

COMMERCIAL SERVICE AGREEMENT

THIS SERVICE AGREEMENT (THE "AGREEMENT") INCORPORATES BY REFERENCE THE BARCONNECTS, LLC ("BARC" OR "PROVIDER") TERMS OF SERVICE, ACCEPTABLE USE POLICY, AND PRIVACY POLICY, ALL FOUND AT [HTTP://WWW.BARCCONNECTS.NET/FORMS](http://WWW.BARCCONNECTS.NET/FORMS). WHERE ANY OF THE TERMS OF THIS AGREEMENT CONFLICT WITH THE ABOVE-REFERENCED POLICIES, OR WITH THE TERMS OF SERVICE, THIS AGREEMENT SHALL CONTROL.

1. PAYMENT

- a) Nonrecurring charges and recurring charges shall be due within fifteen (15) days of the date of the invoice: billing shall commence upon the service being provisioned and deemed operational by PROVIDER. Any amount not received within fifteen (15) days of the date of the invoice will be subject to PROVIDER's standard late charge of 1.5% per month.
- b) If Customer is not able to provide written evidence of the pertinent exemption to PROVIDER, Customer agrees to pay any sales, use, gross receipts, excise, access, bypass or other local, state and Federal taxes or charges imposed on or based upon the provision, sale or use of the Services or Equipment provided. PROVIDER and Customer will cooperate with the appropriate authority as to applicability of taxes or charges. Taxes or charges will be separately stated on Customer's invoice.

2. USE

Customer may use the Services for any lawful purpose for which they are intended, provided that Customer will not use the Services so as to interfere with or impair service over any of the facilities and associated equipment comprising the PROVIDER fiber optic cable network and associated equipment, or to impair the transmission or privacy of any communications over the fiber optic facilities and associated equipment of PROVIDER, or of other users. PROVIDER, by the service hereunder, is providing circuits for the customer on a private network, and may provide switching services within that network, however PROVIDER is not utilizing the switching capabilities of the Public Switched Telephone Network.

3. SERVICE LOCATION, DATE AND TERM

THE SERVICE LOCATION IS: 670 Oakland Circle
Raphine VA 24472

THE ESTIMATED SERVICE DATE IS: 04/14/2020

THE TERM OF THIS AGREEMENT IS: TWO (2) YEARS

- a) PROVIDER shall use reasonable efforts to make Services available by the estimated service date. PROVIDER shall not be liable for any damages whatsoever resulting from delays in meeting any Service dates due to delays resulting from NORMAL CONSTRUCTION PROCEDURES. Such delays shall include, but not be limited to, delays in obtaining necessary regulatory approvals for construction, delays in obtaining right of way approvals, and delays in actual construction work. If Customer is not ready to accept PROVIDER Services 30 days after the specified service date, PROVIDER shall commence billing.
- b) After the term of this contract, if Customer has not given PROVIDER 90 days prior written notice of its intent to disconnect, the Contract will then be automatically renewed on a month-to-month basis, and Customer may then disconnect Service upon 30 days written notice.
- c) PROVIDER may use its own network ("On-Net") and the networks of other carriers ("Off-Net") to provide completed circuits to its customers. Where PROVIDER does use Off-Net facilities to fulfill this contract, PROVIDER may note that portion of its circuit price within this contract related to Off-Net providers, and if the contract is renewed on a month-to-month basis, PROVIDER will automatically increase or decrease the customer's bill by the amount that an Off-Net provider increases or decreases its charges to PROVIDER.

3. CUSTOMER RESPONSIBILITIES

- a) Access - Customer is responsible for arranging access to any of the rights of way, conduit and equipment space necessary to provide Service on the premises so that PROVIDER-authorized personnel, employees, or agents may install, repair, maintain, inspect, replace or remove any and all facilities and associated equipment provided by PROVIDER. Access to such sites shall be made available at a time mutually agreeable to Customer and PROVIDER. PROVIDER shall also have the right to obtain access to its cable installed in Customer-provided conduit at any splice or junction box.
- b) Provision of Customer Premises Equipment Space, Conduit, and Electrical Power - Customer shall provide the necessary customer's premise equipment space, conduit, and electrical power required to terminate and maintain the facilities used to provide Service on all applicable premises without charge or cost to PROVIDER. The space, conduit, and power must be made available to PROVIDER on a timely basis. Customer shall be responsible for assuring that the equipment space and associated facilities, conduit and rights of way which it is providing are a safe place to work and are protected against fire, theft, vandalism or other casualty, and that the use thereof complies with all

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applicable laws, rules and regulations and with all applicable leases or other contractual agreements.

- c) Governmental Authorizations - Customer shall be responsible to obtain and continue in effect all government authorizations necessary to permit Customer to receive Service and comply with its obligations under this contract.

4. EQUIPMENT

- a) Title – Unless explicitly purchased outright by the Customer, Customer agrees that all right, title and interest in all the fiber optic or other facilities and associated equipment provided by PROVIDER hereunder shall at all times remain exclusively with PROVIDER. Customer shall not create or permit to be created any liens or encumbrances relating to Customer's use of the Service or arising from the location of the equipment. Upon termination of Service, PROVIDER shall remove its equipment and shall have the right, but not the obligation, to remove all other facilities from any applicable premises.
- b) Maintenance – PROVIDER shall use reasonable efforts to maintain the Services in accordance with applicable performance standards therefor. Unless otherwise explicitly agreed to in writing under a managed network service agreement or fee-for-service, there are no additional charges for PROVIDER maintenance services. However, PROVIDER shall have no responsibility for the maintenance and repair of facilities and equipment which it does not furnish and PROVIDER may assess Customer its standard charge for false call outs.

5. DEFAULT

If Customer (a) shall fail to pay any amount required under this Contract and such failure continues for ten (10) days after written notice to Customer that the same is due and payable, or (b) fails to comply with any other material provision of this Contract and such noncompliance continues for thirty (30) days after written notice to Customer thereof, then PROVIDER, at its sole option, may elect to pursue one or more of the following courses of action: either (i) terminate this Contract whereupon in addition to all sums then due and payable, all future monthly or other charges thereunder or hereunder shall become immediately due and payable, (ii), take appropriate action to enforce payment, including suspension of all or any part of the Service, and/or (iii) pursue any other remedies as may be provided at law or in equity.

6. LIMITATIONS OF LIABILITY

- a) Liability for Service Interruptions - To the extent that any part or portion of the Service is unavailable, interrupted, degraded or otherwise unsatisfactory for any reason, PROVIDER and Customer agree that Customer's sole and exclusive remedy shall be the credit allowances for interruptions as follows: The Customer may, upon request directed to PROVIDER's designated representative, receive a credit at the rate of 1/60th of the monthly charges applicable to the affected facilities for each twelve hour period in excess of the first four hours that the affected service fails to conform to the technical standards. If a portion of the facilities fails to conform to the technical standards over a period of thirty days after written notice by Customer to PROVIDER, Customer may terminate the affected portion of the facilities without a cancellation charge.
- b) Liability for Damages to Property – PROVIDER shall not be liable for any damages whatsoever to Property at any Customer premises resulting from the installation, maintenance, repair or removal of equipment and associated wiring unless the damage is caused by PROVIDER's willful misconduct.
- c) Liability for Services and Equipment Not Provided by PROVIDER – PROVIDER shall not be liable for any damages whatsoever associated with Service, channels, or equipment which it does not furnish to Customer, or for any act or omission of any entity furnishing to Customer facilities or equipment used for or with the Service.
- d) Liability for Force Majeure Events – PROVIDER shall not be liable for any failure of performance or Service for reasons beyond its reasonable control including but not limited to casualty, act of God, wind, flood, tornado, storm, fire, explosion, vandalism, cable cut, governmental order, riot, insurrection, strike, lockout, condemnation or loss of rights-of-way
- e) Liability for Negligence or Fault of Customer – PROVIDER shall not be liable for any interruptions or damages due to the fault of negligence of Customer or due to the failure or malfunction of Customer-provided equipment or facilities.
- f) Liability Regarding Governmental Authorization – PROVIDER shall use best efforts to obtain and keep in effect all government authorizations necessary, in order to provide Service under this Contract. PROVIDER shall be entitled to take, and shall have no liability for, any action necessary including termination, to bring the Service into conformance with any governmental regulations or authorizations, and Customer shall fully cooperate in and take such action as may reasonably be requested by PROVIDER as part of such compliance.
- g) No Special Damages - In no event shall PROVIDER be liable for special damages including, but not limited to, lost revenues or profits, consequential damages, or exemplary or punitive damages as a result of its performance or nonperformance of this Contract.

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- h) Managed Network Services – Managed network services includes the configuration, support and monitoring of switch, router, firewall and wireless access point network hardware necessary for the delivery of Internet, telephone (voice) and TV services. PROVIDER will make reasonable efforts to implement industry standard security practices on all network hardware deployed at the customer site. Customer may, at any time, request an audit of the security on all configured network hardware at their site. PROVIDER does not assume support or security responsibility for any PC, server, software application or database on the customer's network. Should any of the customer's PC's, servers, software or databases become compromised due to a virus, ransomware or malware introduced either internally or externally, PROVIDER assumes no responsibility.

7. TERMINATION

PROVIDER may terminate this Contract without liability and Customer's payment obligation will be apportioned if:

- a) the facilities used to provide Service are taken by exercise of condemnation;
- b) damages inflicted by Customer render PROVIDER'S network inoperable or economically unfeasible to repair; or
- c) the facilities used to provide Service are damaged beyond repair by a force majeure event.

Customer may terminate this Agreement without liability only if PROVIDER fails to remedy or address any deficiencies in technical standards agreed to by PROVIDER over a period of thirty days after advance written notice by Customer to PROVIDER to cure said deficiency.

In all other cases, in the event of termination of this Agreement by Customer, Customer shall be responsible for paying to PROVIDER all monthly recurring charges Customer would have paid through the term specified in Section 3 above.

8. INDEMNIFICATION

PROVIDER shall be indemnified, defended and held harmless by Customer against all claims, suits, proceedings, expenses, losses, liabilities, or damages (collectively "Claims") arising from the use of Service pursuant to this Contract involving:

- a) Claims of third parties, including patrons or customers of Customer, arising out of, resulting from, or related to the Customer's resale or attempted resale of the Service;
- b) Claims for libel, slander, invasion of privacy, or infringement of copyright arising from any Communication using the Service;

- c) All other claims arising out of any act or omission of Customer, or customers or patrons of Customer, in connection with the Services made available to Customer under the terms of this Contract. Customer agrees to defend PROVIDER against any such claim and to pay, without limitation, all litigation costs, reasonable attorney fees and court costs, settlement payments, and any damages awarded or resulting from any such claim.

9. ASSIGNMENT

PROVIDER may, without obtaining any further consent from Customer, assign any of its rights, privileges, or obligations under this Contract. Customer shall not, without prior written consent of PROVIDER, which consent shall not be unreasonably withheld, assign, transfer, or in any other manner dispose of, any of its rights, privileges, or obligations under this Contract.

10. WARRANTIES

- a) THERE ARE NO AGREEMENTS, WARRANTIES, OR REPRESENTATIONS; EXPRESS OR IMPLIED EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN.

11. MISCELLANEOUS

This Contract may be modified, waived or amended only by a written instrument signed by the party against which enforcement thereof is sought, shall be binding upon the parties' respective successors and assigns, and constitutes the entire agreement between PROVIDER and Customer.

12. REGULATORY JURISDICTION

In the event that provisions set forth in this Agreement are determined to be in violation of any rule, order, decision, or tariff of any state or federal agency having regulatory jurisdiction over PROVIDER, the terms of this Agreement shall be deemed to be modified to the extent permissible under such rule, order, decision or tariff.

13. JURISDICTION

The rights and obligations of the parties under this Contract shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Virginia.

14. INTERNET ACCEPTABLE USE POLICY

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PROVIDER Direct Internet Access (DIA) is subject to PROVIDER's Acceptable Use Policy (AUP) which is available on the Internet at <http://www.barconnects.net>. Customers contracting for DIA are subject to the terms and conditions outlined in the AUP. PROVIDER reserves the right to modify the AUP from time to time.

[SIGNATURE PAGE FOLLOWS]

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IN WITNESS WHEREOF, THE PARTIES HAVE SIGNED THIS AGREEMENT AS OF THIS 9TH DAY OF April, 2020.

BARCONNECTS, LLC:

By: _____

Name: Michael Keyser

Title: Chief Executive Officer

CUSTOMER:

By: Ava Harrington

Name: Ava Harrington

Title: Marketing & Technology Manager