

Carrier Terms and Conditions of Service

These terms and conditions ("Terms") apply to all services offered to telecommunications carriers by OpenFiber Kentucky Company, LLC or Accelecom GA LLC ("Accelecom"). The placement of a service order ("Service Order"), payment of an invoice, or receipt or use of services from Accelecom constitutes acceptance of and agreement to be bound by these Terms and the terms of any Service Order and related order confirmation ("Order Confirmation"). These Terms (including Exhibits A and B hereto), the Service Order, and the Order Confirmation are referred to as the "Agreement."

As used in these Terms "Customer" means the customer specified in a Service Order and Order Confirmation. Customer and Accelecom are referred to herein individually as "Party" and together as the "Parties." "End User" means an end user of Customer whose traffic Customer will carry via services provided by Accelecom.

1. ORDERING, PROVISION, AND USE OF SERVICES

1.1 Service Orders. Customer may place orders for transport services ("Services") by executing and delivering a Service Order to Accelecom. If accepted, Accelecom will countersign the Service Order and issue to Customer an Order Confirmation. Each Service Order will be effective and binding on the Parties only upon issuance of an Order Confirmation. Each Service Order will specify: (a) Customer's identity, (b) type(s) of Services, (c) installation/service address(es) ("Site"), (d) quantity(ies) of Services between originating and terminating location(s) ("Circuit(s)"), (e) monthly recurring charges ("Monthly Recurring Charges"), (f) any one-time charges ("Non-Recurring Charges"), and (g) minimum period of time for which Customer commits to purchase the Service(s) (the "Service Order Term").

1.2 Use of Services. Customer's use of the Services (including all content transmitted via the Services) shall comply with all applicable laws and regulations and the terms of the Agreement. Customer shall not use, or permit the use of any Services, in a manner that will impair Accelecom's network or facilities or the ability of other Accelecom customers to use

Accelecom's services. As between the Parties, Customer is solely responsible for (a) all use (whether or not authorized) of the Services, which use shall be deemed Customer's use for purposes of the Agreement; and (b) all content that is stored or transmitted via the Services. Customer will provide Accelecom reasonable advance written notice of any order for Service where the End User is contemplated to be a governmental entity. The Parties acknowledge and agree that unless otherwise expressly agreed in writing by an authorized representative of Accelecom, Accelecom will not be bound by any flow-down clause imposed by a governmental entity.

2. PAYMENT; TAXES

2.1 Charges. Customer agrees to pay any charges for the Services within thirty (30) days after the date of the invoice (the "Due Date") in immediately available funds payable to Accelecom. Any dispute of a charge must be made within sixty (60) days of the date of invoice.

2.2 Commencement of Billing. Customer's obligation to pay the Monthly Recurring Charges shall begin on the date on which a Circuit is delivered to a Customer and ready for use (the "Service Commencement Date"). Notwithstanding the foregoing, in the event of a delay in activation of Services due to delays or failures by Customer, Accelecom shall be permitted to commence billing on the installation date set forth in the Order Confirmation for the applicable Services (the "Order Confirmation Date").

2.3 Interest/Collection Costs. Unpaid amounts are subject to interest, calculated at the lesser of 1.5% monthly or the maximum rate allowable by law. Customer shall also be responsible for all costs of collection (including reasonable attorneys' fees) to collect undisputed overdue amounts.

2.4 Taxes. Customer shall pay any applicable federal, state, or local sales, use, or excise taxes, fees, or surcharges in connection with Service(s) furnished to Customer, including state or federal Universal Service Fund contributions (excluding any taxes based upon Accelecom's income). Customer shall pay all gross receipts taxes which may be passed through by Accelecom under the rules of any federal, state, or local governmental authority. Accelecom

shall have the right to recover from Customer the amount of any fees, surcharges, or taxes imposed directly on Accelecom or the Services provided under the Agreement in accordance with all applicable laws, in the form of a surcharge included on Accelecom's invoice.

Customer shall provide Accelecom with information, including but not limited to duly executed exemption certificates with respect to any exemption from sales, use, or other tax or fee exemption claimed by Customer and shall immediately notify Accelecom of any change in Customer's tax status. To the extent any such exemption documentation is held invalid by the tax or governmental authority for any reason, Customer agrees to reimburse Accelecom for any tax liability including without limitation related interest and penalties arising from such invalid documentation.

3. TERM AND TERMINATION

3.1 Service Order Term. The Service Order Term will be specified in the applicable Service Order and will commence on the Service Commencement Date. Upon expiration of the Service Order Term with respect to a particular Service Order, the Service Order Term shall continue on a month-to-month basis until terminated by a Party upon thirty (30) days' written notice to the other Party.

3.2 Early Termination.

(a) If Customer terminates a Service Order at any time after issuance of the Order Confirmation by Accelecom and prior to the applicable Order Confirmation Date, Accelecom may invoice Customer for, and Customer shall pay Accelecom by the applicable Due Date, as liquidated damages and not as a penalty: (1) the amount of any third party-imposed termination liability incurred as a result of such termination, as well as any construction or installation related charges and expenses incurred by Accelecom prior to such termination that are attributed to the affected Services, and (2) a termination charge of one (1) month's Monthly Recurring Charges if cancelled more than thirty (30) days prior to the Order Confirmation Date, two (2) months' Monthly Recurring Charges if cancelled between eleven (11) and

thirty (30) days prior to the Order Confirmation Date, and three (3) months' Monthly Recurring Charges if cancelled ten (10) days or fewer prior to the Order Confirmation Date. There will be no such early termination charge if a Circuit is cancelled prior to the issuance of an Order Confirmation by Accelecom.

(b) If Customer terminates a Service Order on or after the Service Commencement Date but before the end of the applicable Service Order Term, Customer shall pay to Accelecom on demand, as liquidated damages and not as a penalty, (i) an early termination charge equal to the sum of: (1) the full amount of all undisputed past due charges and interest thereon, if any, and (2) one hundred percent (100%) of all remaining Monthly Recurring Charges for the applicable Service Order Term; and (ii) any construction or installation related charges and expenses incurred by Accelecom with respect to such Circuit to the extent that the early termination charge in (i) above does not fully reimburse Accelecom for such costs.

3.3 Termination Effects. Immediately upon termination of any Service(s) or the Agreement, Customer shall cease all use of the Services and, upon request of Accelecom, return any Accelecom Equipment (as defined below). Accelecom may leave in place all or certain portions of any Accelecom Equipment in its sole discretion.

4. INSURANCE

Customer shall carry such types and amounts of insurance as are reasonably necessary to meet Customer's obligations under the Agreement, including without limitation its indemnification obligations set forth in Section 8. Upon request of Accelecom, Customer will furnish to Accelecom certificates of such insurance.

5. WARRANTIES AND NETWORK STANDARDS FOR SERVICES

5.1 Representations of the Parties. Each Party hereby represents and warrants to the other Party that such Party is in good standing in the state of its organization, that such Party is qualified to do business in the states where

the Services will be delivered, and that the execution of the Agreement by such Party has been duly authorized in compliance with such Party's organizational documents and procedures.

5.2 DISCLAIMER. EXCEPT AS SET FORTH IN THE AGREEMENT, THE SERVICES AND RELATED EQUIPMENT AND/OR OTHER MATERIALS USED IN CONNECTION WITH THE SERVICES, IF ANY, ARE PROVIDED WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Accelecom DOES NOT REPRESENT OR WARRANT THAT THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS, WILL PREVENT UNAUTHORIZED ACCESS BY THIRD PARTIES, or WILL BE UNINTERRUPTED, SECURE, ERROR-FREE, WITHOUT DEGRADATION OF VOICE QUALITY OR LOSS OF CONTENT, DATA OR INFORMATION OR THAT ANY MINIMUM TRANSMISSION SPEED IS GUARANTEED AT ANY TIME. CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT ANY DATA, MATERIAL OR TRAFFIC OF ANY KIND WHATSOEVER CARRIED, UPLOADED, DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT CUSTOMER'S OWN DISCRETION AND RISK AND THAT CUSTOMER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER'S OR AN END USER'S COMPUTER SYSTEM OR EQUIPMENT (INCLUDING NETWORK EQUIPMENT) OR LOSS OF SUCH DATA, MATERIAL OR TRAFFIC DURING, OR THAT RESULTS FROM, CUSTOMER'S OR ITS END USER'S USE OF THE SERVICES INCLUDING, BUT NOT LIMITED TO CUSTOMER'S OR END USER'S SENDING OR RECEIVING, OR UPLOADING OR DOWNLOADING, OR ATTEMPTS TO DO SAME, OF SUCH DATA, MATERIAL OR TRAFFIC. Any services provided by Customer to any third parties (including any customer of Customer, Customer Reseller or End User) are the sole responsibility of Customer, and in no circumstances shall such services be deemed to be Services provided by Accelecom to such parties.

6. DEFAULT

6.1. Definition. A Party shall be deemed in default of the Agreement (a "Default") upon the occurrence of any one or more of the following events:

(a) If a Party liquidates, is adjudicated as bankrupt, makes an assignment for the benefit of creditors, invokes any provision of law for general relief from its creditors, or initiates any proceeding seeking general protection from its creditors;

(b) Except with respect to payment defaults, a Party fails to perform its material obligations under the Agreement and such nonperformance is not remedied within thirty (30) days after receipt of written notice thereof, provided that if the breach is of such a nature that it cannot be cured within thirty (30) days, then such Party shall not be in Default so long as it commences to cure within such period of time and thereafter diligently and continuously pursues such cure to completion; or

(c) A Party fails to make any payment under the Agreement when due.

6.2 Consequences. Upon the occurrence of a Default and subject to any applicable notice and cure periods, the non-defaulting Party under the Agreement may, without liability to the other Party, terminate the applicable Services affected by such uncured Default, or suspend performance with respect to the applicable Services under the affected Service Orders. The foregoing shall be in addition to any other rights and remedies that Accelecom may have under the Agreement or at law or equity relating to Customer's breach.

7. OWNERSHIP OF RIGHTS; CONFIDENTIALITY

All materials provided by Accelecom in connection with the Agreement and any proprietary or confidential know All materials provided by Accelecom in connection with the Agreement and any proprietary or confidential know how, methodologies, information, software, or processes used, developed, or disclosed by Accelecom in connection with the Agreement ("Accelecom Information") shall remain the sole and exclusive property of Accelecom. Customer shall not cause or permit any person to disassemble, decompile, reverse engineer, reproduce, modify, or distribute the Accelecom Information or Accelecom Equipment (as defined below), in whole or in part, or use them for the benefit of any third party. Customer agrees to maintain in confidence,

and not to disclose to third parties or use, except for such use as is expressly permitted in the Agreement, the Accelecom Information, including, but not limited to, the contents of any Service Orders or Order Confirmations.

8. INDEMNIFICATION

Customer agrees to indemnify, defend and hold harmless Accelecom and its directors, officers, employees, affiliates, agents and subcontractors from any and all claims, liabilities, lawsuits, damages, losses, judgments, costs, fees, and expenses (including attorneys' fees) to the extent arising out of or relating to (a) any non-compliance by Customer with its obligations under the Agreement; (b) a claim by a Customer Reseller or End User relating to the Service; or (c) use of the Services.

9. LIMITATION OF LIABILITY

9.1 NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, ACCELECOM SHALL NOT BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, RELIANCE, OR PUNITIVE DAMAGES (INCLUDING BUT NOT LIMITED TO ANY LOST PROFITS, LOST REVENUES, LOST SAVINGS, OR HARM TO BUSINESS) ARISING OUT OF OR RELATING TO THE SERVICES OR EITHER PARTY'S PERFORMANCE OR NONPERFORMANCE UNDER THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL ACCELECOM'S AFFILIATES, THIRD-PARTY SERVICE PROVIDERS OR SUPPLIERS HAVE ANY LIABILITY TO CUSTOMER, END USERS, OR CUSTOMER RESELLERS HEREUNDER.

9.2 THE AGGREGATE LIABILITY OF ACCELECOM FOR ANY REASON AND ALL CAUSES OF ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL BE LIMITED TO THE TOTAL FEES PAID OR PAYABLE BY CUSTOMER UNDER THE APPLICABLE SERVICE ORDER FOR THE APPLICABLE SERVICE DURING THE SIX (6) MONTHS PRECEDING THE CLAIM.

9.3 NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, ACCELECOM'S SOLE LIABILITY, AND CUSTOMER'S SOLE REMEDY, WITH RESPECT TO ANY FAILURE OF THE SERVICE SHALL BE AS SET FORTH IN THE SERVICE LEVEL AGREEMENTS ATTACHED HERETO AS EXHIBITS A and B.

10. REGULATORY

10.1 Use of Services. The Agreement is a contract between two carriers. Customer represents that it will be reselling the Service provided under the Agreement solely as “telecommunications”, as that term is defined under the Communications Act of 1934, to End Users or, subject to the prior written consent of Accelecom, to resellers (a “Customer Reseller”) and each of those Customer Resellers is itself a 499-A worksheet filer and a direct contributor to the federal universal service support mechanisms. Customer further represents that Customer, or any Customer Reseller, has obtained and will maintain in effect all required licenses, registrations, filings, including the filing of a Form 499 concerning universal service assessments, permits and other approvals from the Federal Communications Commission (“FCC”) and/or any other federal, state or local agency with jurisdiction over Customer’s, or a Customer Reseller’s, business or activities under the Agreement. Customer shall notify Accelecom promptly in writing in the event that it does not make, or intends not to make, or that a Customer Reseller does not make or intend to make, such certification with respect to any of the traffic carried by the Services. In the event that Customer does not make such certification with respect to any of the traffic carried by the Services, then (a) Accelecom shall have the right to assume that the traffic to be carried by the Services will be jurisdictionally interstate, pursuant to the FCC’s mixed use “10% Rule” (47 CFR 36.154, 4 FCC Red. 1352), in the absence of a prompt written notice from Customer to the contrary, and (b) Accelecom shall have the right to invoice Customer for USF contributions in accordance with Section 2.4.

10.2 Effect of Third Party Actions. If any change in law or regulation, any decision by a regulatory authority or court of competent jurisdiction, or any change or termination of an agreement, permit, license, authorization, approval, consent, or similar grant of rights outside the reasonable control of Accelecom has the effect of canceling, changing, superseding, or frustrating any material term or provision of the Agreement or otherwise materially increasing Accelecom’s costs or changing the economic structure of the

transactions contemplated under the Agreement, then Customer acknowledges and agrees that Accelecom may pass through to Customer any increased costs arising out of such action; provided that Accelecom shall not pass through such costs on a discriminatory basis. In addition, if Accelecom determines that offering or providing of the Services, or any part thereof, has become impracticable for legal or regulatory reasons (including termination of that certain Wholesaler Agreement by and between Accelecom and the Commonwealth of Kentucky) then Accelecom may terminate any affected Service Orders immediately upon written notice without liability.

11. FORCE MAJEURE

11.1 In no event shall a Party have any claim or right against the other Party for any delay or failure of performance by such other Party if such failure of performance is caused by or the result of, in whole or in part, (i) causes beyond the reasonable control of such other Party, including, but not limited to, acts of God, fire, lightning, storm, flood, or other natural disaster, or failures of a third-party service provider; (ii) laws, orders, rules, regulations, directions, or actions of, or delays or issues arising out of the issuance of permits or other authorizations or approvals by, governmental authorities having jurisdiction over the Agreement; or (iii) any civil or military action including national emergencies, riots, war, terrorism and civil insurrections ("Force Majeure Event"). The Party whose performance is affected shall use commercially reasonable efforts to minimize the impact of such Force Majeure Event. A Force Majeure Event shall never excuse the failure to make a payment due hereunder, except to the extent that the Force Majeure Event physically interferes with the delivery of the payment.

11.2 If failure of performance by a Party hereunder due to Force Majeure events continues for thirty (30) days or less, the Agreement and all Service Orders issued hereunder then in effect shall remain in effect. If the Force Majeure event continues beyond thirty (30) days, thereafter upon ten (10) days written notice to the other Party, either Party may terminate only the affected

Service(s) or Circuit(s), without incurring any penalty or further obligation to the other Party (including cancellation or termination charges).

11.3 If either Party asserts the applicability of this Section 11, it shall use commercially reasonable efforts to provide prompt Notice to the other Party of the commencement and ending of the Force Majeure event.

12. ASSIGNABILITY

Customer may not assign or in any way transfer the Agreement or any rights or obligations under the Agreement. Customer may not assign the Agreement or any part thereof without Accelecom's prior written consent. Any assignment without Accelecom's prior written consent shall be void. Accelecom may assign its rights and obligations under the Agreement (including any Service Order), in whole or in part, without the prior approval of Customer.

13. BUILDING AND EQUIPMENT ACCESS; SITE CONDITIONS

13.1 Site Access. Customer shall allow Accelecom reasonable, escorted access to the Customer Site or any End User Site to install, operate, maintain, remove, repair and replace (collectively "Work") fiber optic cable, co-axial cable, copper wiring, antennas, and any other transmission medium and associated equipment (collectively, the "Accelecom Equipment") in and on the Customer Site or End User Site for purposes of providing Services under the Agreement. Customer shall obtain all rights of way, public and private easements, licenses, and consents with respect to the performance of Work at any Customer Site or End User Site.

13.2 Space and Power. Customer shall, upon Accelecom's request and at no cost to Accelecom, (i) provide adequate clean electrical power to meet Accelecom's reasonable requirements, during the term of the applicable Service Order, at the Site(s) specified in the applicable Service Order, as well as all necessary connections to electrical and mechanical facilities at the Customer Site or End User Site as are necessary for the operation of Accelecom Equipment in the Customer Site or End User Site; and (ii) provide

floor space, an equipment bay or equipment rack space at the Customer Site or End User Site.

13.3 Ownership of Accelecom Equipment. The Accelecom Equipment, and any and all other equipment used to provide the Services, shall remain the exclusive property of Accelecom and not be considered fixtures to any Customer Site or End User Site. Customer shall ensure that the Accelecom Equipment at any Customer Site or End User Site remains free from all liens and encumbrances and Customer shall be responsible for loss or damage to the Accelecom Equipment while at the Customer Site or End User Site. Customer agrees to conform its equipment and software, and to ensure that each End User conforms its equipment and software, to the technical specifications provided by Accelecom from time to time. Customer shall not and shall ensure that its End Users and Customer Resellers shall not, tamper with, remove or conceal any identifying plates, tags or labels affixed to such equipment, nor align, or attempt to repair, Accelecom's equipment except as expressly authorized in advance in writing by Accelecom. Unless otherwise agreed in writing by the Parties, interconnection of the Accelecom Equipment with Customer's, the Customer Reseller's or the End User's equipment will be performed by Customer. Accelecom Equipment shall not be removed or relocated by Customer, a Customer Reseller or any End User. Accelecom shall have the right, but not the obligation, to upgrade, modify and enhance the Accelecom Equipment (including related firmware) and the Service and take any action that Accelecom deems appropriate to protect the Service and its facilities.

14. NOTICES

14.1 All notices, demands, requests, or other communications under the Agreement shall be in writing and delivered by hand delivery (including overnight mail delivery service or courier), e-mail, or mailed by first-class registered or certified mail, return receipt requested and postage prepaid, to the persons whose names and business addresses appear below or, for Customer, on the applicable Service Order, and such notice shall be effective on the date of receipt by the receiving Party:

Accelecom
1700 Eastpoint Parkway, Suite 230
Louisville, Kentucky 40223
Attn: Legal Notice

With copy to:

legal@accelecom.net

14.2 Each Party may designate by notice in writing a new person and/or address to which any notice, demand, request or communication may thereafter be so given, served or sent. Each notice, demand, request, or communication which shall be mailed, delivered or transmitted in the manner described above shall be deemed sufficiently given, served, sent and received for all purposes at such time as it is delivered to the addressee (with the return receipt, the delivery receipt, or email transmission confirmation being deemed conclusive, but not exclusive evidence of such delivery) or at such time as delivery is refused by the address upon presentation.

15. MISCELLANEOUS

15.1 Entire Agreement. The Agreement sets forth the entire understanding of the Parties and supersedes all prior agreements, interim agreements, letters of agreement, memorandums of understanding, and any other oral or written documentation of agreements between the Parties hereto with respect to the subject matter hereof. In the event of any inconsistency between the main body of these Terms and any appendices, Exhibits, or orders made a part hereof, precedence shall be given in the following order to: (a) any Master Service Agreement between the Parties; (b) an Order Confirmation issued pursuant to the Agreement; (b) any Service Order issued pursuant to the Agreement; (c) these Terms; (d) Exhibits A and B to these Terms.

15.2 Legal Relationship. Nothing in the Agreement shall be deemed to create any relationship between Accelecom and Customer other than that of independent parties contracting with each other solely for the purpose of carrying out the provisions of the Agreement. The Agreement does not render

either Party the employee, agent or legal representative of the other Party and does not create a partnership or joint venture between Customer and Accelecom. Neither Party shall have any authority to enter into any agreement on behalf of or bind the other Party in any manner whatsoever without the prior written consent of the other Party. The Agreement confers no rights of any kind upon any third party, except as specifically set forth herein. In providing the Services to Customer hereunder, Accelecom is not acting as an agent for the Commonwealth of Kentucky or Operations Co.

15.3 Compliance with Laws. In connection with the Agreement, each Party hereto shall comply with all applicable laws and regulations, including, but not limited to, the Telecommunications Act of 1996, as may be amended, and the policies, rules and regulations of the Federal Communications Commission, and all applicable local and state, laws, rules and regulations. Customer's use of the Service (including all content transmitted via the Service) shall comply with all applicable laws and regulations and the terms of the Agreement, and Customer shall ensure that its Customer Resellers' and End Users' use of the Service shall comply with all applicable laws and regulations and the terms of the Agreement. The Agreement is subject to all applicable federal, state or local laws and regulations in effect in the relevant jurisdiction(s) in which Accelecom provides the Services. If any provision of the Agreement contravenes or is in conflict with any such law or regulation, then the terms of such law or regulation shall take priority over the relevant provision of the Agreement. If the relevant law or regulation applies to some but not all of the Service(s) being provided hereunder, then such law or regulation will take priority over the relevant provision of the Agreement, its Exhibits, and the Service Order(s) only for purposes of those Service(s) to which the law or regulation applies. Except as explicitly stated in the Agreement, nothing contained in the Agreement shall constitute a waiver by Accelecom of any rights under applicable laws or regulations pertaining to the installation, operation, maintenance or removal of the Services, facilities, or equipment.

15.4 Waiver. No waiver of any of the provisions of the Agreement shall be binding unless it is in writing and signed by an authorized representative of Accelecom. The waiver of a breach or a default under any of the provisions of the Agreement, or the failure to insist on the strict enforcement of any provision of the Agreement or to exercise any right or privilege hereunder shall not constitute or be construed as a waiver of any subsequent breach or default of a similar nature, or any provision, rights or privileges, and all such terms shall remain in full force and effect.

15.5 Amendments. No subsequent agreement among the Parties concerning the Service (including, without limitation, any amendment to the Agreement or any Service Order) shall be effective or binding unless it is agreed to in writing by authorized representatives of the Parties.

15.6 Severability. If any part of any provision of the Agreement or any other agreement, document or writing given pursuant to or in connection with the Agreement shall be invalid or unenforceable under applicable law, said part shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts of said provision or the remaining provisions of the Agreement.

15.7 Governing Law.

(a) The Agreement and all matters arising out of this Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Kentucky without regard to its choice of law principles. Any judicial action arising out of or related to this Agreement shall be brought in the United States District Court for the Western District of Kentucky or, if such court would not have jurisdiction over the matter, then only in a Kentucky State court sitting in Jefferson County, Kentucky, and Customer consents to the jurisdiction and venue of such courts.

(b) THE PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY COURT WITH RESPECT TO ANY DISPUTES, CLAIMS OR ISSUES ARISING OUT OF OR CONNECTED IN ANY WAY TO THIS AGREEMENT, BECAUSE THE PARTIES HERETO, BOTH OF WHOM ARE REPRESENTED BY COUNSEL, BELIEVE THAT THE COMPLEX COMMERCIAL AND

PROFESSIONAL ASPECTS OF THEIR DEALINGS WITH ONE ANOTHER MAKE A JURY DETERMINATION NEITHER DESIRABLE NOR APPROPRIATE.

15.8 Publicity. Neither Party shall use the other Party's or its affiliates' names or logos, or otherwise issue any publicity releases or make any public statement(s) (whether in the form of news releases, advertising or solicitation materials, or blog or social media postings) relating to the Agreement or the Services to be performed under the Agreement, without the prior written approval of the other Party.

15.9 Survival. The terms and provisions contained in the Agreement that by their sense and context are intended to survive the performance thereof by the Parties shall survive the completion of performance and termination of this Agreement, including, without limitation, the making of any and all payments hereunder.

[Exhibit A – Several Level Agreements on following page]

EXHIBIT A

SERVICE LEVEL AGREEMENTS

ETHERNET SERVICES AND DEDICATED INTERNET SERVICES

This document contains Accelecom's Trouble Ticketing Procedure, Service Level Agreements ("SLA") and associated Service Level Objectives ("SLO") for network Service performance and operational measurements that will be provided with Accelecom's carrier fiber Ethernet Services (referred to in this Exhibit A as the "Service"). Capitalized terms not defined in this Exhibit A have the meanings given to them in the Terms.

For purposes of this Exhibit A, the following terms have these meanings:

"Emergency Maintenance" means maintenance which, if not accomplished promptly by Accelecom, could result in a serious degradation or loss of Service(s) to Customer.

"Overrun" means a condition in which the sum of the provisioned Ethernet Virtual Circuit ("EVC") bandwidth on a User to Network Interface ("UNI") port utilization exceeds the ordered port bandwidth.

"Planned Service Outage" means any Service Outage (as defined below) caused by scheduled maintenance or planned enhancements or upgrades to Accelecom's Network or Emergency Maintenance and either (i) agreed to in writing by Customer's operations group via e-mail or other means, such agreement not to be unreasonably withheld, provided the scheduled maintenance or planned enhancements or upgrades are performed within

the hours of 12:00 midnight and 6:00 AM local time, unless otherwise agreed by the Parties, or (ii) in the case of Emergency Maintenance, Accelecom's operations group provides as much prior notice as practicable, via e-mail or other means.

"Service Outage" means an unavailability of the Service such that no traffic can be transmitted between two Points of Termination; provided that a Service Outage will not be deemed to have occurred in the event that it arises from or relates to any of the following: (i) the negligence, error, acts or omissions of Customer or others authorized by Customer to use the Service; (ii) failure of Customer-provided equipment; (iii) resulting from any period in which Accelecom or its agents are not afforded access to any premises where the access lines associated with the Service are terminated; (iv) during any period when Customer has released Services to Accelecom for maintenance or rearrangement purpose (including, without limitation, during any Planned Service Outage); (v) any period when Customer elects not to release the Service(s) for testing and/or repair and continues to use it on an impaired basis; (vi) a Force Majeure Event; (vii) interruptions relating to, resulting from, or occurring during any Overrun; or (viii) a breach by Customer of its obligations under the Agreement.

1. Trouble Ticketing Procedure

A. Trouble Tickets

When Customer believes that a Service Outage has occurred, Customer may contact Accelecom via email to accelecom@accelecom.net or via phone call to 502-586-7600, to initiate the trouble ticket procedure ("Trouble Ticket"). If Accelecom determines there is a Service Outage, Accelecom and Customer will cooperate to restore Service. If the Service Outage is caused by a factor outside the control of Accelecom, Accelecom will cooperate with Customer to conduct testing and repair activities at Customer's cost and at Accelecom's standard technician rates.

B. Overruns

Customer shall at all times ensure that the bandwidth on each UNI is within its ordered bandwidth and manage utilization capacity of the ENNI port so that Overruns do not occur. If any Overruns do occur, however, during any Overrun, Customer shall adjust its traffic downward so as to eliminate the Overrun and Accelecom shall be excused from meeting any specifications set forth in the Service Order and any SLAs during and as a result of the Overrun. The duration of any Overrun shall not be included in the calculation of any Service level performance metric.

C. Problem Costs

In the event Accelecom dispatches a field technician to a Site to perform diagnostic troubleshooting and the problem resides with Customer's equipment or facilities or results in a "No Trouble Found," or the failure is due to Customer acts or omissions, then Customer shall pay Accelecom for time and materials at Accelecom's standard technician rates.

2. SLO PERFORMANCE DESCRIPTIONS

A. Service Availability

Service availability ("Service Availability") is calculated after the Customer opens and Accelecom confirms a Trouble Ticket based on unavailability of the Service with Accelecom and is based on the availability of the Service during the monthly Service billing period in which the Customer opens the Trouble Ticket.

B. Frame Loss Ratio

The Frame Loss Ratio ("Frame Loss Ratio") is defined as the percentage of the number of service frames across a particular service instance not delivered in relation to the total number of service frames sent calculated over the monthly Service billing period.

C. Mean Frame Delay

"Mean Frame Delay" is the arithmetic mean of delays experienced by a set of frames that egress an external interface (UNI or ENNI) as a result of an ingress

frame at another external interface (UNI or ENNI) except where any frame delay is the result of an excluded disruption.

D. Frame Delay Variation

“Frame Delay Variation” is defined as the average variation in delay for two consecutive frames that are transmitted (one-way) from one external interface (UNI or ENNI) to another external interface (UNI or ENNI). Acelecom measures a sample set of frames, unless measurement is not possible as a result of an excluded disruption, and determines the average delay between consecutive frames within each sample set.

3. FAULT MANAGEMENT

A. Mean Time to Respond

The mean time to respond (“MTTR”) measurement for a Service is the average time between the time a Trouble Ticket is opened by Customer, and the time Acelecom delivers a response to Customer’s Trouble Ticket. The “average time” is determined based on all Trouble Tickets with the same severity level associated with the same Service Outage (as defined below).

There are two (2) priority levels of Trouble Ticket severity (Critical and Major).

MTTR objectives for each severity level are:

Severity 1 – Critical Average within 4 hours

Severity 2 – Major Average within 8 hours

“**Severity 1 - Critical**” is defined as a complete outage affecting Customer’s Services.

“**Severity 2 - Major**” is defined as a partial outage or service degradation affecting Customer’s Service.

B. Network Maintenance

Acelecom will use commercially reasonable efforts to provide seven (7) days’ notice to Customer of all such maintenance that is expected to result in a Planned Service Outage. For Emergency Maintenance, Acelecom shall

notify Customer as soon as is commercially practical under the circumstances. Planned Service Outages will not be calculated against SLA measurements. If routine network maintenance exceeds the time scheduled and results in a Service Outage, Customer will be entitled to Outage Credits as specified below.

4. ROUTINE NETWORK MAINTENANCE WINDOWS

Unless otherwise agreed to between the Parties, routine network maintenance is performed during Accelecom’s standard maintenance windows.

Maintenance windows are as follows:

12 a.m. - 6 a.m. Local Time, Monday through Friday

If Planned Service Outages are expected during these specified times, Customer will be notified via email to the contact designated by the Parties. This notification will inform the Customer of the anticipated time, duration and reason for the network maintenance. While the specified maintenance window is six (6) hours in length, it is atypical that a given maintenance would require use of this entire window.

5. SERVICE LEVEL OBJECTIVES

The following section is a description of Accelecom’s monthly average network performance SLOs for the Service. Note: SLOs do not apply if ENNI is oversubscribed.

SLO Metric	Ethernet
Service Availability Metro (<250km), Regional (<1200km)	99.99%
Frame Loss Ratio	0.05%
Mean Frame Delay Roundtrip - Metro (<250km)	≤ 8ms

SLO Metric	Ethernet
Mean Frame Delay Roundtrip - Regional (<1200km)	≤ 20ms
Frame Delay Variation	≤ 2ms
MTTR (Depending on Severity)	4 - 8 Hours

6. OUTAGE CREDITS

For Fiber Service: In the event of a Service Outage that lasts for a continuous period of forty-four (44) minutes, and provided that Customer submits a request in accordance with the “Remedies” section below, Accelecom shall provide a credit (the “**Outage Credit**”) as follows:

Length of Service Outage (cumulative)	Credit
Between 44 Minutes - 2 Hours	5% of MRC
Between 2 - 4 Hours	10% of MRC
Between 4 - 12 Hours	20% of MRC
Between 12 - 24 Hours	30% of MRC
24 Hours or Greater	50% of MRC

THE PROVISIONS OF THIS SECTION 6 STATE CUSTOMER’S SOLE AND EXCLUSIVE REMEDIES FOR SERVICE OUTAGES OR SERVICE DEFICIENCIES OF ANY KIND WHATSOEVER.

NO SLAS/SLOS ARE OFFERED FOR BEST EFFORT ETHERNET AND INTERNET SERVICES. FOR THE AVOIDANCE OF DOUBT, THE PROVISIONS OF THIS SECTION 6 DO NOT APPLY TO BEST EFFORT ETHERNET AND INTERNET SERVICES AND SUCH SERVICES ARE OFFERED ONLY AS-IS AND AS AVAILABLE.

A. Remedies

Upon Customer's request to the Accelecom Help Desk made within thirty (30) business days of the closing of a Trouble Ticket in which the relevant Service Availability objective was not met, Customer shall be entitled to Outage Credits as set forth herein. The maximum Outage Credit issued in any one calendar month shall not exceed fifty percent (50%) of the applicable month's MRC for the affected Service. Customer may request only one credit per Service Outage per month.

B. Service Outage Start/End Time For Outage Credit Calculation Purposes

When a Service Outage occurs, the start time will be recorded as the time when Customer opens a Trouble Ticket for the affected Service and Accelecom acknowledges receipt of such Trouble Ticket and validates that the Service is affected by an Outage. A Service Outage is concluded when Accelecom determines such concludes the Service Outage no longer exists and will subsequently contact Customer via Trouble Ticket and/or e-mail.

7. CREDIT EXCEPTIONS

Notwithstanding any provision to the contrary, credits will not be issued where the SLA is not met as a result of any of the following:

- (a) The acts or omissions of Customer, its employees, contractors or agents or its end users;
- (b) The failure or malfunction of Customer owned equipment, applications, wiring beyond the Minimum Point of Entry (MPOE) or systems, whether owned, installed or controlled by Accelecom or Customer, including the failure or malfunction of Customer Premise Equipment or systems as a result of a power surge or loss of power originating from Customer provided electric power;

- (c) Force Majeure Events, as defined in the Terms;
- (d) Normal Maintenance, Urgent Maintenance, or Service alteration or implementation;
- (e) The unavailability of required Customer personnel, including as a result of failure to provide Accelecom with accurate, current contact information;
- (f) Accelecom's lack of access to the Site where reasonably required;
- (g) Customer's failure to release the Service for testing or repair and continuing to use the Service on an impaired basis;
- (h) Accelecom's termination of Service for Cause or Customer's use of Service in an unauthorized or unlawful manner;
- (i) Improper or inaccurate network specifications provided by Customer;
- (j) Customer's failure to materially comply with its obligations as defined in the Agreement, including failure to pay valid past-due amounts; order suspensions due to customer's credit worthiness.