



**1. Services**

Niagara Regional Broadband Network Limited (“NRBN”) provides Customer with the following business solutions, as applicable, Dedicated and Connect+ High Speed Business Internet; Connect+ Business Phone, SIP Trunking and NRBN Hosted Voice services; Fiber services; Online Webex Productivity Tools, Network Security, Denial of Service Protection, and Television (jointly the “Services”). NRBN agrees to supply the Services described in the service agreement in accordance with the terms of this Agreement. Customer agrees to receive the Services in accordance with the terms of this Agreement. The service details, these terms of service and any schedules attached to these terms of service (“Schedules”) along with any amendments, are all taken together and form the entire contract (“Agreement”) between you (“Customer” or “you”) and NRBN. The terms are applicable to the Services that you subscribe to. You should review the entire Contract. All the terms are important and create a legal agreement that is applicable to you once you have accepted it.

This Agreement shall commence on the date when the Services have been established and are available for use by CUSTOMER and shall remain in effect for the “Initial Term” unless terminated by either party as permitted by this Agreement. This Agreement shall automatically renew for successive terms of twelve-months, (each a “Renewal Term”) unless written notice of termination is provided by either party to the other at least **sixty (60) days** prior to the expiration of the Initial Term or any Renewal Term, as the case may be. If CUSTOMER continues to use the Services after the end of the Term (or the Renewal Term), the CUSTOMER shall pay for the Services at a monthly fee, equivalent to the monthly fees charged by NRBN to its CUSTOMERS for a twelve-month service commitment. For all other purposes, the extension of the Term shall be regarded as part of the Term.

**2. Payment**

**2.1** All Services provided are invoiced monthly in advance. The first invoice will be issued by NRBN upon receipt of this Agreement signed by the CUSTOMER. NRBN shall invoice the CUSTOMER in advance, based on the rates indicated for the Services provided pursuant to this Agreement. The CUSTOMER shall pay all invoices within **thirty (30) days** after the date the invoice is issued. The first invoice shall be paid prior to the commencement of Service. Upon at least **thirty (30) days** written notice prior to the end of the Term, NRBN may change any fees payable under this Agreement. CUSTOMER is solely responsible for payment of any taxes (including without limitation, sales, use, goods and services, capital, intangible, and property taxes) resulting from the CUSTOMER’s purchase of the Services (“Taxes”). For NRBN to not charge the CUSTOMER HST or any such other tax, the CUSTOMER must provide NRBN with an exemption certificate satisfactory to NRBN.

**2.2** Invoices outstanding for more than **thirty (30) days** shall bear interest at a monthly rate of **1.5% per month** (19.56% per annum) and such interest charges shall accrue from and after the due date of payment to the date the payment is received by NRBN.

**2.3** The CUSTOMER must bring any invoicing inquiries and disputes to the attention of NRBN in writing within **sixty (60) days** of the invoice date. After that time, the CUSTOMER will be deemed to have agreed on the contents of the invoice and will have no right to challenge any element of the invoice. Notwithstanding any invoice or billing dispute, the CUSTOMER shall pay the undisputed portion of an invoice and any subsequent invoices in accordance with the Agreement.

**2.4** In the event of non-payment of an invoice, NRBN may, in addition to all other rights and remedies under this Agreement and at law and in equity, suspend the provision of any or all Services. Any such suspension of Services shall not constitute the termination of this Agreement. If NRBN is required to bring legal action for the recovery of any amounts due hereunder, the CUSTOMER agrees to be responsible for, and to reimburse NRBN for, the payment of reasonable legal fees and costs incurred by NRBN, on a substantial indemnity basis. In the case of late payment of an invoice, or if NRBN is concerned regarding the CUSTOMER’s credit worthiness, NRBN reserves the right to require the CUSTOMER to enter into a pre-authorized payment plan to mitigate the potential of non-payment, and to secure a good faith deposit to be held against the event of future non-payment. In such circumstances, the CUSTOMER shall authorize the payment to NRBN from a Canadian bank, or similar institution acceptable to NRBN, of a fixed monthly amount that will not exceed the recurring or delayed charges included in the price payable each month during the Term.

**2.5** In the event of a suspension of service as provided for in Section 2.4 above, the supply of Services pursuant to this Agreement shall resume upon payment by the CUSTOMER to NRBN of all outstanding invoices, any and all costs of NRBN to suspend and restore service and a **\$100.00 reinstatement charge**. If an invoice is unpaid **sixty (60) days** after its payment due date, NRBN may, in addition and without prejudice to all other rights and remedies under this Agreement and at law and in equity, terminate this Agreement by written notice to the CUSTOMER whereupon all payments not yet paid by the CUSTOMER to end of the Term provided for in this Agreement shall become immediately due and payable, and any good faith deposit paid shall be retained by NRBN as liquidated damages, and not as a penalty. If NRBN is required to bring legal action to recover any amount due to NRBN by the CUSTOMER under this Agreement, the CUSTOMER agrees to pay to NRBN, on a substantial indemnity basis, the amount of the reasonable legal fees and costs incurred by NRBN in such regards.

**2.6** Notwithstanding anything to the contrary in any purchase order or similar document issued by the CUSTOMER to NRBN with respect to the Services, each such purchase order or similar document shall be deemed to be for the CUSTOMER’s internal use only and the provisions thereof shall have no effect whatsoever upon the provisions of this Agreement.

**3. Modifications and Changes**



3.1 Subject to Section 3.2, at any time CUSTOMER or NRBN may request changes in the Services by submitting such requests in writing. Within a reasonable time, but in any event not more than **thirty (30) days** after receiving written notice of a CUSTOMER change request, NRBN will advise CUSTOMER whether the change can be made and the effect the change will have on the Agreement and the Services, including but not limited to increased rates, and the payment of any engineering and installation costs incurred by NRBN to facilitate the changes in the Services. Within a like period after receiving NRBN's request for change, CUSTOMER will notify NRBN whether it authorizes the implementation of the change under the revised terms or rejects the change proposed. Pending authorization to implement changes, NRBN shall proceed in accordance with the latest authorized terms of the Services.

3.2 The parties acknowledge that from time to time and at any time, NRBN may make such unilateral changes and modifications as NRBN determines are necessary or advisable provided such changes do not adversely affect NRBN's ability to meet its obligations under the service levels provided for in Schedule "A". NRBN shall endeavor to provide at least **fifteen (15) days'** advance notice to CUSTOMER of any such unilateral changes and modifications which may affect CUSTOMER either directly or indirectly.

3.3 Should NRBN incur any additional costs or expenses resulting from any errors, omissions, defects or other problems contained in the information, materials and/or instructions provided to it by the CUSTOMER, NRBN shall be fully paid for said reasonable additional costs and expenses by the CUSTOMER over and above all payments due under this Agreement, within **thirty (30) days** of receipt by the CUSTOMER of a statement to that effect.

#### 4. Termination

4.1 Upon giving **sixty (60) days** prior written notice to NRBN, the CUSTOMER may, during the Initial Term or any Renewal Term and without cause, terminate: (a) any one of the Services specified in this Agreement or (b) Schedules to this Agreement; provided, however, that in either case, the CUSTOMER shall pay NRBN, upon written demand in one lump sum as liquidated damages and not as a penalty, 50% of the total monthly revenue for the terminated Services multiplied by the number of months and any portions thereof remaining in the Term. Both parties agree that such liquidated damages are a genuine pre-estimate of the damages NRBN would suffer as a result of the CUSTOMER terminating this Agreement at any time during the Initial Term or any Renewal Term, and the CUSTOMER shall not seek any set-off against such liquidated damages, or require an accounting thereof from NRBN.

4.2 In addition to provisions set forth in Section 4.1, in the event that NRBN has waived one-time build-out costs, as consideration for the CUSTOMER entering into a fixed term agreement for provision of the Services, such build-out costs shall be immediately repaid to NRBN upon written demand, in one lump sum, as liquidated damages and not as a penalty,

in the event that the CUSTOMER terminates the Services prior to the end of the Term. NRBN in its sole judgement may reduce the lump-sum payment attributed to build-out costs, proportionate to the number of months remaining in the Term.

4.3 NRBN may terminate this Agreement upon written notice to the CUSTOMER if: (a) the CUSTOMER commits any act of bankruptcy within the meaning of the Bankruptcy and Insolvency Act (Canada), if any bankruptcy or insolvency proceeding is taken against the CUSTOMER, if the CUSTOMER makes any voluntary assignment for the benefit of its creditors, if a receiver takes possession of any of the CUSTOMER's property, or if the CUSTOMER ceases to carry on business in the normal course; or (b) the CUSTOMER fails to make full payment of any invoice within sixty (60) days after the date of the invoice; (c) the CUSTOMER fails to cure to NRBN's satisfaction, in its sole discretion, any default under this Agreement, within **fifteen (15) calendar days** of receiving written notice describing the nature of such default from NRBN; (d) the CUSTOMER violates any applicable municipal ordinance or provincial or federal law, governmental order, decision or regulation, or order of any court of competent jurisdiction, including without limitation, decisions and orders of the CRTC (each, an "**Applicable Law**"); (e) the CUSTOMER fails to obtain or maintain any required license or regulatory approval; (f) the CUSTOMER transfers or assigns the use of the Services without the express written consent of NRBN; (g) NRBN is prohibited by any Applicable Law from providing the Services; or (h) if any license, easement, right of way, permit or regulatory authorization or approval required by NRBN to provide the Services in accordance with this Agreement, cannot be obtained, maintained or renewed, without unreasonable expense to NRBN, or is terminated or revoked for any reason.

4.4 CUSTOMER is responsible for the safekeeping of the equipment provided by NRBN. Upon termination of this Agreement the CUSTOMER will return to NRBN all property that is owned by NRBN and has been installed at the CUSTOMER location for the purpose of providing the Services. Upon termination of this Agreement the CUSTOMER shall allow NRBN to remove its equipment and other facilities from the CUSTOMER's property and premises. The failure of the Customer to return NRBN's equipment or allow the removal of NRBN's equipment or other facilities from the CUSTOMER's property and premises may result in NRBN assessing the CUSTOMER the replacement value of such equipment or other facilities.

4.5 If, while in CUSTOMER's care, the equipment is damaged, lost or stolen CUSTOMER shall immediately notify NRBN and CUSTOMER agrees to pay NRBN the full cost, including the costs incurred by NRBN to recover, repair and/or replace the equipment. CUSTOMER hereby authorizes NRBN to charge its account and process payment for all Equipment charges, plus applicable taxes, using any of the payment methods accepted by NRBN for your account (including pre- authorized credit card or bank withdrawal).

#### 5. Credit Authorization



5.1 CUSTOMER hereby authorizes NRBN and gives consent to NRBN under applicable privacy laws for them or their designates to obtain credit information and bank and other financial references regarding CUSTOMER for the purposes of assessing CUSTOMER's credit worthiness, and CUSTOMER will promptly execute and deliver to NRBN such further documents and assurances and take such further actions as NRBN may from time to time reasonably request in order to carry out the intent and purpose of this Section.

## 6. Limit of Liability

6.1 NRBN is solely responsible for the provision of the Services pursuant to this Agreement. Under no circumstances shall NRBN, and their respective affiliates, successors, assigns, or their respective directors, officers, employees and agents (collectively, the "NRBN Parties"), be liable to the CUSTOMER or any third party for any indirect, incidental, special or consequential damages, expenses, costs (including lawyers and court costs), liability, loss or damage whatsoever, whether arising in negligence, tort, statute, equity, contract, common law or any other cause of action or legal theory. The CUSTOMER agrees, acknowledges and confirms that the CUSTOMER's exclusive remedy shall be limited to the proportionate charge to the CUSTOMER for the affected Services and that this limitation is fair and reasonable in the commercial circumstances of this Agreement and that NRBN would not have entered into this Agreement but for the CUSTOMER's agreement to limit the liability of the NRBN Parties in the manner, and the extent, provided for herein.

6.2 For greater certainty, none of the NRBN Parties shall be liable for any lost profits, anticipated revenue, loss of data, loss of use of any information system, lost business revenue, failure to realize expected savings or any other commercial or economic loss of any kind whatsoever arising out of or in connection with this Agreement or the provision of the Services, even if any of the NRBN Parties have been advised of the possibility of such loss.

6.3 None of the NRBN Parties shall have any liability to the CUSTOMER or any third party arising from the failure, for any reason, to activate the Services on the activation date requested by the CUSTOMER. None of the NRBN Parties are liable for any failure or delay in performance hereunder if such failure is due, in whole or in part, to any cause beyond NRBN's reasonable control.

6.4 NRBN shall not have any liability to the CUSTOMER or otherwise if the Services or any change in the Services cause the hardware or software of the CUSTOMER to become obsolete, require modification or attention or otherwise affects the performance thereof.

6.5 NRBN shall not be liable for any damages that result in damage to tangible property or for bodily damage or death unless and only to the extent that NRBN has been grossly negligent.

6.6 ANY WARRANTIES EXPRESSLY MADE BY NRBN IN THIS AGREEMENT ARE IN LIEU OF, AND NONE OF THE NRBN PARTIES SHALL BE LIABLE OR RESPONSIBLE FOR,

AND ALL EXPRESSLY DISCLAIM, ANY AND ALL OTHER REPRESENTATIONS, WARRANTIES AND CONDITIONS OF ANY KIND (WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE) INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, MERCHANTABLE QUALITY, DURABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, SATISFACTORY QUALITY AND NON-INFRINGEMENT, AND THOSE ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE. NONE OF THE NRBN PARTIES OFFERS ANY OTHER ASSURANCES, GUARANTEES OR WARRANTIES THAT: (A) THE SERVICES WILL MEET THE CUSTOMER'S REQUIREMENTS; (B) THE SERVICES WILL BE ERROR-FREE, VIRUS-FREE, OR THAT SERVICES WILL BE PROVIDED ON AN UNINTERRUPTED OR CONTINUOUS BASIS; OR (C) ALL DEFICIENCIES IN THE SERVICES CAN BE FOUND OR CORRECTED.

6.7 None of the NRBN Parties will be liable for protection or privacy of electronic mail or other information transferred through the Services.

6.8 None of the NRBN Parties will assume any liability arising from the use of the Services furnished by or on behalf of NRBN in combination with services, products or equipment or combination therein provided by CUSTOMER or any third parties.

6.9 The CUSTOMER shall have sole responsibility for the preparation of its programs and data. None of the NRBN Parties shall be responsible for any fault or error in the CUSTOMER's programs or data, or in any programs or data accessed through the Services or the Internet.

6.10 NRBN reserves the right to change the telephone number assigned to CUSTOMER, but will, however take all reasonable measures to prevent such occurrence. In the event of such change, NRBN will endeavor to give reasonable prior notice to CUSTOMER.

6.11 This Section 6 shall apply even in the event of a breach of condition, a breach of an essential or fundamental term or a fundamental breach of this Agreement.

## 7. Indemnity

7.1 The CUSTOMER shall indemnify and save each of the NRBN Parties (as defined in Section 6.1) harmless from and against all loss, liability or damages of any type and expense, including, without limitation, reasonable legal fees and disbursements on a substantial indemnity basis, arising from any and all claims by any third party, including without limitation, end users and distributors (herein a "Third Party"), in connection with the use of the Services (and any related equipment or software, if any) by the CUSTOMER or any Third Party, or in connection with the CUSTOMER's failure to comply with its obligations under this Agreement, including, without limitation, Section 12, whether the failure is attributable to the CUSTOMER's or a Third Party's, use of the Services, with or without permission of the CUSTOMER.

**7.2** The CUSTOMER shall indemnify each of the NRBN Parties from and against any claim by a Third Party for alleged infringement of any copyright, trademark or any other intellectual property rights which arises as a result of the storage or processing of any of the CUSTOMER's programs or data on or through the Services or the Internet.

**7.3** CUSTOMER agrees to hold harmless the NRBN Parties from all claims and liability arising from CUSTOMER failure to report or pay Taxes (as defined in Section 3.1) in a timely fashion.

**7.4** The CUSTOMER shall indemnify each of the NRBN Parties from and against damage to business or property, or injury to, or death of any person, occasioned by or in connection with any act or omission of the CUSTOMER or any person utilizing the CUSTOMER's services, equipment, or facilities with or without the consent or knowledge of the CUSTOMER.

**7.5** The indemnities contained within this Section 7 shall survive termination of this Agreement for the maximum time period permitted by law.

#### **8. Customer Equipment and Infrastructure**

**8.1** NRBN will provide the Service through network access points in each case, connected at a point of demarcation, usually at a termination panel located in proximity to the electrical metering equipment and/or electrical service entrance equipment on the CUSTOMER's premises. Furthermore, any service extension construction beyond any such demarcation point, and all maintenance of equipment and facilities beyond the point of demarcation, will be the responsibility of the CUSTOMER or their agents. Conduit and/or fibre and/or other equipment installed by NRBN shall remain the property of NRBN following expiration or termination of the Agreement.

**8.2** The standard Connect+ VoIP telephone service includes the installation of a network cable of no longer than three (3) meters from the fiber point of demarcation to a telephone provided by the Customer. Cable installations of greater than three (3) meters from the fiber point of demarcation shall be considered to be "non-standard" and will require the payment of an additional one-time installation fee, to be charged at the discretion of NRBN.

#### **9. Permitted Service Suspension**

**9.1** The CUSTOMER agrees that it may be necessary for NRBN to temporarily suspend service for technical or maintenance reasons, (other than emergency maintenance), provided that the Customer be notified in advance. The parties may agree to regularly scheduled maintenance windows for this purpose. Such a suspension of service will not be considered Outage Time for the purposes of Schedule A hereto.

**9.2** Without incurring liability, NRBN may immediately and without notice: (i) discontinue or suspend the Services; (ii) cancel a request for the Services; or (iii) temporarily block service to a particular jurisdiction, sector, authorized code or other criteria, as NRBN determines, if NRBN deems such

action is necessary, either to prevent improper use, as outlined in this Agreement, or to protect against fraud or the commission of suspected illegal activities, or to otherwise protect its personnel, agents, facilities or services.

**9.3 NRBN may suspend the Services in the event of a denial-of-service attack if the CUSTOMER does not subscribe to denial-of-service protection services.**

#### **10. Customer Obligations**

**10.1** Subject always to any other term of this Agreement, the CUSTOMER shall:

a) at the CUSTOMER's sole cost and expense, provide NRBN and its employees, agents, and representatives with access to conduit, cables, termination panels and any other equipment located on private property to which access is required or desirable to provide the Services.

b) provide NRBN its employees and it designates with prompt and safe access, during and after business hours to the property and the premises of the CUSTOMER as required, to support the Services as referenced in Schedule A, of this Agreement.

c) be responsible to provide first line support personnel, as identified below who will be the interface between NRBN and the CUSTOMER for all services performed as part of this Agreement. CUSTOMER may contact a NRBN CUSTOMER Service representative via the telephone number provided on the NRBN website: <https://business.nrbn.ca/support>

CUSTOMER shall immediately notify NRBN in the event of degradation or interruption of Service. NRBN shall make a NRBN Customer Service Agent available **on call**, on a **twenty-four (24) hour a day, seven (7) day a week** basis. The procedure to report service requests is provided at Schedule "B".

d) ensure that its computer, communications and other equipment and systems are sufficient to access and use the Services as provided by NRBN. From time to time, the equipment and/or systems required to access and use the Services may change and, as a consequence, the CUSTOMER's equipment may cease to be sufficient to access and use the Services and, in such event, NRBN shall have no liability to the CUSTOMER, and it shall be the responsibility of the CUSTOMER to upgrade its equipment and systems in order to access and use the Services.

e) be solely responsible for the provision and maintenance of all its equipment except as otherwise provided in this Agreement.

f) provide all necessary infrastructure including, without limitation, electricity, electricity outlets.

g) provide personnel who will be the interface between NRBN and the CUSTOMER for the purposes of this Agreement.

e) will be solely responsible for obtaining the execution by any property and/or building owner, landlord and/or operator of any agreement allowing NRBN access to the premises, property and/or building of the

CUSTOMER and any customer of the CUSTOMER; and will cause all underground facilities (including the components of storm and other sewers, lighting, communications and sprinkler systems) within the boundaries of any excavation on the CUSTOMER's site related to the installation of facilities needed by NRBN in order to provide the Services to the CUSTOMER to be clearly located for and advised to NRBN.

## 11. Restrictions on Use of Services

- 11.1 The CUSTOMER shall not:
- a) resell, share, or distribute any NRBN services.
  - b) re-arrange, disconnect, remove, or otherwise alter or tamper with NRBN's equipment or facilities. In the event that NRBN's equipment or facilities are tampered with, CUSTOMER shall bear the costs of an on-site service call as well as any remediation costs.
  - c) allow the use of conduit, fibre or other facilities installed by NRBN, by any other party.
  - d) install fibre or any other cabling within the conduit provided by NRBN.
  - e) use the names of NRBN, or any of their respective agents for any marketing purposes whatsoever without prior written consent of NRBN.

## 11.2 Connect+ Business Phone Use

- a) CUSTOMER understands and acknowledges that Connect+ Business Phone Services may be disrupted in the following (but not limited to these) cases: electric power outage, interruption of the Internet service, suspension, or cancellation, in accordance with this Agreement.
- b) The Connect+ Business Phone land line should only be used from CUSTOMER's telephone located at its service address, connected to the Equipment. NRBN has no obligation to notify CUSTOMER of any suspected fraudulent or inappropriate usage of the Connect+ Business Phone Service. NRBN however reserves the right to take any measures deemed necessary to curtail fraudulent or inappropriate use of the Connect+ Business Phone Service.
- c) Billing. CUSTOMER is responsible for paying for all calls originating from, and charged calls accepted at, CUSTOMER'S
- d) Limitations to Connect+ Business Phone Service Use. CUSTOMER shall not use any of the Connect+ Business Phone Services for activities that include telemarketing (including, without limitation, charitable or political solicitation or polling), autodialing, continuous or extensive call forwarding, fax broadcast or fax blasting. CUSTOMER is also prohibited from reselling or transferring the Connect+ Business Phone Services to another person for any purpose or charging fees for the use of the Connect+ Business Phone Services. It is CUSTOMER'S responsibility to ensure that no one gains unauthorized access to the Connect+ Business Phone Service via any equipment that CUSTOMER has attached to Service, including, but not limited to, answering machines or Private Branch Exchange (PBX) systems. CUSTOMER is solely responsible for the security of any device CUSTOMER attaches or authorizes to attach to the NRBN network and must take all necessary actions to prevent unauthorized

access to the Connect+ Business Phone Service. Upon discovering that use of the Connect+ Business Phone Services or any functionality related thereto by CUSTOMER, infringes the terms of this section or exceeds reasonable usage limits, as determined by NRBN, at its sole discretion, NRBN may, at any time and without prior notice, limit or suspend access of CUSTOMER to the Connect+ Business Phone Services. In such cases, CUSTOMER must contact NRBN's customer service which may require payment of owed charges in order to restore CUSTOMER access to the Connect+ Business Phone Services. NRBN may also impose additional charges if CUSTOMER exceeds the prescribed usage limits set out from time to time by NRBN for Toll- Free Service (as described on NRBN website at <https://business.nrbn.ca>).

e) The Connect+ Business Phone Service utilizes VoIP technology. In accordance with Canadian regulatory requirements, CUSTOMER shall comply and be bound by the "Emergency Services 9-1-1 Dialing & Calling Limitations" appended at Schedule "C".

11.3 Acceptable Use Policy. The CUSTOMER shall use the Services in accordance with the terms of the Acceptable Use Policy set out in Schedule "D" hereto.

11.4 NRBN cannot guarantee privacy for Internet users. Messages on the Internet may be subject to third party interception and review. NRBN therefore recommends that the Services not be used for the transmission of confidential information.

11.5 NRBN has no obligation to monitor the Services. However, in order to protect itself, its suppliers and its customers, NRBN and its suppliers will be entitled to electronically or otherwise monitor the Services and to disclose any information obtained thereby which is required by law or court order. NRBN and its suppliers will not intentionally monitor or disclose any private e-mail message unless required by law or court order. NRBN and its suppliers will comply with all privacy and data protection laws when monitoring and disclosing information and agree that such laws supersede the provisions of this Agreement in the event of any conflict or uncertainty.

## 12. Compliance with Laws

The CUSTOMER agrees to comply with all applicable laws relating to the use of the Services. If the CUSTOMER is at any time in breach of the requirements of Section II hereof, NRBN may immediately and without notice, and in addition to all other rights and remedies under this Agreement and at law and in equity, suspend the supply of any or all Services to the CUSTOMER pursuant to this Agreement. Any such suspension of the supply of Services shall not constitute a termination of this Agreement and shall not excuse the CUSTOMER from liability to make the payments to NRBN required by this Agreement during the period that the provision of the Services to the CUSTOMER is suspended. The supply of Services pursuant to this Agreement shall resume upon the CUSTOMER no longer being in breach of the requirements of this Agreement and the payment by the CUSTOMER to NRBN of any and all costs of NRBN, including



without limitation, legal fees, to suspend and restore service and a \$100.00 reinstatement charge. Continued breach of the requirements of this Agreement, including but not limited to this Section 12 may result in termination of this Agreement pursuant to the provisions of Section 4 of this Agreement

### 13. Governing Law

This Agreement shall be interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The CUSTOMER submits to the exclusive jurisdiction of the courts of the Province of Ontario. Each party hereby irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of such province and all courts competent to hear appeals therefrom.

### 14. Force Majeure

14.1 The parties hereto shall in no event be liable for any failure or delay in performance hereunder, if such failure is due, in whole or in part to Force Majeure, (other than the obligation of the party affected to pay fees to the other party). For purposes hereof Force Majeure means without restricting the foregoing any fire, flood, windstorm, ice or snow storm, natural disaster, pandemic, act of God, strike, slowdown, lockout, picketing or other labor difficulty, the act of any governmental authority, regulatory or judicial authority and the failure of any telecommunications system of a third party upon which NRBN is reliant to provide the Services to the CUSTOMER, cyber-attack (including denial of service attack), fuel or energy shortage or energy disruption, unavailability of materials or equipment, or delays in transportation collectively and separately "**Force Majeure**". As a result of a Force Majeure event, a party shall be excused from such performance of its obligations to the extent of such interference to the extent that its obligations relate to the performance interfered with; provided that the party affected by the Force Majeure shall use all commercially reasonable efforts to remove the Force Majeure event causing such non-performance; and provides prompt notice of the Event of Force Majeure to the other Party. In no event shall an event of Force Majeure be excused if it exceeds one hundred and eighty (180) days unless it is due to a lack of availability of fibre optics cable and/or electronic equipment. At such point the non-defaulting Party may terminate the Agreement but have no additional rights for damages as a result of the event of Force Majeure.

### 15. Notice

Every notice, approval, request, authorization, direction or other communication under this Agreement will be given in writing to the party at the address set out on the first page of this Agreement for such party and will be deemed to have been delivered and given for all purposes (i) two business days after deposit with a commercial overnight carrier, with written verification of receipt; (ii) five business days after deposit at a post office for delivery by registered mail, with written verification of receipt; and (iii) upon completion of transmission, if sent via facsimile, with a confirmation of successful transmission.

### 16. Insurance

NRBN and the CUSTOMER shall each maintain reasonable insurance to cover itself and the other with respect to any activities that could possibly cause damage to the other.

### 17. Severability

The invalidity or unenforceability of any portion or provision of this Agreement shall in no way affect the validity or enforceability of any other portion or provision hereof. Any invalid or unenforceable portion or provision shall be severed from this Agreement and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

### 18. Time; Waiver; Invalid Provisions

Time is of the essence in respect of this Agreement. Any waiver with respect to one event is without prejudice and shall not constitute a waiver of any similar or other event. Failure to insist upon or enforce strict performance of any provision of this Agreement shall not be construed as a waiver of any such provision or right. If any provision of this Agreement is determined to be void, invalid or otherwise unenforceable by a court of competent jurisdiction, such determination shall not affect the other provisions of this Agreement which shall remain in full force and effect.

### 19. Assignment

(i) The CUSTOMER shall not assign or transfer its rights or obligations under this Agreement without the prior written consent of NRBN. (ii) NRBN, at its sole discretion, shall have the right to assign monies payable under this Agreement to a Financing Partner whether pursuant to a lease, a conditional sale, receivable sale or otherwise, telephones or via any equipment that CUSTOMER has attached to the Connect+ Business Phone Services, regardless of who made or accepted them, including without limitation, illegal or fraudulent use.

(a) all or any part of the payments due under this Agreement; and (b) NRBN's rights under this Agreement to any Product provided for in this Agreement, in such case to secure its obligations in connection with the financing of and or provision of such Product. CUSTOMER shall make all payments under this Agreement to NRBN provided that NRBN is not in default ("**Default**") of an assignment agreement with a Financing Partner for all or part of the payments under this Agreement. In the event of a Default, the Financing Partner may notify CUSTOMER of the Default and direct CUSTOMER in writing to remit the payments under this Agreement directly to such Financing Partner. Upon receipt of and in accordance with such notice and direction, CUSTOMER agrees to make the payments under this Agreement directly to the Financing Partner. The CUSTOMER will be required to sign an acknowledgement with respect to their concurrence with said assignment and direction to make such payments directly to the assignee in the event of a default by NRBN.

### 20. Survival

All terms and conditions of this Agreement, which by their nature extend beyond the terms hereof or which are required to ensure that the parties



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hereto fully exercise their rights and perform their obligations hereunder, shall survive the completion or earlier termination of this Agreement.

#### 21. Reservation of Rights

The parties hereto reserve all rights not specifically granted herein.

#### 22. Inurement

This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

#### 23. Entire Agreement

This Agreement: (i) constitutes the entire understanding and agreement between the parties hereto with respect to the provision of the Services by NRBN to the CUSTOMER; and (ii) supersedes all prior agreements, contracts, quotations, purchase orders, correspondence, and communications, whether written or oral, between the parties hereto with respect to the provision of the Services by NRBN to the CUSTOMER.

#### 24. Modification

This Agreement may not be altered, amended, or modified, except in writing signed by both parties.

#### 25. Relationship

The relationship of the parties hereto to one another will be that of an independent contractor, and none of the NRBN Parties will be deemed to be an agent, partner, joint ventures, or employee of the CUSTOMER.

#### 26. Further Assurances

Each of the parties will promptly execute and deliver to the other at the cost of the other such further documents and assurances and take such further actions as the other may from time-to-time reasonably request in order to more effectively carry out the intent and purpose of this Agreement and to establish and protect the rights, interests and remedies intended to be created in favor of the other.

#### 27. Liens and Encumbrances

The CUSTOMER (and its clients) will not have the power, authority or right to create and will not permit any lien or encumbrance, including without limitation, tax liens, mechanics' liens, builders' liens or other license or encumbrances with respect to work performed, or equipment supplied by NRBN, in connection with the Services.

#### 28. Confidentiality

In the course of the performance of this Agreement, a party (the "Receiving Party") may obtain, receive or have access to information and materials of a confidential or proprietary nature, including without limitation trade secrets, customer and website visitor information, software and data residing on the CUSTOMER's equipment, business plans and other information of a strategic, financial or technical nature (collectively, "Confidential Information") of the other party (the "Disclosing Party"). The Receiving Party agrees that it shall treat the Disclosing Party's Confidential Information as strictly confidential and shall not disclose or permit the disclosure of such Confidential Information to any person without the Disclosing Party's prior written

consent, except that NRBN may disclose Confidential Information to (i) another party involved in supplying the CUSTOMER with telecommunications, data or related services; or (ii) an agent retained by NRBN in the collection of the CUSTOMER's account. The Receiving Party agrees that it shall not use the Confidential Information of the Disclosing Party other than as required for the performance of this Agreement and shall take all reasonable security measures to protect against unauthorized access, such measures to be of the same standard of care as the Receiving Party uses for its own Confidential Information and in any event no less than a commercially reasonable standard of care. Upon request, the Receiving Party shall return all tangible material concerning the Confidential Information of the Disclosing Party.

#### 29. Proprietary Rights

No patent, copyright, trademark, trade secret or technological or proprietary right is licensed, granted or otherwise transferred to the CUSTOMER by this Agreement or otherwise, except for the right to benefit therefrom in the course of the use of the Services.

#### 30. Changes to Terms and Conditions.

NRBN may by notice to the Customer, change the provisions of any of the terms and conditions of this Agreement provided that the changes are reasonable and applicable generally to all customers of NRBN and do not change any provision that applies only to the CUSTOMER. The CUSTOMER agrees that notice of changes to the Acceptable Use Policy and privacy policies are posted on the website of NRBN and it shall be the responsibility of the CUSTOMER to regularly visit the website of NRBN to determine if there has been any change to the Acceptable Use Policy or privacy policies of NRBN.

#### 31. Future Regulation.

In the event that the provision of any of the Services or the Services should become subject to regulation or approval by any authority having lawful jurisdiction, then the CUSTOMER shall cooperate with NRBN to make reasonable amendments to this Agreement to obtain any required approvals with respect to the provision of the Services in order to comply with applicable regulatory requirements and to allow the continued supply of the Services by NRBN to the CUSTOMER under circumstances as close as practicable to those provided for in this Agreement.

Last Revision: June 02, 2022.