

XPLORNET COMMUNICATIONS INC. COMMERCIAL MASTER SERVICES AGREEMENT

Satellite and LTE Business Internet Services GENERAL TERMS AND CONDITIONS OF SERVICE

1. Customer Obligations

1.1. Site Accommodation - Customer will at its expense provide all necessary electrical and other utility connections and services, air conditioning equipment and other preparations and alterations to the Site(s) reasonably required by Xplornet to install, operate and maintain the Equipment.

1.2. Operating Conditions - Customer will ensure that the operating and environmental conditions for the Equipment are suitable for equipment of this kind and otherwise conform to any reasonable requirements Xplornet might stipulate from time to time. If the operating and environmental conditions for the Equipment do not conform to Xplornet's reasonable requirements, Xplornet may refuse to proceed with the installation of the Equipment, or if installed, remove the Equipment.

1.3. Co-operation and Access - Customer will permit Xplornet and its employees, designates or authorized agents to enter Customer's premises during normal business hours, subject to Customer's reasonable security measures, for the purpose of installing, inspecting, maintaining, relocating and removing the Equipment and for the purpose of performing any other act contemplated by this Agreement or any schedule hereto. Customer shall ensure that its clients acknowledge that Xplornet may exercise similar rights on the premises of the Customer's clients.

1.4. Xplornet Sites - If the Equipment is located on the property of Xplornet ("**Xplornet Site**") and Xplornet agrees to provide Customer access to or usage of the Xplornet Site, Customer shall enter into a Site Services Agreement or any schedule hereto with Xplornet concurrently with this Agreement or any schedule hereto becoming effective.

1.5. Prohibitions - Except with Xplornet's express written consent, Customer or the Customer's clients shall not:

- a) alter, tamper, adjust or repair the Equipment, remove the Equipment from the Site(s); or
- b) alter, or allow to be altered, the environmental or operating conditions for the Equipment as specified by Xplornet

1.6. Illicit Use - Under no circumstances shall the Customer use, and the Customer shall use commercially reasonable efforts to ensure that its clients do not use, the Xplornet Services or the Equipment fraudulently or otherwise illegally including, without limitation:

- a) falsely reducing or avoiding in whole or in part, the regular charges for the Xplornet Services and the Equipment;
- b) obtaining, accessing, altering or destroying data files, programs, procedures or other information of Xplornet or other customers of Xplornet;
- c) using the Xplornet Services or the Equipment in such a manner as to interfere with the use of the Xplornet Services or the Equipment by other customers of Xplornet; and
- d) using the Xplornet Services and the Equipment in any manner that, directly or indirectly, violates any law, rule, code or regulation or aids any unlawful act or undertaking.

1.7. Acceptable Internet Use - Customer has read and agrees with the Xplornet Internet Use Policy located on the Xplornet Commercial Web site <https://www.xplornet.com/commercial-services>. The Policy may be modified periodically by Xplornet; all modifications are posted on the Xplornet Web site. Continued use of Service is deemed to be the Customers' acceptance of the modified Policy. Customer understands the Internet Use Policy is extended to Customers clients and will use commercially reasonable efforts to ensure its clients comply with the terms and conditions set out in the Internet Use Policy.

1.8. Liability - If any of Customer's obligations under this Agreement or any schedule hereto, or those of Customers' clients, are breached, Customer shall be liable to Xplornet for all costs (including legal fees) incurred by Xplornet in remedying the breach. In the event that the Customer's client breaches any of the provisions of this Agreement or any schedule hereto, the Customer shall take commercially reasonable steps to remedy the breach and to prevent continuing breaches which may include issuing such notices to cure the default as are legally required and termination of the client's entitlement to utilize the Xplornet Services and immediate removal of the Equipment.

1.9. Client co-operation - Customer shall use commercially reasonable efforts to ensure that its clients will comply, at all times, with the terms of this Agreement or any schedule hereto to the extent that the Customer's client makes use of the Xplornet Services or Equipment.

1.10. Security - Protection, security, and management of usage and security of the Customers Network, defined as past the demarcation point at the Xplornet POP, is the sole responsibility of the Customer. In the event that the Customers Network security is violated the offence will be remedied between the Customer and the offending party(s). Xplornet will not compensate Customer for damages incurred due to security violation(s) of Customer Equipment/ Network(s), nor will the Customer make deductions or off sets of any kind for usage charges due Xplornet.

2. **Xplornet Obligations**

2.1 Installation – As soon as reasonably possible following the installation of suitable facilities, either by Xplornet or Customer, Xplornet will install the Equipment at the Site(s). Xplornet's regular business hours are from Monday- Friday 8 a.m. - 5p.m. local time. Any installations to be scheduled outside of Xplornet's regular business hours may be subject to after hour installation charges.

2.2 Xplornet Services - Xplornet shall provide the Xplornet Services in accordance with the terms and conditions of the Master Service Agreement or any schedule hereto and these General Terms and Conditions.

2.3 Support - If required or requested, Xplornet will provide to Customer and its authorized users of the Xplornet Services, such training, instructional material and other support as Xplornet deems appropriate on Xplornet's then current terms and prices for such support services.

2.4 Maintenance - Unless otherwise specified in the Schedule(s), Xplornet will maintain and repair the Equipment. It is the responsibility of the Customer to verify that their network and equipment, including power, are in suitable operating and environmental working conditions. If a disruption of Service is reported to Xplornet that is a result of Customer equipment failure, any costs associated in remedying the disruption will be billed to the Customer, at Xplornet's discretion, at current labour rates and material costs.

2.5 Temporary Suspension - The Customer agrees that it may be necessary for Xplornet to temporarily suspend the Xplornet Services for technical reasons or to maintain the Xplornet network, the Equipment or any other facilities (including, without limitation, as described in Section 2.6 below). Xplornet will provide two

(2) Business days advance notice to the Customer regarding any scheduled maintenance. Xplornet may interrupt the Xplornet Services at any time for any duration of time, without penalty or liability for any claim by Customer, where necessary to prevent improper or unlawful use of the Xplornet Services, Xplornet's service facilities or connections or Xplornet's network.

2.6 Access to Customer Premises - For the purpose of restoring the Xplornet Services in the event of an interruption, the Customer acknowledges that Xplornet may require access to the Customer's premises in addition to access required under section 1.3 of these General Terms and Conditions. The Customer agrees to provide such access immediately upon Xplornet's request at no charge to Xplornet. Xplornet may, upon reasonable notice to the Customer (determined in the circumstances, but not exceeding 48 hours), make such inspections, tests and adjustments as it may deem necessary to investigate, modify or maintain the installation or operation of the Customer's or Xplornet's network and equipment, the Equipment or connecting facilities. Upon such reasonable notice, the Customer shall make available to Xplornet such facilities, equipment and the Equipment (including by providing access to the Customer's premises) as may be reasonably necessary in the circumstances. The Customer acknowledges that failure to do so may prevent Xplornet from maintaining the network, equipment facilities and Equipment in satisfactory condition and agrees that if the Customer fails to provide such access or access required under section 1.3 of these General Terms and Conditions, the Customer will have no remedy or entitlement to credit for any failure of Xplornet to meet its obligations under this Agreement.

3. **The Service & Speed:** The Service includes the services specified on your Service Agreement and any other services that Xplornet may provide to you from time-to-time. Xplornet provides the Service on a "reasonable efforts" basis and does not guarantee upload or download speeds. Xplornet cannot guarantee a specific speed to subscribers when navigating particular sites. Xplornet has established a Traffic Management Policy to ensure equitable access to the Service for all Xplornet subscribers. This policy establishes a balance in Internet access across high-speed Internet services for all Xplornet subscribers. To ensure this equity of usage is maintained among Xplornet subscribers, subscribers may experience some temporary throughput limitation. The Traffic Management Policy <https://www.xplornet.com/legal/usage-traffic-policies/> applies to all Xplornet Service plans.

4. **Proprietary Rights**

4.1 Equipment - Customer acknowledges and agrees that title to the Equipment and all other material provided to Customer by Xplornet under this Agreement or any schedule hereto shall at all times remain with Xplornet and Customer shall acquire no property or other rights in or to any of the foregoing other than as specifically provided in this Agreement or any schedule hereto during the term or any subsequent renewal period.

4.2 Software - Where any of the Xplornet Services or the Equipment contains computer programming or software (the "**Resident Software**"), Xplornet hereby grants to Customer and the Customer's clients a non-exclusive, non-transferable royalty-free license to use during the term of this Agreement or any schedule hereto the Resident Software for the sole purpose of enabling Customer and the Customer's client to obtain the Xplornet Services. Customer recognizes that the

Resident Software constitutes valuable trade secrets of Xplornet and its licensors and that Xplornet and its licensors own all of the technology, know-how and intellectual property rights associated with such software, the Xplornet Services and the Equipment. Customer shall use its best efforts to protect and keep confidential the Resident Software used by it and shall make no attempt to examine, copy, alter, reverse engineer, tamper with or otherwise misuse the Resident Software.

4.3 Trade Marks and Trade Names - The Customer shall not display or otherwise use any trade mark, trade name, logo, symbols, coined word or combination of words used by Xplornet or permit the same to be displayed or otherwise used in connection with any business conducted or controlled by the Customer except as may be specified or approved by Xplornet in writing.

4.4 Confidentiality - It is recognized that technical, financial, commercial, legal or other information (collectively the "**Confidential Information**") may be disclosed by one Party (the "**Disclosing Party**") to the other Party (the "**Receiving Party**") whether disclosed orally or in any other media form, and howsoever obtained may be exchanged between Parties during the course of this Agreement or any schedule hereto. The Receiving Party shall not disclose the Confidential Information to any third party without the prior express written consent of the Disclosing Party, unless compelled by law or order of a court or regulatory body having jurisdiction. Any Confidential Information disclosed shall remain the property of the Disclosing Party. Notwithstanding the foregoing, where Xplornet is the Receiving Party, it may use Confidential Information received from the Customer for the purposes of providing the Xplornet Services to the Customer and may use or disclose such Information in any manner otherwise permitted or authorized by any applicable municipal, provincial or federal law.

5. Return of Materials - Upon the expiration or earlier termination of this Agreement or any schedule hereto, Customer shall cease all use of the Resident Software and Equipment and Customer will permit Xplornet, using lawful means, to remove from Customer's premises the Equipment and all material provided to Customer by Xplornet under this Agreement or any schedule hereto including but not limited to any material in whatever form or whatever medium that contains or discloses any information relating to the Xplornet Services and the Equipment. Where the Site(s) is on the premises of a client of the Customer, Customer shall ensure that Xplornet may exercise similar rights to enter and remove the Equipment and all such material. Customer will provide to Xplornet a letter confirming that all such Equipment and materials have been returned to Xplornet.

6. Limited Warranty

6.1 Subject to the terms and conditions of this Agreement or any schedule hereto, Xplornet warrants that where the Equipment is used for the purposes for which it was designed, constructed and installed and, in accordance with user manuals for the Equipment, Customer's purposes as stated in the Schedule(s) and Xplornet's instructions provided to Customer from time to time, that it will conform to Xplornet's specifications for such Equipment. The limited warranty will not apply to any error or interruption caused by any event, circumstance or development which is outside of the reasonable control of Xplornet or as a result of scheduled operational or maintenance down time for which Xplornet has provided Customer advance notice. This warranty does not cover damage due to external causes, including accident, vandalism, act-of-God, abuse, misuse, problems with electrical power, servicing not authorized by Xplornet, usage not in accordance with product instructions, failure to perform required preventive maintenance, and problems caused by use of parts and components not supplied by Xplornet. Any unauthorized opening of the equipment enclosure(s) will void this warranty in its entirety as it pertains to that item. This warranty does not cover any items

that are in one or more of the following categories: software; sound cards; speakers; external devices or accessories or parts added to an Xplornet system

Xplornet's sole obligation, and Customer's sole remedy shall be for Xplornet subject to sections 2.5 and 2.6 to make such commercially reasonable adjustments, repairs and replacements as are necessary to maintain the Equipment in working order or, in Xplornet's sole discretion, it will not charge fees for use in respect of such portion of the Xplornet Services which failed to meet this limited warranty.

6.2 THE WARRANTIES IN SECTION 6.1 ARE IN LIEU OF ALL OTHER REPRESENTATIONS, WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES, REPRESENTATIONS OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, WITH RESPECT TO THE EQUIPMENT AND THE XPLORNET SERVICES OR REGARDING THE DATE UPON WHICH THE EQUIPMENT OR XPLORNET SERVICES ARE TO BE INSTALLED OR WILL BECOME OPERATIONAL.

7. **LIMITATION OF LIABILITY** - CUSTOMER ACKNOWLEDGES AND AGREES NEITHER XPLORNET NOR ANY OF ITS MEMBERS, SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES OR REPRESENTATIVES WILL BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES, OR DAMAGES (INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OF PROFITS OR SAVINGS, LOSS OF DATA, OR LOSS OF USE) IN CONNECTION WITH THIS AGREEMENT, THE XPLORNET SERVICES OR THE EQUIPMENT OR ANY OTHER INFORMATION, MATERIAL OR SERVICES PROVIDED BY XPLORNET TO CUSTOMER UNDER OR RELATED TO THIS AGREEMENT OR ANY SCHEDULE HERETO, WHETHER ARISING OUT OF CONTRACT, TORT OR ANY OTHER BASIS. IF DESPITE THE FOREGOING LIMITATIONS, XPLORNET OR ANY OF ITS SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES OR REPRESENTATIVES SHOULD BECOME LIABLE TO CUSTOMER OR ANY OTHER PERSON IN CONNECTION WITH THIS AGREEMENT FOR ANY REASON, THEN THE MAXIMUM AGGREGATE LIABILITY OF XPLORNET, ITS MEMBERS, SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES AND REPRESENTATIVES FOR ALL SUCH THINGS AND TO ALL SUCH PARTIES WILL BE LIMITED TO THE LESSER OF THE ACTUAL AMOUNT OF LOSS OR DAMAGE SUFFERED BY THE CLAIMANT OR THE AMOUNT PAYABLE BY CUSTOMER TO XPLORNET FOR THE ONE MONTH PERIOD OF SERVICE UNDER THIS AGREEMENT IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO THE CLAIM OF THE CLAIMANT.

8. **Indemnity**

8.1 Customer will indemnify and save harmless Xplornet and its members, shareholders, directors, officers, employees, agents, contractors, affiliates and representatives from and against all damages, losses, costs and expenses (including actual legal fees and costs), fines and liabilities incurred by or awarded, asserted or claimed against Xplornet or any of its members, shareholders, directors, officers, employees agents, contractors, affiliates and representatives in connection with Customer's negligence, acts or omissions, or breaches of its obligations under this Agreement.

8.2 Xplornet shall indemnify Customer against and hold Customer harmless from any and all claims, actions, suits, proceedings, losses, costs, expenses, damages and liabilities arising pursuant to this Agreement due to any infringement of any patent, copyright, trademark, trade secret or other intellectual property right by Xplornet.

9. **Customer Insurance –**

If the Customer has Rental Equipment customer will provide at customers expense, property insurance for the Equipment naming Xplornet as loss payee. Customer will provide Xplornet evidence of such insurance when requested. If customer does not, Xplornet may, at Xplornets option buy such insurance for customer and include such insurance costs and Xplornet fees to the payment amounts due by customer under this Agreement or charge customer a monthly risk charge of \$7.50 per month.

10. **Force Majeure**

10.1 Each party shall be relieved from the performance of its obligations under this Agreement if, and for so long as, it is unable to perform such obligations due to circumstances beyond its reasonable control, including, but not limited to, power surges or failures, acts of God, acts or omissions of any common carrier, labour disputes, changes in law or regulation, or other acts of governmental authority.

10.2 Notwithstanding anything contained in these General Terms and Conditions of Services or this Agreement, in no event will either Xplornet, any supplier of services to Xplornet or any landlord or licensor of Xplornet where Xplornet equipment or facilities are located, be liable in any manner or upon any basis to Customer for any loss or damages, whether direct or indirect, incidental, special or consequential, resulting from an interruption in the Services provided by Xplornet to the Customer, caused by or attributable to directly or indirectly, fire or other perils or factors beyond the reasonable control of Xplornet and any of its suppliers, landlords or licensors. For the purposes of this Section 10.2, perils or factors beyond the control of Xplornet or its suppliers, landlords, or licensors include those factors set forth in Section 10.1 herein.

11. **Notices** - All notices must be in writing and delivered personally, by facsimile transmission or by email to the address, e-mail address or fax number specified for each party on page 1 of the Master Service Agreement. Addresses and facsimile numbers for notices may be changed by subsequent notice. Notices delivered personally are given when received. Notices delivered by facsimile transmission are given at the location of receipt on the business day immediately following the date of transmission.

12. **Assignment** - Customer may not assign this Agreement without the express written consent of Xplornet. Xplornet may assign this Agreement without the consent of Customer, provided notice of such assignment is provided to Customer at any time prior to or within 60 days after such assignment.

13. **Amendments and Modifications** - From time to time, Xplornet may amend the contents of this Agreement, including these Terms and Conditions, and the Schedule(s) by providing not less than thirty (30) days prior notice to Customer of such changes. Notice may be provided by posting updates on Xplornet's website. Except as otherwise provided in this Section 13, no amendment or other modification to this Agreement will be effective unless in writing and signed by each of the parties to this Agreement. If Xplornet determines at any time that there has been any alteration, deletion or other change of any kind made to this Agreement or any Schedule thereto that Xplornet has not expressly agreed to in writing, this Agreement or such Schedule thereto may in Xplornet's complete discretion, be immediately terminated and upon such termination will no longer be of any force and effect excepting any obligations accrued and outstanding prior to such termination and those which are by their nature are intended by the parties to survive such termination, including without limitation, any obligation in the Agreement of the Customer to pay early termination charges.

14. **Severability; Change of Law.** If any provision of this Agreement is determined by a court of

competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination shall not impair or affect the validity, legality or enforceability of the remaining provisions hereof, and each provision is hereby declared to be separate, severable and distinct. Notwithstanding anything to the contrary in this section 14, if, due to any change in applicable law or regulations or the interpretation thereof by any court of law or other governing body having jurisdiction subsequent to the date of this Agreement, performance by either party of any material provision or obligation of this Agreement or any transaction contemplated thereby shall become, unenforceable, illegal, impracticable or impossible, then Xplornet at its sole discretion may terminate this agreement without further cause and without further notice in the event of such change in law.

15. **Governing Law** - This Agreement shall be interpreted in accordance with and be governed in all respects by the laws of the province in which you are using the Service.
16. **Customer Acknowledgement** - Customer acknowledges that it accepts all risk of any unauthorized or illegal use of the Xplornet Network or any inter-connected network by third parties. Xplornet will use reasonable commercial efforts to assure a reasonable level of security for its network, however it provides no warranties, makes no representations, and accepts no liability for the unauthorized or illegal access or interference with Customer's network unless such access or interference is caused by the intentional unlawful acts of Xplornet, its agents or employees.
17. **Survival** - Notwithstanding termination of this Agreement, the parties remain bound by sections 1.8, 4.1, 4.2, 4.3, 4.4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16 and other provisions of this Agreement that are necessary for the interpretation or enforcement thereof.