction with and into Destia, with Destia as the surviving entity. By virtue of the merger, Econophone will become an indirect, wholly-owned subsidiary of Viatel. The charts attached hereto as Exhibit 1 illustrate the U.S. corporate structure of Destia and Viatel prior to the merger and the U.S. corporate structure of Viatel immediately following completion of the merger.

As consideration for the transaction, Viatel will exchange 0.445 share of its common stock for each Destia share. Viatel and Destia plan to consummate the transaction in early December 1999, subject to regulatory approvals and other customary conditions.

Although the merger will result in a change of the ultimate corporate parent of Econophone, it will not result in a change in the manner in which Econophone provides service to its Florida customers. Econophone will continue to provide seamless service to existing Florida customers pursuant to its IXC Certificate and tariff, with no change in the terms or conditions of service as a direct result of the merger. Viatel and Econophone expect that the substantial managerial, technical and financial expertise of their combined management and operational personnel will assure that this transaction will not in any way disrupt service or cause inconvenience or confusion to Econophone's Florida customers.

### PUBLIC INTEREST STATEMENT

Viatel and Destia are among the most entrepreneurial, competitive, innovative and growth-oriented companies in the telecommunications industry. Consummation of the proposed transaction will serve the public interest by combining the financial resources and complementary operating, technical and managerial strengths and experience of both companies. The Applicants anticipate that the proposed transaction will result in a more efficient company better equipped to accelerate its growth as a competitive telecommunications service provider. Thus, the transfer of control will enable Econophone to strengthen its competitive position in Florida, which will inure to the benefit of consumers through improved service. The transfer will ensure the

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Mr. William Talbott  
October 15, 1999  
Page Four

continued provision of high quality, affordable telecommunications services to Econophone's existing customers and should promote competition in the Florida telecommunications service market by offering consumers a cost effective, high quality competitive alternative to the most powerful players in the telecommunications market.

**REQUEST FOR NAME CHANGE**

Econophone also asks that the Commission amend IXC Certificate No. 4726 to reflect a change in its corporate name from Econophone Services, Inc. to Destia Communications Services, Inc. Econophone believes that this name change is consistent with its marketing objectives and strategies and will facilitate the promotion of its identity as a global telecommunications services provider. Although the name change has not yet been processed by the Commission, it has been registered with the Florida Department of State. A copy of the amended Secretary of State certificate and DCS's Certificate of Good Standing are attached hereto as Exhibit 2.

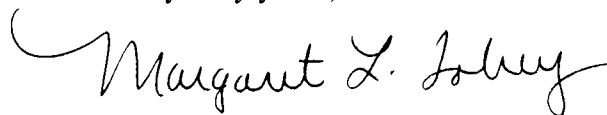
The proposed name change will have no material effect on Econophone's day-to-day operations in Florida. Econophone has been advising its customers of the name change, and over the next several months, the Econophone name will be phased out in the United States. The terms and conditions of services currently offered by Econophone to its customers will not be affected by the name change. In short, the name change will have no adverse impact upon Econophone's customers in Florida.

**CONCLUSION**

The merger will ensure the continued provision of high quality, affordable telecommunications services to Econophone's existing customers and should promote competition in the Florida telecommunications service market by offering consumers a cost effective, high quality competitive alternative to the most powerful players in the telecommunications market.

Enclosed are six copies of this letter for filing. Please stamp the return copy and return it in the enclosed prepaid, self-addressed envelope. If you have any questions regarding the transaction or this notification, please contact the undersigned.

Very truly yours,



Margaret L. Tobey  
Counsel to Viatel, Inc.

Enclosures

**MORRISON & FOERSTER** LLP

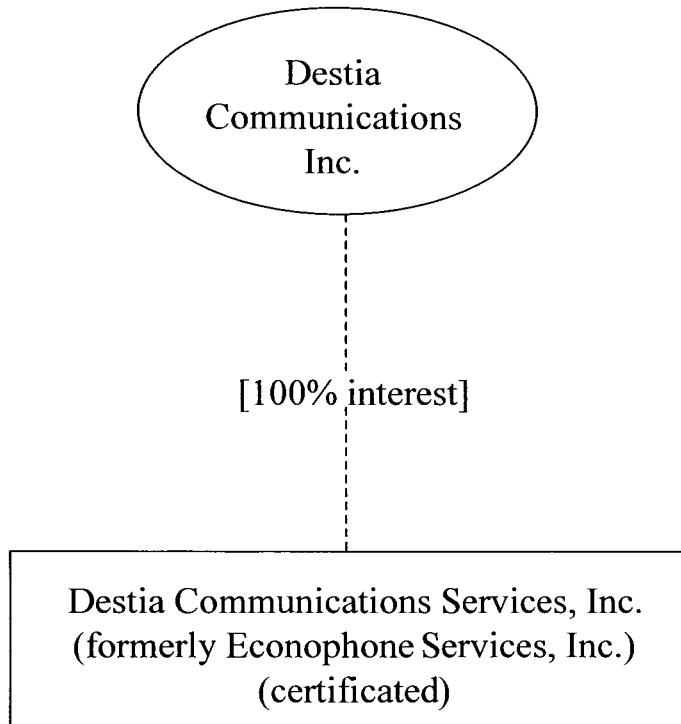
Mr. William Talbott  
October 15, 1999  
Page Five

cc: Danny E. Adams, Esq. (Kelley Drye & Warren, LLP) (Counsel to Viatel, Inc.)  
Dana Frix, Esq. (Swidler Berlin Shereff Friedman, LLP) (Counsel to Destia  
Communications, Inc.)  
James P. Prenetta, Esq. (Viatel, Inc.)

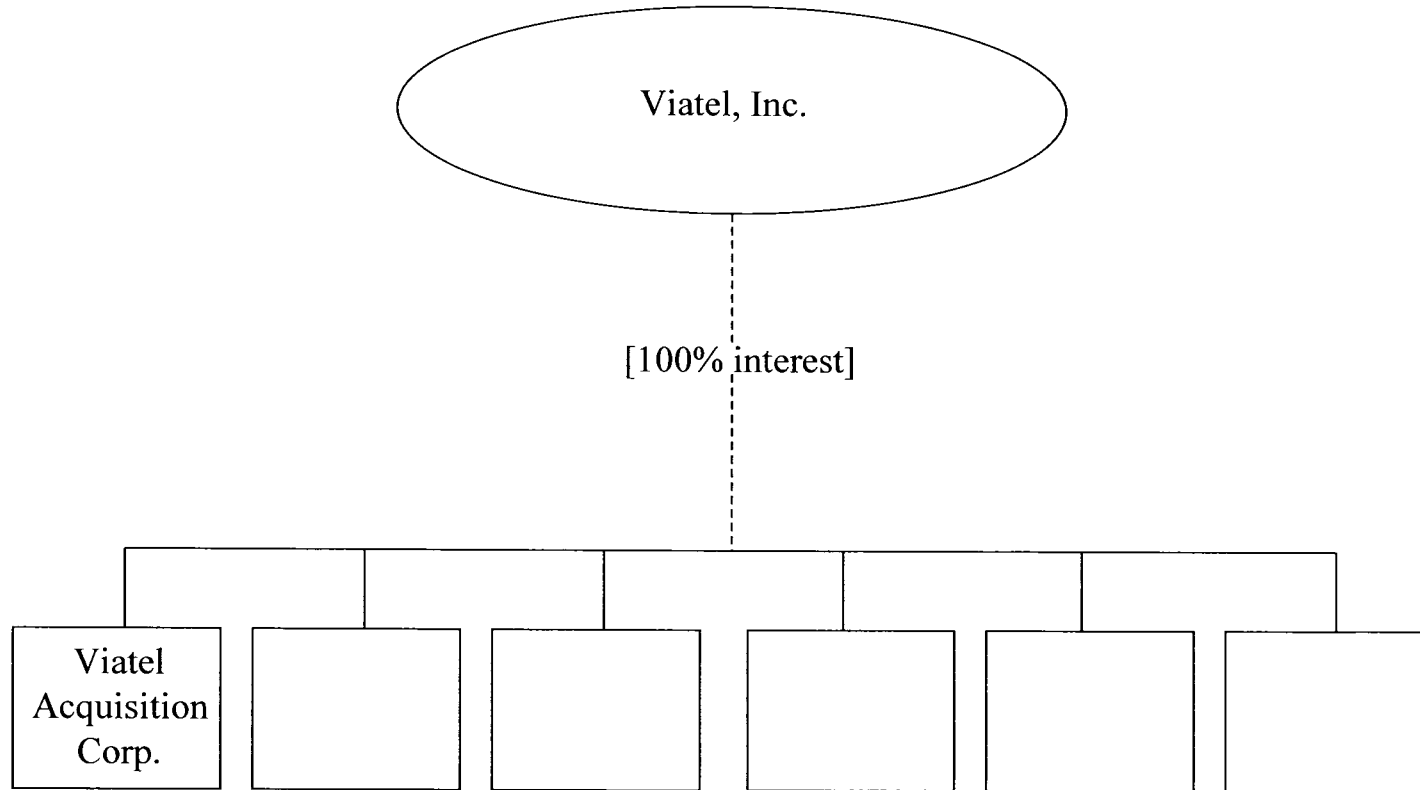
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**EXHIBIT 1**

**Destia Corporate Structure  
Before Merger**



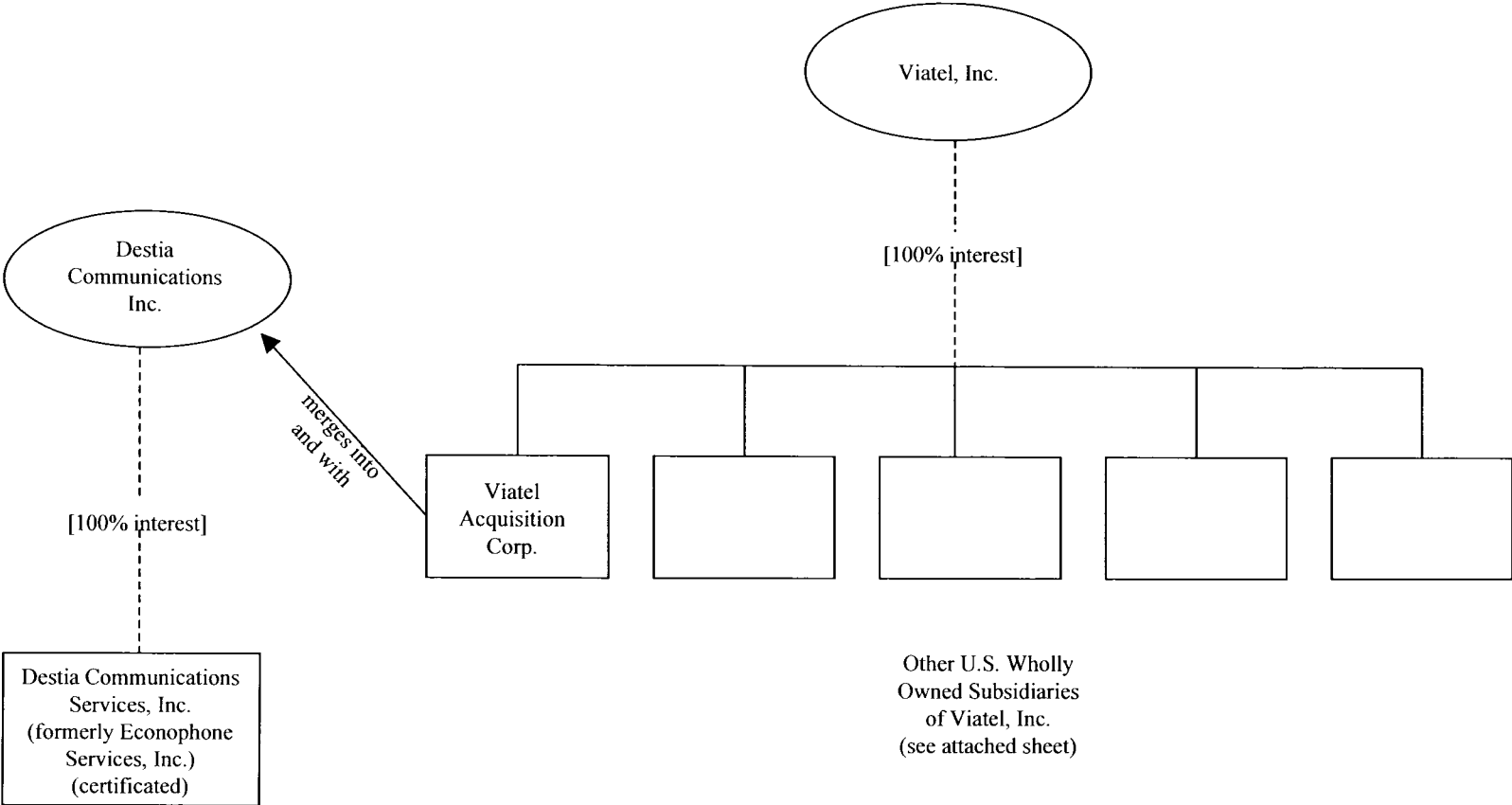
**Viatal Corporate Structure  
Before Merger**



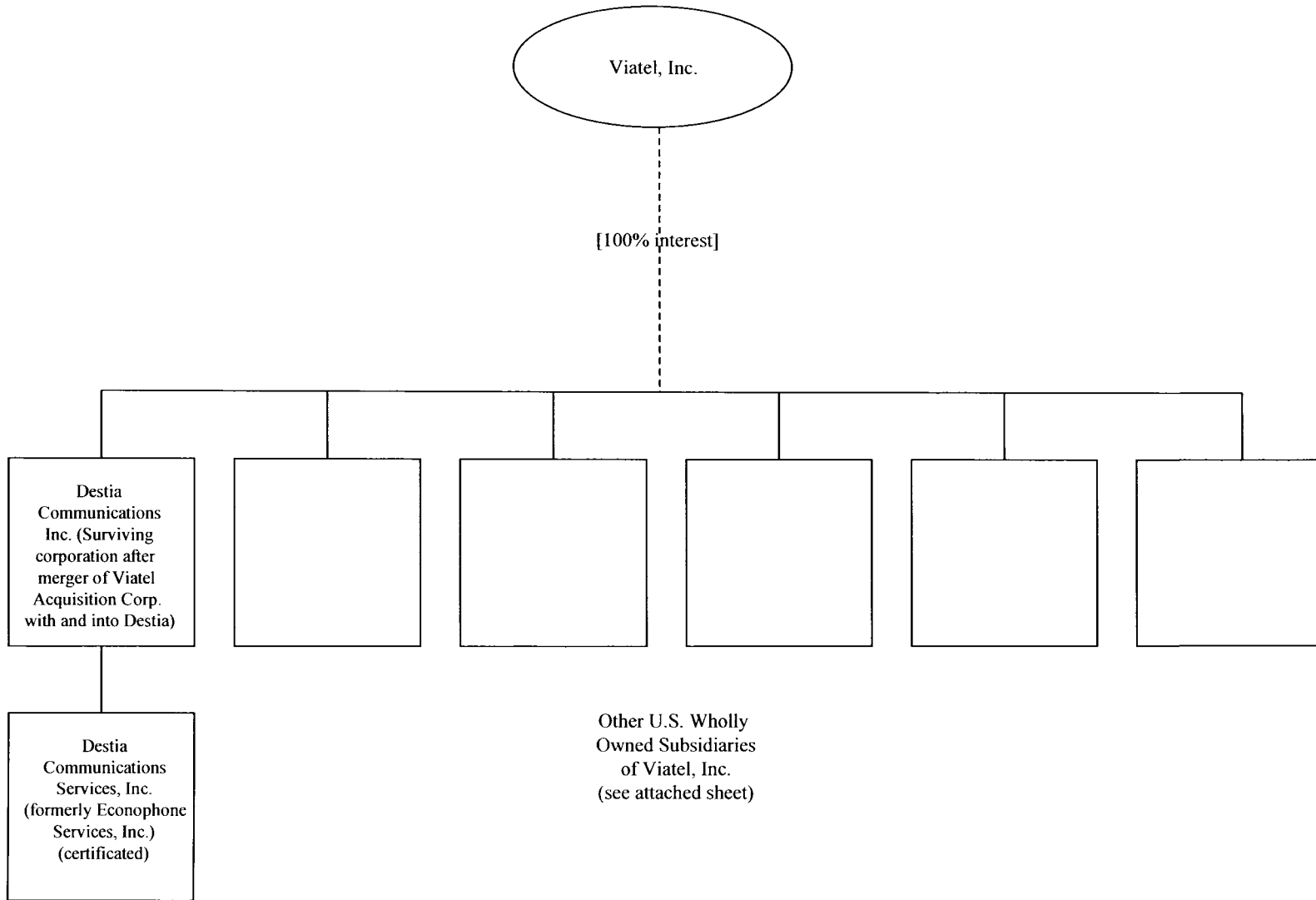
Other U.S.  
Wholly Owned  
Subsidiaries of  
Viatal, Inc.  
(see attached sheet)



# Effectuation of Merger



# Viatel Corporate Structure After Merger



**Wholly Owned Subsidiaries of Viatel, Inc. (U.S.)**

Viatel Argentina Holdings, Inc.  
Viatel Argentina Management, Inc.  
Viatel Brazil Holdings, Inc.  
Viatel Brazil Management, Inc.  
Viatel Circe Cable System, Limited  
Viatel Colombia Holdings, Inc.  
Viatel Colombia Management, Inc.  
Viatel Development Company  
Viatel Finance Company, L.L.C.  
Viatel Finland, Inc.  
Viatel Global Communications, Ltd.  
Viatel Nebraska, Inc.  
Viatel New Jersey, Inc.  
Viatel Sales U.S.A., Inc.  
Viatel Sweden, Inc.  
Viatel Virginia, Inc.  
YYC Communications, Inc.

# **EXHIBIT 2**



FLORIDA DEPARTMENT OF STATE  
Katherine Harris  
Secretary of State

June 22, 1999

TERESA MAGEE  
CORPORATION GUARANTEE AND TRUST COMPANY  
117 SOUTH 17TH STREET  
PHILADELPHIA, PA 19103-5090

Re: Document Number F98000002251

The Amendment to the Application of a Foreign Corporation for ECONOPHONE SERVICES INC. which changed its name to DESTIA COMMUNICATIONS SERVICES, INC., a Delaware corporation authorized to transact business in Florida, was filed on June 21, 1999.

The certification you requested is enclosed.

Should you have any questions regarding this matter, please telephone (850) 487-6050, the Amendment Filing Section.

Thelma Lewis  
Corporate Specialist Supervisor  
Division of Corporations

Letter Number: 099A00033207

# State of Florida



## Department of State

I certify from the records of this office that DESTIA COMMUNICATIONS SERVICES, INC. is a Delaware corporation authorized to transact business in the State of Florida, qualified on April 20, 1998.

The document number of this corporation is F98000002251.

I further certify that said corporation has paid all fees due this office through December 31, 1998, and is delinquent in filing its 1999 annual report, as required by law.

I further certify that said corporation has not filed a Certificate of Withdrawal.

Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capitol, this the  
Twenty-second day of June, 1999



CR2EO22 (1-99)

*Katherine Harris*

Katherine Harris  
Secretary of State

**PROFIT CORPORATION**  
**APPLICATION BY FOREIGN PROFIT CORPORATION TO FILE AMENDMENT TO**  
**APPLICATION FOR AUTHORIZATION TO TRANSACT BUSINESS IN FLORIDA**  
(Pursuant to s. 607.1504, F.S.)

**SECTION I**  
**(1-3 MUST BE COMPLETED)**

**FILED**  
**99 JUN 21 AM 11:00**  
**SECRETARY OF STATE**  
**TALLAHASSEE, FLORIDA**

1. ECONOPHONE SERVICES INC.  
Name of corporation as it appears on the records of the Department of State.
2. Delaware Incorporated under laws of
3. April 20, 1998 Date authorized to do business in Florida

**SECTION II**  
**(4-7 COMPLETE ONLY THE APPLICABLE CHANGES)**

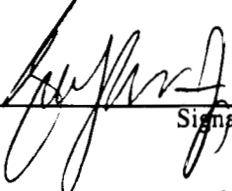
4. If the amendment changes the name of the corporation, when was the change effected under the laws of its jurisdiction of incorporation? March 3, 1999
5. DESTIA COMMUNICATIONS SERVICES, INC.  
Name of corporation after the amendment, adding suffix "corporation" "company" or "incorporated," or appropriate abbreviation, if not contained in new name of the corporation.

6. If the amendment changes the period of duration, indicate new period of duration.

\_\_\_\_\_  
New Duration

7. If the amendment changes the jurisdiction of incorporation, indicate new jurisdiction.

\_\_\_\_\_  
New Jurisdiction

  
Signature

RICHARD SHORTEN  
Typed or printed name

5-6-99  
Date

SR. VICE PRESIDENT &  
Title

GENERAL COUNSEL

# State of Florida



## Department of State

I certify from the records of this office that DESTIA COMMUNICATIONS SERVICES, INC., is a corporation organized under the laws of Delaware, authorized to transact business in the State of Florida, qualified on April 20, 1998.

The document number of this corporation is F98000002251.

I further certify that said corporation has paid all fees due this office through December 31, 1999, that its most recent annual report was filed on August 26, 1999, and its status is active.

I further certify that said corporation has not filed a Certificate of Withdrawal.

Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capitol, this the  
Fourteenth day of September, 1999



CR2EO22 (1-99)

*Katherine Harris*

Katherine Harris  
Secretary of State



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TITLE SHEET

FLORIDA TELECOMMUNICATIONS TARIFF

ORIGINAL

This tariff contains the descriptions, regulations, and rates applicable to the furnishing of service or facilities for Telecommunications services furnished by Destia Communications Services, Inc. ("Destia"), with principal offices at 95 Route 17 South, Suite 102, Paramus, NJ 07652. This tariff applies for services furnished within the State of Florida. This tariff is on file with the Florida Public service Commission, and copies may be inspected, during normal business hours, at the company's principal place of business. (T) (T) (T)

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Issued: October 18, 1999

Effective: \_\_\_\_\_

By:

Tariff Administrator  
95 Route 17 South, Suite 102  
Paramus, New Jersey 07652

(T)  
(T)

CONCURRING, CONNECTING OR  
OTHER PARTICIPATING CARRIERS AND  
BILLING AGENTS

1. Concurring Carriers - None
2. Connecting Carriers - None
3. Other Participating Carriers - None
4. Billing Agents - None

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Issued: October 18, 1999

Effective: \_\_\_\_\_

By:

Tariff Administrator  
95 Route 17 South, Suite 102  
Paramus, New Jersey 07652

(T)  
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CHECK SHEET

Sheets 1 through 32 inclusive of this tariff are effective as of the date shown at the bottom of the respective sheet(s). original and revised sheets as named below comprise all changes from the original tariff and are currently in effect as of the date on the bottom of this sheet.

<u>SHEET</u>	<u>REVISION</u>
1	First
2	First
3	First
4	First
5	First
6	First
7	First
8	First
9	First
10	First
11	First
12	First
13	First
14	First
15	First
16	First
17	First
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23	First
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26	First
27	First
28	First
29	First
30	First
31	First
32	First

\* New or Revised Sheet

Issued: October 18, 1999

Effective: \_\_\_\_\_

By:

Tariff Administrator  
95 Route 17 South, Suite 102  
Paramus, New Jersey 07652

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**TABLE OF CONTENTS**

	<u>Page</u>
Title Sheet . . . . .	1
Concurring, Connecting or Other Participating Carriers and Billing Agents . . . . .	2
Check Sheet . . . . .	3
Table of Contents . . . . .	4
Alphabetical Index . . . . .	5
Tariff Format . . . . .	6
Symbols . . . . .	7
Section 1 - Technical Terms and Abbreviations . . . . .	8
Section 2 - Rules and Regulations . . . . .	10
2.1 Undertaking of the Company . . . . .	10
2.2 Use of Services . . . . .	11
2.3 Liability of the Company . . . . .	12
2.4 Responsibilities of the Customer . . . . .	14
2.5 Cancellation or Interruption of Service . . . . .	16
2.6 Credit Allowance . . . . .	17
2.7 Restoration of Service . . . . .	19
2.8 Deposit . . . . .	19
2.9 Advance Payments . . . . .	19
2.10 Payment and Billing . . . . .	19
2.11 Collection Costs . . . . .	20
2.12 Taxes . . . . .	20
2.13 Late Charge . . . . .	21
2.14 Returned Check Charge . . . . .	21
2.15 Location of Service . . . . .	21
Section 3 - Description of Service . . . . .	22
3.1 Computation of Charges . . . . .	22
3.2 Customer Complaints and/or Billing Disputes . . . . .	23
3.3 Level of Service . . . . .	24
3.4 Billing Entity Conditions . . . . .	24
3.5 Service Offerings . . . . .	25
Section 4 - Rates . . . . .	30
4.1 1+ Dialing . . . . .	30
4.2 Travel Cards . . . . .	30
4.3 800 Service . . . . .	30
4.4 Prepaid Calling Cards . . . . .	30
4.5 Rate Periods . . . . .	30
4.6 Directory Assistance . . . . .	31
4.7 Returned Check Charge . . . . .	31
4.8 Special Rates . . . . .	32

Issued: October 18, 1999

Effective: \_\_\_\_\_

By:

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ALPHABETICAL INDEX

	<u>PAGE</u>	<u>SECTION</u>
Applicability	10	2.1
Cancellation or Interruption of Service	16	2.5
Computation of Charges	22	3.1
Check Sheets	3	-
Directory Assistance	28	3.5.5
Explanation of Symbols	7	-
Rate Periods	31	4.5
<u>Rates</u>	30	4
1+ Dialing	30	4.1
Travel Card	30	4.2
800 Service	30	4.3
Prepaid Calling Card	30	4.4
Directory Assistance	31	4.6
Rules and Regulations	10	2
<u>Service Offerings</u>	25	3.5
1 + Dialing	25	3.5.1
Travel Card	25	3.5.2
800 Service	25	3.5.3
Prepaid Calling Card	26	3.5.4
Directory Assistance	28	3.5.5
Special Rates for Handicapped and Hearing Impaired Persons	32	4.8
Table of Contents	4	-
Technical Terms and Abbreviations	8	1

Issued: October 18, 1999

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Paramus, New Jersey 07652(T)  
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**TARIFF FORMAT**

A. Sheet Numbering: Sheet numbers appear in the upper right corner of the page. Sheets are numbered sequentially. However, new sheets are occasionally added to the tariff. When a new sheet is added between sheets already in effect, a decimal is added. For example, a new sheet added between pages 11 and 12 would be page 11.1.

B. Sheet Revision Numbers: Revision numbers also appear in the upper right corner of each sheet where applicable. These numbers are used to indicate the most current page version on file with the Commission. For example, 4th Revised Sheet 13 cancels 3rd Revised Sheet 13. Consult the Check Sheet for the sheets currently in effect.

C. Paragraph Numbering Sequence: There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:

- 2.
- 2.1
- 2.1.1
- 2.1.1.A
- 2.1.1.A.1
- 2.1.1.A.1.(a)
- 2.1.1.A.1.(a).I
- 2.1.1.A.1.(a).I.(i)
- 2.1.1.A.1.(a).I.(i).(1)

D. Check Sheets: When a tariff filing is made with the Commission, an updated Check Sheet accompanies the tariff filing. The Check Sheet lists the sheets contained in the tariff, with a cross reference to the current Revision Number. When new sheets are added, the Check Sheet is changed to reflect the revision. All revisions made in a given filing are designated by an asterisk (\*). There will be no other symbols used on this sheet if these are the only changes made to it (i.e., the format, etc. remains the same, just revised revision levels on some sheets). The tariff user should refer to the latest Check Sheet to find out if a particular sheet is the most current on Commission file

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Paramus, New Jersey 07652

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SYMBOLS

The following are the only symbols used for the purposes indicated below:

- D - Delete or Discontinue
- I - Change Resulting In An  
Increase to A Customer's Bill
- M - Moved from Another Tariff Location
- N - New
- R - Change Resulting In A  
Reduction to A Customer's Bill
- T - Change in Text or Regulation  
But No Change In Rate or Charge

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Issued: October 18, 1999

Effective: \_\_\_\_\_

By:

Tariff Administrator  
95 Route 17 South, Suite 102  
Paramus, New Jersey 07652

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**SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS**

Access Line - An arrangement from a local exchange telephone company or other common carrier, using either dedicated or switched access, which connects a Customer's location to Destia's location or switching center.

(T)

Authorization Code - A numerical code, one or more of which may be assigned to a Customer, to enable Destia to identify the origin of the Customer so it may rate and bill the call. Automatic number identification (ANI) is used as the authorization code wherever possible.

(T)

Commission - Used throughout this tariff to mean the Florida Public Service Commission.

Customer - The person, firm, corporation or other legal entity which orders the services of Destia or purchases a Destia Prepaid Calling Card and/or originates prepaid calls using such cards, and is responsible for the payment of charges and for compliance with the Company's tariff regulations.

(T)

Company or Destia - Used throughout this tariff to mean Destia Communications Services, Inc., a Delaware corporation.

(T)

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Holiday - New Year's Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Holidays shall billed at the evening rate from 8 a.m. to 11 p.m. After 11 p.m., the lower night rate shall go into effect.

Prepaid Account - An inventory of Telecom Units purchased in advance by the Customer, and associated with one and only one Authorization Code as contained in a specific Prepaid Calling Card.

Prepaid Calling Card - A card issued by the Company, containing an Authorization Code which identifies a specific Prepaid Account of Telecom Units, which enables calls to be processed, account activity to be logged, and balances to be maintained, on a prepayment basis.

Issued: October 18, 1999

Effective: \_\_\_\_\_

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Paramus, New Jersey 07652

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Telecom Unit - A measurement of telecommunications service equivalent to one minute of usage between any two points within the State of Florida.

Telecommunications - The transmission of voice communications or, subject to the transmission capabilities of the services, the transmission of data, facsimile, signaling, metering, or other similar communications.

Underlying Carrier - The telecommunications carrier whose network facilities provide the technical capability and capacity necessary for the transmission and reception of Customer telecommunications traffic.

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(T)  
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**SECTION 2 - RULES AND REGULATIONS****2.1 Undertaking of the Company**

This tariff contains the regulations and rates applicable to intrastate resale telecommunications services provided by Destia for telecommunications between points within the State of Florida. Resale services are furnished subject to the availability of facilities and subject to the terms and conditions of this tariff in compliance with limitations set forth in the Commission' rules. The Company's services are provided on a statewide basis and are not intended to be limited geographically. The Company offers service to all those who desire to purchase service from the Company consistent with all of the provisions of this tariff. Customers interested in the Company's services shall file a service application with the Company which fully identifies the Customer, the services requested and other information requested by the Company. The Company may act as the Customer's agent for ordering access connection facilities provided by other carriers or entities when authorized by the Customer, to allow connection of a Customer's location to a service provided by the Company. The Customer shall be responsible for all charges due for such service arrangement. The Company does not own any switching, transmission or other physical facilities in Florida. (T)

2.1.1 The services provided by Destia are not part of a joint undertaking with any other entity providing telecommunications channels, facilities, or services, but may involve the resale of the Message Toll Services (MTS) and Wide Area Telecommunications Services (WATS) of underlying common carriers subject to the jurisdiction of this Commission. (T)

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- 2.1.2 The rates and regulations contained in this tariff apply only to the resale services furnished by Destia and do not apply, unless otherwise specified, to the lines, facilities, or services provided by a local exchange telephone company or other common carriers for use in accessing the services of Destia. (T)
- 2.1.3 The Company reserves the right to limit the length of communications, to discontinue furnishing services, or limit the use of service necessitated by conditions beyond its control, including, without limitation: lack of satellite or other transmission medium capacity; the revision, alteration or repricing of the Underlying Carrier's tariffed offerings; or when the use of service becomes or is in violation of the law or the provisions of this tariff. (T)

## **2.2 Use of Services**

- 2.2.1 Destia's services may be used for any lawful purpose consistent with the transmission and switching parameters of the telecommunications facilities utilized in the provision of services, subject to any limitations set forth in this Section 2.2. (T)
- 2.2.2 The use of Destia's services to make calls which might reasonably be expected to frighten, abuse, torment, or harass another or in such a way as to unreasonably interfere with use by others is prohibited. (T)
- 2.2.3 The use of Destia's services without payment for service or attempting to avoid payment for service by fraudulent means or devices, schemes, false or invalid numbers, or false calling or credit cards is prohibited. (T)
- 2.2.4 Destia's services are available for use twenty-four hours per day, seven days per week. (T)

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95 Route 17 South, Suite 102  
Paramus, New Jersey 07652

(T)

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- 2.2.5 Destia does not transmit messages, but the services may be used for that purpose. (T)
  - 2.2.6 Destia's services may be denied for nonpayment of charges or for other violations of this tariff. (T)
  - 2.2.7 Customers shall not use the service provided under this tariff for any unlawful purpose.
  - 2.2.8 The Customer is responsible for notifying the Company immediately of any unauthorized use of services.

**2.3 Liability of the Company**

- 2.3.1 The Company shall not be liable for any claim, loss, expense or damage for any interruption, delay, error, omission, or defect in any service, facility or transmission provided under this tariff, if caused by the Underlying Carrier, an act of God, fire, war, civil disturbance, act of government, or due to any other causes beyond the Company's control.
- 2.3.2 The Company shall not be liable for, and shall be fully indemnified and held harmless by the Customer against any claim, loss, expense, or damage for defamation, libel, slander, invasion, infringement of copyright or patent, unauthorized use of any trademark, trade name or service mark, proprietary or creative right, or any other injury to any person, property or entity arising out of the material, data or information transmitted.
- 2.3.3 No agent or employee of any other carrier or entity shall be deemed to be an agent or employee of the Company.

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Issued: October 18, 1999

Effective: \_\_\_\_\_

By:

Tariff Administrator  
95 Route 17 South, Suite 102  
Paramus, New Jersey 07652

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- 2.3.4 The Company's liability for damages, resulting in whole or in part from or arising in connection with the furnishing of service under this tariff, including but not limited to mistakes, omissions, interruptions, delays, errors, or other defects or misrepresentations shall not exceed an amount equal to the charges provided for under this tariff for the long distance call for the period during which the call was affected. No other liability in any event shall attach to the Company.
- 2.3.5 The Company shall not be liable for and shall be indemnified and saved harmless by any Customer or by any other entity from any and all loss, claims, demands, suits, or other action or any liability whatsoever, whether suffered, made, instituted, or asserted by any Customer or any other entity for any personal injury to, or death of, any person or persons, and for any loss, damage, defacement or destruction of the premises of any Customer or any other entity or any other property whether owned or controlled by the Customer or others.
- 2.3.6 The Company shall not be liable for any indirect, special, incidental, or consequential damages under this tariff including, but not limited to, loss of revenue or profits, for any reason whatsoever, including the breakdown of facilities associated with the service, or for any mistakes, omissions, delays, errors, or defects in transmission occurring during the course of furnishing service.
- 2.3.7 The remedies set forth herein are exclusive and in lieu of all other warranties and remedies, whether express, implied, or statutory, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

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Effective: \_\_\_\_\_

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**2.4 Responsibilities of the Customer**

- 2.4.1 The Customer is responsible for placing any necessary orders and complying with tariff regulations. The Customer is also responsible for the payment of charges for services provided under this tariff.
- 2.4.2 The Customer is responsible for charges incurred for special construction and/or special facilities which the Customer requests and which are ordered by Destia on the Customer's behalf.
- 2.4.3 If required for the provision of Destia's services, the Customer must provide any equipment space, supporting structure, conduit and electrical power without charge to Destia. (T)
- 2.4.4 The Customer is responsible for arranging access to its premises at times mutually agreeable to Destia and the Customer when required for Destia personnel to install, repair, maintain, program, inspect or remove equipment associated with the provision of Destia's services. (T)
- 2.4.5 The Customer shall cause the temperature and relative humidity in the equipment space provided by Customer for the installation of Destia's equipment to be maintained within the range normally provided for the operation of microcomputers. (T)
- 2.4.6 The Customer shall ensure that the equipment and/or system is properly interfaced with Destia's facilities or services, that the signals emitted into Destia's network are of the proper mode, bandwidth, power and signal level for the intended use of the subscriber and in compliance with criteria set forth in this tariff, and that the signals do not (T)

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Issued: October 18, 1999

Effective: \_\_\_\_\_

By:

Tariff Administrator  
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(T)

- damage equipment, injure personnel, or degrade service to other Customers. If the Federal Communications Commission or some other appropriate certifying body certifies terminal equipment as being technically acceptable for direct electrical connection with interstate communications service, Destia will permit such equipment to be connected with its channels without the use of protective interface devices. If the Customer fails to maintain the equipment and/or the system properly, with resulting imminent harm to Destia equipment, personnel or the quality of service to other Customers, Destia may, upon written notice, require the use of protective equipment at the Customer's expense. If this fails to produce satisfactory quality and safety, Destia may, upon written notice, terminate the Customer's service. (T)
- 2.4.7 The Customer must pay Destia for replacement or repair of damage to the equipment or facilities of Destia caused by negligence or willful act of the Customer or others, by improper use of the services, or by use of equipment provided by Customer or others. (T)
- 2.4.8 The Customer must pay for the loss through theft of any Destia equipment installed at Customer's premises. (T)
- 2.4.9 If Destia installs equipment at Customer's premises, the Customer shall be responsible for payment of any applicable installation charge. (T)
- 2.4.10 The Customer must use the services offered in this tariff in a manner consistent with the terms of this tariff and the policies and regulations of all state, federal and local authorities having jurisdiction over the service. (T)

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**2.5 Cancellation or Interruption of Services**

- 2.5.1 Without incurring liability, upon five (5) working days' (defined as any day on which the company's business office is open and the U.S. Mail is delivered) written notice to the Customer, Destia may immediately discontinue services to a Customer or may withhold the provision of ordered or contracted services: (T)
- 2.5.1.A For nonpayment of any sum due Destia for more than thirty (30) days after issuance of the bill for the amount due, (T)
- 2.5.1.B For violation of any of the provisions of this tariff,
- 2.5.1.C For violation of any law, rule, regulation, policy of any governing authority having jurisdiction over Destia's services, or (T)
- 2.5.1.D By reason of any order or decision of a court, public service commission or federal regulatory body or other governing authority prohibiting Destia from furnishing its services. (T)
- 2.5.2 Without incurring liability, Destia may interrupt the provision of services at any time in order to perform tests and inspections to assure compliance with tariff regulations and the proper installation and operation of Customer and Destia's equipment and facilities and may continue such interruption until any items of noncompliance or improper equipment operation so identified are rectified. (T)

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Issued: October 18, 1999

Effective: \_\_\_\_\_

By:

Tariff Administrator  
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Paramus, New Jersey 07652

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- 2.5.3 Service may be discontinued by Destia without notice to the Customer, by blocking traffic to certain countries, cities or NXX exchanges, or by blocking calls using certain Customer authorization codes, when Destia deems it necessary to take such action to prevent unlawful use of its service. Destia will restore service as soon as it can be provided without undue risk, and will, upon request by the Customer affected, assign a new authorization code to replace the one that has been deactivated. (T)
- 2.5.4 The Customer may terminate service upon thirty (30) days written notice for the Company's standard month to month contract. Customer will be liable for all usage on any of the Company's service offerings until the Customer actually leaves the service. Customers will continue to have Company usage until the Customer notifies its local exchange carrier and changes its long distance carrier. Until the Customer so notifies its local exchange carrier, it shall continue to generate and be responsible for long distance usage. (T)

## **2.6 Credit Allowance**

- 2.6.1 Credit allowance for the interruption of service which is not due to the Company's testing or adjusting, negligence of the Customer, or to the failure of channels or equipment provided by the Customer, are subject to the general liability provisions set forth in 2.3 herein. It shall be the obligation of the Customer to notify the Company immediately of any interruption in service for which a credit allowance is desired. Before giving such notice, the Customer shall ascertain that the trouble is not being caused by any action or omission by the Customer within his control, or is not in

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Issued: October 18, 1999

Effective: \_\_\_\_\_

By:

Tariff Administrator  
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Paramus, New Jersey 07652

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wiring or equipment, if any, furnished by the Customer and connected to the Company's facilities.

- 2.6.2 No credit is allowed in the event that service must be interrupted in order to provide routine service quality or related investigations.
- 2.6.3 Credit for failure of service shall be allowed only when such failure is caused by or occurs due to causes within the control of the Company or in the event that the Company is entitled to a credit for the failure of the facilities of the Company's Underlying Carrier used to furnish service.
- 2.6.4 Credit for interruption shall commence after the Customer notifies the Company of the interruption or when the Company becomes aware thereof, and ceases when service has been restored.
- 2.6.5 For purposes of credit computation, every month shall be considered to have 720 hours.
- 2.6.6 No credit shall be allowed for an interruption of a continuous duration of less than two hours.
- 2.6.7 The Customer shall be credited for an interruption of two hours or more at the of 1/720th of the monthly charge for the facilities affected for each hour or major fraction thereof that the interruption continues.

Credit Formula:

$$\text{Credit} = \frac{A}{720} \times B$$

"A" - outage time in hours

"B" - monthly charge for affected activity

Issued: October 18, 1999

Effective: \_\_\_\_\_

By:

Tariff Administrator  
95 Route 17 South, Suite 102  
Paramus, New Jersey 07652

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**2.7 Restoration of Service**

The use and restoration of service shall be in accordance with the priority system specified in part 64, Subpart D of the Rules and Regulations of the Federal Communications commission.

**2.8 Deposit**

The Company does not required deposits to establish service for a Customer.

**2.9 Advance Payments**

Destia reserves the right to collect an advance payment from Customers in an amount not to exceed one (1) month's estimated charges as an advance payment for service. This will be applied against the next month charges, and if necessary, a new advance payment will be collected for the next month. (T)

**2.10 Payment and Billing**

2.10.1 Service is provided and billed on a billing cycle basis, beginning on the date that service becomes effective. Billing is payable upon receipt. Interest at the rate of 1.5% per billing cycle, or the amount otherwise authorized by law, whichever is lower, will accrue upon any unpaid amount commencing 30 days after rendition of bills.

2.10.2 The customer is responsible for payment of all charges for services furnished to the Customer, as well as to all persons using the Customer's codes, exchange lines, facilities, or equipment, with or without the knowledge or consent of the Customer. The security of the Customer's Authorization Codes, presubscribed exchange lines, and direct connect facilities is the responsibility of the Customer. All calls placed using direct connect facilities, presubscribed exchange

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Issued: October 18, 1999

Effective: \_\_\_\_\_

By:

Tariff Administrator  
95 Route 17 South, Suite 102  
Paramus, New Jersey 07652

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(T)

lines, or Authorization Codes will be billed to and must be paid by the Customer. Recurring charges and non-recurring charges are billed in advance. The initial billing may, at Company's option, also include one month's estimated usage billed in advance. Thereafter, charges based on actual usage during a month and any accrued interest will be billed monthly in arrears.

- 2.10.3 All bills are presumed accurate, and shall be binding on the customer unless objection is received by the Company in writing within 30 days after such bills are rendered. No credits, refunds, or adjustments shall be granted if demand therefore is not received by the Company in writing within such 30 day period.

#### **2.11 Collection Costs**

In the event Company is required to initiate legal proceedings to collect any amounts due to Company for regulated or non-regulated services, equipment or facilities, or to enforce any judgment obtained against a Customer, or for the enforcement of any other provision of this tariff or applicable law, Customer shall, in addition to all amounts due, be liable to Company for all reasonable costs incurred by Company in such proceedings and enforcement actions, including reasonable attorneys' fees, collection agency fees or payments, and court costs. In any such proceeding, the amount of collection costs, including attorneys' fees, due to the Company, will be determined by the court.

#### **2.12 Taxes**

All federal, state and local taxes, assessments, surcharges, or fees, including sales taxes, use taxes, gross receipts taxes, and municipal utilities taxes, are billed as separate line items and are not included in the rates quoted herein, except as described for prepaid calling card service.

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Issued: October 18, 1999

Effective: \_\_\_\_\_

By:

Tariff Administrator  
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Paramus, New Jersey 07652

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**2.13 Late Charge**

A late fee of 1.5% monthly or the amount otherwise authorized by law, whichever is lower, will be charged on any past due balances.

**2.14 Returned Check Charge**

A fee of \$15.00 will be charged whenever a check or draft presented for payment for service is not accepted by the institution on which it is written.

**2.15 Location of Service**

The Company will provide service to Customers and their end users within the State of Florida.

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Issued: October 18, 1999

Effective: \_\_\_\_\_

By:

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95 Route 17 South, Suite 102  
Paramus, New Jersey 07652

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(T)

SECTION 3 - DESCRIPTION OF SERVICE3.1 Computation of Charges

3.1.1 The total charge for each completed call may be a variable measured charge dependent on the duration, distance and time of day of the call. The total charge for each completed call may also be dependent only on the duration of the call, i.e. a statewide flat rate per minute charge. The variable measured charge is specified as a rate per minute which is applied to each minute. 1+ Dialing and 800 Service calls are measured in six second increments. Travel Cards and Prepaid Calling Cards are measured in one minute increments. All calls are rounded up to the next whole increment.

3.1.2 Usage charges for all mileage sensitive products are based on the airline distance between rate centers associated with the originating and terminating points of the call. The airline mileage between rate centers is determined by applying the formula below to the vertical and horizontal coordinates associated with the rate centers involved. The Company uses the rate centers that are produced by Bell Communications Research in the NPA-NXX V&H Coordinates Tape and Bell's NECA Tariff No. 4.

Formula:

$$\sqrt{\frac{(V_1 - V_2)^2 + (H_1 - H_2)^2}{10}}$$

Issued: October 18, 1999

Effective: \_\_\_\_\_

By:

Tariff Administrator  
95 Route 17 South, Suite 102  
Paramus, New Jersey 07652

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Any objection to billed charges should be reported promptly to Destia. Adjustments to Customers' bills shall be made to the extent that records are available and/or circumstances exist which reasonably indicate that such charges are not in accordance with approved rates or that an adjustment may otherwise be appropriate. Where overbilling of a subscriber occurs, due either to Company or subscriber error, no liability exists which will require the Company to pay any interest, dividend, or other compensation on the amount overbilled.

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If a Customer accumulates more than Five Hundred Dollars (\$500.00) of undisputed delinquent Destia 800 Service charges, the Destia Resp. Org. reserves the right not to honor that Customer's request for a Resp. Org. change until such undisputed charges are paid in full.

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### **3.3 Level of Service**

A Customer can expect end to end network availability of not less than 99% at all times for all services.

### **3.4 Billing Entity Conditions**

When billing functions on behalf of Destia or its intermediary are performed by local exchange telephone companies or others, the payment of charge conditions and regulations of such companies and any regulations imposed upon these companies by regulatory bodies having jurisdiction apply. Destia's name and toll-free telephone number will appear on the Customer's bill.

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Issued: October 18, 1999

Effective: \_\_\_\_\_

By:

Tariff Administrator  
95 Route 17 South, Suite 102  
Paramus, New Jersey 07652

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**3.5 Service Offerings**

## 3.5.1 1+ Dialing

The customer utilizes "1+" dialing, or "10XXX" dialing followed by "1 + ten digits" for interLATA calls, or dials "10XXX" followed by "1 + 7 digits" or "1 + 10 digits" for intraLATA calls.

## 3.5.2 Travel Cards.

The Customer utilizes an 11 digit "800" access number established by Destia to access a terminal. Upon receiving a voice prompt, the Customer uses push button dialing to enter an identification code assigned by the Company, followed by the ten digit number of the called party.

## 3.5.3 800 Service (Toll free).

This service is a direct access, incoming only, usage sensitive WATS offering. This is a service whereby a Customer can be billed at reduced rates for calls to his premises.

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Issued: October 18, 1999

Effective: \_\_\_\_\_

By:

Tariff Administrator  
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Paramus, New Jersey 07652

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## 3.5.4 Destia Prepaid Calling Cards.

This service permits use of Destia Prepaid Calling Cards for placing long distance calls. Customers may purchase Destia Prepaid Calling cards at a variety of retail outlets or through other distribution channels. Destia Prepaid Calling Cards are available at a variety of face values ranging from five dollars (\$5.00), in five dollar (\$5) increments. Destia Prepaid Calling Card service is accessed using the Destia toll-free number printed on the card. The caller is prompted by an automated voice response system to enter his/her Authorization Code, and then to enter the terminating telephone number. Destia's processor tracks the call duration on a real time basis to determine the number of Telecom Units consumed. The total consumed Telecom Units for each call, which includes applicable taxes, is deducted from the remaining Telecom Unit balance on the Customer's Destia Prepaid Calling Card.

All calls must be charged against an Destia Prepaid Calling Card that has a sufficient Telecom Unit balance. A Customer's call will be interrupted with an announcement when the balance is about to be depleted. Such announcement will occur when two (2) minutes and when thirty seconds remain before the balance will be depleted, based upon the terminating location of the call.

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Issued: October 18, 1999

Effective: \_\_\_\_\_

By:

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95 Route 17 South, Suite 102  
Paramus, New Jersey 07652(T)  
(T)

In order to continue the call, the Customer can either call the toll-free number on the back of the Destia Prepaid Calling Card and "recharge" the balance on the card using a nationally recognized credit card, or the Customer can throw the card away and purchase a new one. Calls in progress will be terminated by the Company if the balance on the Destia Prepaid Calling Card is insufficient to continue the call and the Customer fails to enter the number of another valid Destia Prepaid Calling Card prior to termination. (T)

A card will have no expiration date, however, after 6 months after activation, a \$1 per month service charge will be assessed on all cards.

A credit allowance for Destia Prepaid Calling Card Service is applicable to calls that are interrupted due to poor transmission, one-way transmission, or involuntary disconnection of a call. A Customer may also be granted credit for reaching a wrong number. To receive the proper credit, the Customer must notify the Company at the designated toll-free customer service number printed on the Destia Prepaid Calling Card and furnish the called number, the trouble experienced (e.g. cut-off, noisy circuit, reached wrong number, etc.), and the approximate time that the call was placed. (T)

When a call charged to a Destia Prepaid Calling Card is interrupted due to cut-off, one-way transmission, or poor transmission conditions, the Customer will receive a credit equivalent of one Telecom Unit. (T)

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Issued: October 18, 1999

Effective: \_\_\_\_\_

By:

Tariff Administrator  
95 Route 17 South, Suite 102  
Paramus, New Jersey 07652

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Credit allowances for calls pursuant to Destia Prepaid Card Service do not apply for interruptions not reported promptly to the Company or interruptions that are due to the failure of power, equipment or systems not provided by the Company. (T)

Credit for failure of service shall be allowed only when such failure is caused by or occurs due to causes within the control of the Company.

The Company will block all calls beginning with the NPA "900" and NXX "976" calls, therefore such calls can not be completed.

3.5.5 Local Calls and Directory Assistance.

Local calls will not be accepted or completed. Destia does not provide local directory assistance. Access to long distance directory assistance is obtained by dialing 1 + 555-1212 for listings within the originating area code and 1 + (area code) + 555-1212 for other listings. When more than one number is requested in a single call, a charge may apply for each number requested. A charge will be applicable for each number requested, whether or not the number is listed or published. (T)

Issued: October 18, 1999

Effective: \_\_\_\_\_

By:

Tariff Administrator  
95 Route 17 South, Suite 102  
Paramus, New Jersey 07652

(T)  
(T)

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3.5.6 Specialized Pricing Arrangements.

Customized service packages and competitive pricing packages at negotiated rates may be furnished on a case-by-case basis in response to requests by Customers to the Company for proposals or for competitive bids. Service offered under this tariff provision will be provided to Customers pursuant to contract. Unless otherwise specified, the regulations for such arrangements are in addition to the applicable regulations and prices in other sections of the tariff. Specialized rates or charges will be made available to similarly situated Customers on a non-discriminatory basis.

3.5.7 Emergency Call Handling Procedures

Emergency "911" calls are not routed to company, but are completed through the local network at no charge.

3.5.8 Promotional Offerings

The Company may, from time to time, make promotional offerings to enhance the marketing of its services. These offerings may be limited to certain dates, times and locations. The Company will notify the Commission of such offerings as required by Commission rules and regulations.

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Issued: October 18, 1999

Effective: \_\_\_\_\_

By:

Tariff Administrator  
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**SECTION 4 - RATES****4.1 1 + Dialing**

Destia will charge a flat rate per minute with no time of day discounts and without regard to mileage for calls originating and terminating in Florida as follows: (T)

\$0.15

**4.2 Travel Cards**

Destia will charge a flat rate per minute with no time of day discounts and without regard to mileage for calls originating and terminating in Florida as follows: (T)

\$0.29

**4.3 800 Service**

Destia will charge a flat rate per minute with no time of day discounts and without regard to mileage for calls originating and terminating in Florida as follows: (T)

\$0.16

**4.4 Prepaid Calling Cards**

Destia Prepaid Calling Cards are available in various Telecom Unit denominations. Prepaid Calling Cards may be recharged in \$1 increments (min. \$5). Prices are inclusive of all taxes. (T)

Price Per Telecom Unit

\$.35

Cards will be decremented by one Telecom Unit for each minute or fractional part of a minute for intrastate calls. These rates apply twenty-four hours per day, seven days per week.

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Issued: October 18, 1999

Effective: \_\_\_\_\_

By:

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95 Route 17 South, Suite 102  
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**4.5 Rate Periods**

Day: 8 a.m. - 5 p.m.\*, Monday - Friday

Evening: 5 p.m. - 11 p.m.\*, Sunday - Friday

Night/ 11 p.m. - 8 a.m.\*, Sunday - Friday  
Weekend: & All Day Saturday

\* To, but not including

When a message spans more than one rate period, total charges for the minutes in each rate period are calculated and the results for each rate period are totaled to obtain the total message charge. If the calculation results in a fractional charge, the amount will be rounded down to the lower cent.

**4.6 Directory Assistance Charges**

A charge per number requested will be \$.65

**4.7 Returned Check Charge**

\$15.00

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Issued: October 18, 1999

Effective: \_\_\_\_\_

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(T)  
(T)

**4.8 Rates Applicable for Hearing/Speech Impaired Persons**

For intrastate toll messages which are communicated using a telecommunications device for the deaf (TDD) by properly certified business establishments or individuals equipped with TDDs for communications with hearing or speech impaired persons, the rates shall be evening rates for daytime calls and night rates for evening and night calls.

Intrastate toll calls received from the relay service, each local exchange and interexchange telecommunications company billing relay call will be discounted by 50 percent of the applicable rate for a voice nonrelay call except that where either the calling or called party indicates that either party is both hearing and visually impaired, the call will be discounted 60 percent off the applicable rate for voice nonrelay calls.

Florida Public Service Commission Rules and Regulations require carriers void charges for the first 50 directory assistance calls initiated per billing cycle by handicapped persons. Such persons must contact Destia for credit on their directory assistance calls.

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