

BUSINESS TERMS AND CONDITIONS

MetroNet (hereafter “MetroNet”, “we” or “us”) and the customer identified on the Business Service Agreement (“BSA”), Advanced Services Agreement (“ASA”), or Services Agreement (“SA”) (hereafter “Customer”, “you” or “your”) enter into this agreement whereby we will provide you those services listed on the BSA, ASA, or SA, as applicable (“Fiber Services”).

1. **Agreement.** These terms and conditions, together with our tariff, our Acceptable Use and Privacy Policy (“AUPP”), the BSA, the ASA, the SA, our Additional Terms of Service Addendum, our Managed Wi-Fi Terms of Service, any Statement of Work (“SOW”) and Letters of Authorization that are related to the Fiber Services (collectively, the “Agreement”), form the entire agreement between MetroNet and Customer regarding the Fiber Services.

2. **Documents Available On Line; Electronic Notices and Signatures.** These terms and conditions, our AUPP, our tariff, our Managed Wi-Fi Terms of Service, and our Additional Terms of Service Addendum may be found on our website at <https://www.metronetinc.com>. These documents may also be obtained through our customer service department. By signing the ASA, BSA or SA, activating any of our services, or using any of our services, you acknowledge that you have had an opportunity to read and review, and agree to abide by, all of the terms and conditions of the Agreement including those posted on our website referenced above. You also agree to receive notifications from MetroNet via text over the wireless number you provided to MetroNet (charges may apply).

You consent to the use of electronic signatures for agreement(s) with us and consent to receive all notices and disclosures we send to you online or through other electronic means (e.g. email or text over the wireless number you provided to MetroNet, charges may apply). Your consent may be given by: clicking a box indicating your acceptance, consent or acknowledgment; activating any of our services; or, using any of our services. If you want a paper copy of any document provided to you online, by email or other electronic means, please contact us at 1-877-407-3224 or by emailing business-customer-service@metronetinc.com and a paper copy will be sent to you (processing charges may apply). If you no longer wish to sign documents using electronic signatures or receive notices or disclosures electronically, you may send a letter withdrawing your consent at no charge to you by emailing business-customer-service@metronetinc.com. Your withdrawal will not affect the legal validity or enforceability of the electronic documents, signatures and deliveries prior to the time the withdrawal of your consent is processed. If your email or other address for electronic communications changes, please let us know promptly by contacting 1-877-407-3224 or at Business-customer-service@metronetinc.com. The following hardware and software are required to access and retain the electronic documents: Adobe Acrobat Reader software, version 6.0 or higher, computer running the latest version of Microsoft Internet Explorer or another compatible browser capable of viewing the site in 128 bit encryption. These requirements may change from time to time. If you experience difficulties accessing electronic documents, please contact us at 1-877-407-3224 or at Business-customer-service@metronetinc.com.

3. **Term.** This Agreement will be binding on Customer upon Customer’s execution of the BSA, ASA, or SA and the initial term of the Fiber Services will continue after the date the Fiber Services are first available to Customer for the Term set forth in such BSA, ASA, or SA. Upon the expiration of the initial term, the Agreement will automatically renew for additional one (1) year terms unless either party provides written

¹ Fiber Services may be provided by Metro Fibernet, LLC, CMN-RUS, Inc. and their affiliates.

notice of its intention not to renew the Agreement at least thirty (30) days prior to the expiration of the then current term.

4. Early Termination. Except for a permitted termination pursuant to Section 10 of these terms and conditions, and except as otherwise provided in this Section, in the event you terminate (or we terminate due to your breach) this Agreement or any Fiber Service prior to the expiration of the then current term, we reserve the right to charge you, as liquidated damages and not as a penalty, an amount equal to: (i) sixty percent (60%) of the average monthly recurring fees for the terminated Fiber Services, including usage based fees, multiplied by the number of months remaining on the then current term; and (ii) any unpaid non-recurring and recurring fees associated with the terminated Fiber Services. In the event MetroNet must construct facilities in order to serve your location and you terminate your contract before MetroNet begins providing service, we reserve the right to charge you, as liquidated damages and not as a penalty, an amount equal to MetroNet's costs to construct its network to your premises.

5. Payment & Billing. All non-recurring fees will be due within thirty (30) days of invoice. With the exception of non-recurring fees and usage based charges, you will be billed monthly in advance for the Fiber Services. Tax-like charges and other local, state or federally charged, imposed or authorized fees and surcharges are not built into our rates, and therefore, will be included separately on your monthly bill. You agree to pay all charges stated in your bill including any taxes and surcharges no later than thirty (30) days following the invoice date without offset or demand. If you do not pay your bill in full by the due date, you may incur a late payment fee equal to twenty-five dollars (\$25.00) or the highest late payment fee allowed by law. The unpaid portion of your bill will also incur interest, from the due date until paid, at three percent (3%) per month or the highest rate allowed by law. We may also discontinue some or all of your Fiber Services until payment is received. In the event that we disconnect your Fiber Services for nonpayment, you may be required to pay a reconnection fee. If we incur expenses collecting any past amount due from you, you agree to pay our collection expenses including, but not limited to, court costs, service fees, collection fees, and attorneys' fees.

6. Equipment. We may install equipment in and around your place of business. This equipment may include, but is not limited to, a Network Interface Device ("NID"), phones, switches, routers set top boxes and cabling (collectively the "Equipment"). Unless you purchase the Equipment from us, the Equipment is our property. You agree that you will not move any of the Equipment to another location outside your place of business either temporarily or permanently. You are responsible for the care and maintenance of the Equipment located at your place of business. You agree not to modify the Equipment in any way. If any of the Equipment is damaged, modified, lost, destroyed, tampered with, or stolen while in your possession, you will be responsible for the reasonable cost of repair or replacement of the affected Equipment. When you cease being a customer or move from your current location, you are responsible for returning the Equipment to us, with the exclusion of any wiring or equipment located outside your place of business, and obtaining a signed return receipt from us.

7. Installation. You hereby authorize us and/or our contractors to enter your place of business during normal business hours, or by appointment, to install, inspect, maintain, replace, or remove the Equipment. You also grant us the right to enter onto property owned or controlled by you at all reasonable times, even if you are not present, to install, inspect, maintain, replace or remove any of the Equipment located outside your place of business. Unless we are grossly negligent or intentionally harm any persons or property, we will not be responsible or liable for any damages caused by us while performing work on

your property or in your place of business. We are not responsible for the operation, maintenance and repair of your television, computer or any other device owned by you to which we establish a connection. You may not install any device or equipment to our inside wiring or Equipment that will impair the integrity of our Equipment or network. You agree that we will have no liability for any lost wages and expenses you may incur as a result of any present or future work to be performed by us or any appointment made to perform present or future work. If you are not the owner of the premises upon which our Equipment or Fiber Services are to be installed, you warrant that you have obtained the consent of the owner of the premises for our representatives to enter the premises for the purposes described in this section. You agree to indemnify and hold harmless MetroNet, its affiliates and their representatives from and against any claims of the owner of the premises arising out of the performance of this Agreement. You agree to mark for us the location of any private utilities or other underground facilities on the premises between the public rights of way and the Collocation Space (defined below).

8. Collocation Space. To the extent that we need space in and around your place of business to provide you Fiber Services, including, but not limited to, any necessary easements, licenses, permits and building entrance rights required to connect our Equipment from the public right of way to your place of business ("Collocation Space"), you agree to provide us such Collocation Space and hereby grant us an irrevocable license to use, occupy and maintain the Collocation Space until the Agreement is terminated. You also agree to provide us with power, not to exceed 30 amps of power, for our Equipment. With the exception of any power usage that exceeds 30 amps of power a month, you will not charge us for the Collocation Space or the power usage of our Equipment. Additionally, you hereby grant us a license to access the Collocation Space on a 24 hour/7 day per week basis, subject to any reasonable rules and regulations promulgated by you for the use and maintenance of the Collocation Space. We are not responsible for any delays in provisioning the Fiber Services or interruptions to the Fiber Services caused by your inability or failure to secure, maintain or give us access to the Collocation Space.

9. Limitation of Liability and Indemnification. CUSTOMER AGREES THAT ALL FIBER SERVICES ARE PROVIDED BY METRONET ON "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF TITLE, NONINFRINGEMENT OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT SUCH SERVICES WILL BE ERROR-FREE. METRONET MAKES NO WARRANTY THAT THE FIBER SERVICES WILL BE UNINTERRUPTED, OR WILL SECURE CUSTOMER'S COMPUTER FROM THIRD-PARTY UNAUTHORIZED ACCESS OR MONITORING VIRUSES OR OTHER MALICIOUS SOFTWARE, AND NO INFORMATION OR ADVICE OBTAINED BY YOU FROM US OR THROUGH THE FIBER SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT. CUSTOMER AGREES THAT ALL USE OF THE FIBER SERVICES ARE AT CUSTOMER'S SOLE RISK AND CUSTOMER EXPRESSLY ACKNOWLEDGES AND ACCEPTS THE FIBER SERVICES KNOWING THAT SUCH SERVICES ARE SUBJECT TO INTERRUPTION FROM POWER OUTAGES AND EQUIPMENT FAILURES. IN NO EVENT WILL METRONET, ITS AFFILIATES OR PARENT COMPANY, BE LIABLE FOR DAMAGES OF ANY KIND, INCLUDING LOST SALES OR BUSINESS, LOST DATA, BUSINESS INTERRUPTION, LOSS OF GOODWILL, COSTS OF COVER OR REPLACEMENT OR ANY DIRECT, INDIRECT INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER OR NOT THERE IS NEGLIGENCE ON THE PART OF METRONET AND WHETHER OR NOT METRONET HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES. UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH THE INSTALLATION, REPAIR, REPLACEMENT, OR REMOVAL OF METRONET'S EQUIPMENT, THE USE OR INABILITY TO USE THE FIBER SERVICES, OR THE USE OR INABILITY TO USE ANY

THIRD-PARTY SERVICES INCLUDING, BUT NOT LIMITED TO, E911 SERVICE AND SECURITY MONITORING, IN NO EVENT WILL METRONET'S LIABILITY EXCEED THE AMOUNT ACTUALLY PAID BY CUSTOMER FOR THE FIBER SERVICES DURING THE THREE (3) MONTHS PRIOR TO THE DATE THE EVENT GIVING RISE TO THE LIABILITY OCCURS. CUSTOMER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS METRONET, ITS AFFILIATES AND PARENT COMPANY, FROM AND AGAINST ANY AND ALL CLAIMS AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, ARISING OUT OF OR RELATED IN ANY WAY TO THE USE OF THE FIBER SERVICES BY CUSTOMER OR OTHERWISE ARISING OUT OF CUSTOMER'S BREACH OF ANY MATERIAL TERM OF THIS AGREEMENT. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES OR FOR PERSONAL INJURY OR DEATH, WHICH MEANS THAT SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. IN THESE JURISDICTIONS, METRONET'S LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

10. **Adjustments.** For regulatory reasons or vendor cost increases which adversely affect the cost of providing the Fiber Services, we may increase the rates charged to you, delete or modify the Fiber Services provided hereunder, change the terms of the Agreement or pass through to you all or a portion of any charge or surcharge directly or indirectly related to such regulatory activity or vendor cost increases. We will notify you in advance if we initiate any of the foregoing changes. If the proposed changes considerably increase the price of the Fiber Services or your duties and obligations under the Agreement, you may terminate the applicable Fiber Service with no further liability by delivering written notice to us no later than thirty (30) day following the date we notify you of the change. Your continued use of the Fiber Services after the expiration of such thirty (30) day period will be deemed consent to any such changes.

11. **End User Authorizations.** To ensure compliance with certain legal and regulatory requirements, if you are purchasing the Fiber Services on a bulk basis for use by your tenants or residents (the "End Users"), we may require you to obtain a "Letter of Authorization" with special terms and conditions ("LOA") from your End Users. The execution of an LOA shall not relieve your duties or obligations under the Agreement or act as a limitation on our rights or remedies under the Agreement. If you fail to obtain an LOA from any End User, you shall indemnify us for any loss, cost or damage we may incur as a result of not having the LOA in place. You agree to promptly forward all LOAs to us throughout the term of this Agreement. MetroNet reserves the right to limit or restrict your or an End User's access to a Fiber Service in case of abuse, illegal activity or activity that will harm or detrimentally affect MetroNet's network. Prior to restricting a Fiber Service, MetroNet will endeavor to provide Customer with prior notice.

12. **Third Party Services.** If you decide to enable, access or use Third Party Services, be advised that your access and use of such Third Party Services are governed solely by the terms and conditions of such Third Party Services, and we do not endorse, are not responsible or liable for, and make no representations as to any aspect of such Third Party Services, including, without limitation, their content or the manner in which they handle, protect, manage or process data or any interaction between you and the provider of such Third Party Services. We cannot guarantee the continued availability of such Third Party Service features, and may cease enabling access to them without entitling you to any prior notice or refund, credit, or other compensation, if, for example and without limitation, the provider of a Third Party Service ceases to make the Third Party Service available for interoperation with the corresponding Fiber Service in a manner acceptable to us.

13. Jurisdiction and Venue. Jurisdiction and venue for all disputes will be Evansville, Indiana. BOTH PARTIES EXPRESSLY WAIVE THE RIGHT TO JOIN A CLASS ACTION OR REQUEST A TRIAL BY JURY REGARDING ANY LEGAL DISPUTE ARISING FROM THIS AGREEMENT. Regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to the agreement or the Fiber Services must be filed within one (1) year after such claim or cause of action arose or be forever barred.

14. Changes to Terms of Service. We reserve the right to change these Terms and Conditions, our tariff, our AUPP, the Additional Terms of Service Addendum (Business) and the Managed Wi-Fi Terms of Service at any time without prior notice to you by amending the online version posted on our website, www.metroinc.com. Any such changes will be effective upon posting of the revised terms on our website.

15. General. This Agreement represents the entire understanding and agreement between MetroNet and Customer and supersedes all prior agreements, whether written or oral. No alterations or changes may be made to the Agreement, pricing schedules or any other document regarding any services provided by us except with the written approval of an officer of MetroNet. Except for the limitation set forth in Section 13 of these terms and conditions, no failure on the part of either party to exercise, and no delay in exercising, any right or remedy hereunder will operate as a waiver thereof; nor will any single or partial exercise of any right or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right of remedy granted hereby or by law. The Agreement, a legally binding contract between MetroNet and Customer, binds and insures to the benefits of their respective principals, successors and assigns. The format, words and phrases used in this Agreement will have the meaning generally understood in the Telecommunications Industry. This Agreement will be construed in accordance with its fair meaning and not against the drafting party. The following Sections will survive the expiration or termination of the Agreement: Sections 4, 5, 6, 7, 9, 13 and 15 of these terms and conditions.