

Terms and Conditions of Service

Unless otherwise denoted in the Service Order, these terms and conditions ("Terms") apply to all retail business services offered by OpenFiber Kentucky Company, LLC and/or Accelecom GA LLC, affiliated limited liability companies collectively doing business as Accelecom ("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, the Service Order, and the Order Confirmation are referred to as the "Agreement."

IF YOU DO NOT AGREE TO BE BOUND BY THE AGREEMENT (INCLUDING THESE TERMS), YOU MUST NOTIFY ACCELECOM AT ACCELECOM@ACCELECOM.NET or 502-586-7600 PRIOR TO OR WITHIN TWENTY-FOUR (24) HOURS OF THE DATE OF AN ORDER CONFIRMATION.

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 via Salesforce.com. If accepted, Accelecom will issue to Customer an Order Confirmation. Each Service Order will be effective and binding on the Parties only upon issuance of an Order Confirmation, and will become part of the Agreement only to the extent that the Service Order specifies: (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").

Any terms and conditions that are typed, printed, or otherwise included in any Service Order that conflict or are inconsistent with these Terms or an Order Confirmation will have no force or effect and are specifically rejected by Accelecom.

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 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 any Services.

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.

2.5 CPI Adjustment. Accelecom reserves the right to adjust charges for Services based on increases to and in accordance with the Consumer Price Index.

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 automatically renew for successive one-year terms unless terminated by a Party by giving thirty (30) days' written notice prior to the end of the initial term or any renewal term.

3.2 Early Termination.

If Customer terminates a Service Order at any time prior to end of the Service Order Term or any renewal term, including pre-installation cancellation, or if termination is otherwise caused by Customer's failure to perform its material obligations under the Agreement, Customer shall pay to Accelecom on demand, as liquidated damages and not as a penalty, 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 through the applicable Service Order Term.

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. REPRESENTATIONS AND WARRANTIES; DISCLAIMER

5.1 Customer Representations and Warranties. Customer represents and warrants that it is in good standing in the state of its organization, that it is qualified to do business in the states where the Services will be delivered, and that the execution and delivery of the Agreement has been duly authorized in compliance with Customer's organizational documents and procedures. Customer further represents and warrants that it is not a reseller of any telecommunication services provided under the Agreement as described in the Telecommunications Act of 1996, as amended, or applicable state law.

5.2 DISCLAIMER. 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 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. In the event of Default caused by Customer's failure to perform any material obligations under the Agreement, Accelecom may invoke and Customer agrees to pay the early termination fees outlined in Section 3.2. 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 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 reasonable attorneys' fees, arising out of or relating to (a) any breach of the Agreement by Customer; (b) a claim by an End User relating to any Services; (c) use of the Services by Customer or an End User; or (d) any cost, delay, or inability to install attributable to site access described in Section 13.4

9. LIMITATIONS OF LIABILITY

ACCELECOM SHALL NOT BE LIABLE TO CUSTOMER 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 NONPERFORMANCE UNDER THE 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 OR END USERS UNDER THE AGREEMENT.

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

NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, ACCELECOM'S SOLE LIABILITY, AND CUSTOMER'S SOLE REMEDY, WITH RESPECT TO ANY FAILURE OF THE SERVICES SHALL BE AS SET FORTH IN THE SERVICE LEVEL AGREEMENT ("SLAs") ATTACHED HERETO AND INCORPORATED HEREIN AS EXHIBIT A.

10. REGULATORY

10.1 Use of Services. Customer shall not resell the Services provided under the Agreement without the written consent of Accelecom and, if required by Accelecom, execution of a separate agreement.

10.2 Effect of Government Actions. If any change in law or regulation or a decision by a regulatory authority or court of competent jurisdiction 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 governmental 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 then Accelecom may terminate any affected Service Orders immediately upon written notice without liability.

11. FORCE MAJEURE

Accelecom shall have no liability for any delay or failure of performance if it is caused by, in whole or in part, (a) causes beyond Accelecom's reasonable control, including, but not limited to, acts of god, fire, lightning, storm, flood, or other natural disaster, or failures of a third-party service provider; (b) 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 (c) any civil or military action, including national emergencies, riots, war, terrorism and civil insurrections ("Force Majeure Event"). If the Force Majeure Event continues beyond thirty (30) days, thereafter upon ten (10) days written notice to Accelecom, Customer may terminate only the affected Service(s) or Circuit(s), without incurring any penalty or further obligation to the Accelecom.

12. ASSIGNABILITY

Customer may not assign or in any way transfer the Agreement or any rights or obligations under the Agreement 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, in whole or in part, without the prior approval of Customer.

13. BUILDING AND EQUIPMENT ACCESS; SITE CONDITIONS

13.1 Site Access; Site Conditions. Customer shall allow Accelecom reasonable, escorted access to the Customer Site or any End User Site to install, operate, maintain, repair, remove, 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 Work. Notwithstanding any provision to the contrary, Accelecom reserves the right to issue revised Monthly Recurring Charges, Non-Recurring Charges, and/or revised Order Confirmations, or terminate any one or more Site(s) pursuant to an accepted Service Order without liability, in the event that Accelecom identifies any unexpected costs or impediments as a result of a site survey.

13.2 Space and Power. Customer shall, upon Accelecom's request and at no cost to Accelecom, (a) provide adequate clean electrical power to meet Accelecom's reasonable requirements, during the applicable Service Order Term, 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 (b) 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 shall not, tamper with, remove, or conceal any identifying plates, tags, or labels affixed to such equipment, nor align, or attempt to repair, Accelecom 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 equipment will be performed by Customer. Accelecom Equipment shall not be removed or relocated by Customer 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(s) and take any action that Accelecom deems appropriate to protect the Accelecom's network and Accelecom Equipment.

13.4 Representation and Warranty for Site Access. Customer represents and warrants that Customer now has (or prior to installation) will have, secured Accelecom's right to access, at no additional cost to Accelecom, the

Customer Site and End User Site allowing Accelecom to perform the Work, and such access will be maintained throughout the Service Order Term and any renewal term. This representation and warranty includes any right of entry, easement, or other legal documentation as may be required from the owner(s) of record of the Customer Site and End User Site. Customer expressly acknowledges and agrees that any failure or breach of this Section will be deemed a failure of Customer to perform a material obligation under the Agreement.

14. NOTICES

Notices for the disconnection or termination of Services shall be sent via email to accelecom@accelecom.net or made via phone call to 502-586-7600. Such notices shall be effective ninety (90) days after Accelecom's receipt of the notice or such other date when processed and implemented by Accelecom.

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, precedence shall be given in the following order to: (a) the main body of these Terms; (b) Exhibit(s) hereto; (c) any Order Confirmation; and (d) any Service Order.

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. These Terms confer no rights of any kind upon any third party, except as specifically set forth herein. In providing the Services to Customer as OpenFiber Kentucky Company, LLC,

Accelecom is not acting as an agent for the Commonwealth of Kentucky (the "Commonwealth") or Operations Co.

15.3 Service Description; Kentucky Revenue Share. In providing the Services to Customer as OpenFiber Kentucky Company, LLC, Accelecom may utilize the KentuckyWired Network (also referred to as the NG-KIH System). For any Services provided to such Customer and utilizing network transport routes within the Commonwealth, Accelecom may use a route between the county in which the Customer Sites are located along the KentuckyWired Network. In addition, Accelecom agrees, for the benefit of the Customer and the Commonwealth, that Accelecom will pay to the Commonwealth a portion of the revenue derived under the Agreement consistent with the terms set forth in that certain Wholesaler Agreement dated as of October 13, 2017, by and between OpenFiber Kentucky Company, LLC and the Commonwealth. Accelecom and Customer acknowledge and agree that charges to be paid in accordance with the Wholesaler Agreement are based on Accelecom's contractual obligation with the Commonwealth.

15.4 Compliance with Laws. In connection with the Agreement, each Party 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(s) (including all content transmitted via the Service(s)) shall comply with all applicable laws and regulations and the Agreement, and Customer shall ensure that its End Users' use of the Service(s) shall comply with all applicable laws and regulations and the Agreement. If any provision of the Agreement contravenes or is in conflict with any 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 under the Agreement, then such law or regulation will take priority over the relevant provision of the Agreement 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.

15.5 Waiver. No waiver of any of the provisions of the Agreement shall be binding unless it is in writing and signed by Accelecom. Accelecom's waiver of a breach or Default, or the failure on one or more occasions to insist on the strict enforcement of any provision of the Agreement or to exercise any right or privilege 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.

15.6 Amendments. No subsequent agreement among the Parties concerning the Service(s) (including, without limitation, any amendment to any Service Order) shall be effective or binding unless it is agreed to in writing by an authorized representative of Accelecom. **ACCELECOM, HOWEVER, RESERVES THE RIGHT TO, FROM TIME-TO-TIME, CHANGE THE AGREEMENT (INCLUDING THESE TERMS) UPON AT LEAST THIRTY (30) DAYS PRIOR NOTICE OF SUCH A CHANGE.** Except for a change required by law or regulation (which shall not be subject to objection), Customer shall make any objection to such change by written notice as set forth in Section 14 above. Absent such objection, the changed Agreement terms shall become effective on the date set forth in Accelecom's notice of such change. In the case of an objection, Accelecom reserves the right to terminate the Agreement (in whole or in part) or allow Customer to continue under the prior Agreement terms.

15.7 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.

15.8 Governing Law.

(a) The Agreement and all matters relating to the Agreement shall be construed and enforced in accordance with the laws of the Commonwealth without regard to its choice of law principles. Any judicial action relating to the 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 THE AGREEMENT, BECAUSE THE PARTIES HERETO BELIEVE THAT THE COMPLEX COMMERCIAL AND PROFESSIONAL ASPECTS OF THEIR DEALINGS WITH ONE ANOTHER MAKE A JURY DETERMINATION NEITHER DESIRABLE NOR APPROPRIATE.

15.9 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.

15.10 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 the Agreement, including, without limitation, the making of any and all payments under the Agreement.