

**MASTER SERVICES AGREEMENT
(this “Agreement”)
TERMS AND CONDITIONS**

These terms and conditions of service (the “**Terms**”) constitute a legally binding contract between Megawire Inc. (“**Megawire**”) and its customers (the “**Customer**”) for the provision of services outlined in the approved quote (the “**Quote**”). This Agreement sets out the basic rights, obligations and limitations of Megawire to the Customer. The Terms are subject to change from time to time at the sole discretion of Megawire, without any prior notice to the Customer.

1. Services

Megawire agrees to supply connectivity services as more particularly described in the Quote (the “**Services**”) in accordance with the terms of this Agreement. The Customer agrees to receive the Services from Megawire in accordance with the terms of this Agreement at the location noted in the Quote.

2. Service Term

This Agreement shall commence on the date of installation of the Services (the “**Effective Date**”) and shall remain in effect for the term noted in the Quote or until terminated by either party in accordance with this Agreement (the “**Service Term**”). The Service Term will commence upon the Effective Date for each service location outlined in the Quote and billing will begin for that location once the Services have been installed. This Agreement will automatically renew for successive terms equal in duration to the initial Service Term unless written notice is provided by either party to the other at least sixty (60) days prior to the expiration of the initial Service Term or any renewal Service Term, as the case may be, in which case this Agreement will expire on said expiration date. Upon termination of this Agreement, the Customer will return to Megawire all property that is owned by Megawire that has been installed at the Customer’s location for the purpose of providing the Services.

3. Compensation

3.1 The Services will be invoiced monthly, in advance. The first invoice will be issued by Megawire upon receipt of the Quote signed by the Customer. Subsequent months will be invoiced in advance commencing on the Effective Date. Megawire shall invoice the Customer based on the rates indicated in the Quote for the Services to be provided in that month, except for payment of the first invoice, which must be paid by the Customer to Megawire before the Effective Date. The Customer will pay all invoices within thirty (30) days after the date the invoice is issued. Upon thirty (30) days’ or greater written notice to the Customer, prior to the end of the Service Term, Megawire may change any fees payable under this Agreement. The Customer is solely responsible for payment of any taxes, including without limitation, sales, use, capital, intangible and property taxes, resulting from the Customer’s purchase or use of the Services. The Customer agrees to hold harmless Megawire from all claims and liability arising from the Customer’s failure to report or pay such taxes in a timely fashion.

3.2 Some services and rates provided by Megawire are governed by certain regulatory filings. These filings are demonstrable by referencing the corresponding authority such as the CRTC in Canada, the FCC in the United States and others internationally. If any of these filings are revised, and all parties are impacted equally, Megawire reserves the right to amend its pricing to accommodate any material change of its pricing structure if the impact is deemed material. Material is deemed to be any amount

in excess of two percent (2%). For purposes of interpretation, this will be treated similarly to how taxes are levied and revised within the Service Term.

3.3 Invoices outstanding for more than thirty (30) days shall bear interest at a monthly rate of 1.9% per month (22.8% per annum) and such interest charges shall accrue from and after the due date of payment to the date that payment is made to Megawire.

3.4 In the event of non-payment of an invoice, Megawire may, in addition to all other rights and remedies under this Agreement and in law, suspend the provision of any or all Services. Any such suspension of Services shall not constitute the termination of this Agreement. If Megawire is required to bring legal action for the recovery of any amounts due hereunder, the Customer agrees to be responsible for, and to reimburse Megawire for, the payment of reasonable legal fees and costs incurred by Megawire. In the case of late payment of an invoice, or if Megawire is concerned regarding the Customer’s credit worthiness, Megawire reserves the right to require the Customer to enter into a Pre-authorized Payment Plan to mitigate the potential of non-payment. In such circumstances, the Customer shall authorize the payment to Megawire from a Canadian credit card provider acceptable to Megawire, of a fixed monthly amount that will not exceed the recurring or delayed charges included in the price payable each month during the Term.

3.5 All invoicing will be sent by email to the Customer’s contact that is indicated on the Quote.

4. Termination

4.1 Upon giving sixty (60) days’ prior written notice to Megawire, the Customer may, during the initial Service Term or any renewal Service Term and without cause, terminate: (a) any one of the Services specified in the Quote, or (b) this Agreement; provided, however, that in either case, the Customer shall pay Megawire, upon written demand in one lump sum as liquidated damages, and not as a penalty, 100% of the total monthly revenue for the terminated services multiplied by the number of months and any portions thereof remaining in the Service Term.

4.2 The Customer acknowledges that there are set-up costs that are individual to the Customer that must be recovered under this Agreement and agrees that this provision is a pre-estimate of costs and not oppressive.

4.3 Megawire may terminate this Agreement upon written notice to the Customer if: (a) the Customer commits any act of bankruptcy within the meaning of the *Bankruptcy and Insolvency Act* (Canada), if any bankruptcy or insolvency proceeding is taken against the Customer, if the Customer makes any voluntary assignment for the benefit of its creditors, if a receiver takes possession of any of the Customer’s property, or if the Customer ceases to carry on business in the normal course; or (b) the Customer fails to make full payment of any invoice within sixty (60) days after the date of the invoice; or (c) the Customer fails to cure, to Megawire’s sole satisfaction, any material default under this Agreement, which default is not cured to Megawire’s sole satisfaction within fifteen (15) calendar days of receiving written notice describing the nature of such default from Megawire.

4.4 If the Customer terminates this Agreement prior to installation of services for whatever reason, the Customer will remain responsible for any costs that are assessed to Megawire which may include costs outside of Megawire’s control. These

charges may include design, engineering and interim construction charges. These charges may also include equipment or services provided by Megawire for the Services. The Customer agrees that construction and installation delays can be outside of Megawire's control, and dates and timelines provided prior to and at the time of signature are estimates only.

4.5 Upon any termination or expiration of this Agreement, or at the request of Megawire, the Customer is responsible for the return of any and all Megawire-provided equipment, at the time of the request. Failure to do so within sixty (60) days of the request by Megawire may result in additional one-time charges for the replacement value of the equipment. The Customer is responsible to obtain the appropriate size box and packing material, to pack the equipment securely to prevent shifting or damage and ensure that the equipment is wrapped with at least two (2) layers of packing material and placed in the box. The Customer also agrees to return the equipment to the address provided by Megawire, using a traceable carrier, such as FedEx, UPS or DHL, and provide the tracking number.

4.6 In the event of a breach of the Terms and/or cancellation of this Agreement relating to a wholesaler account for non-payment, the wholesaler's account may be terminated, in addition to other collection remedies available to Megawire. Megawire reserves the right to sell, assign or bill direct any or all of the customers associated with the wholesaler's account to recover and mitigate damages.

5. Indemnity and Waivers

5.1 The Customer shall indemnify and save Megawire, and its respective directors, officers, employees and agents harmless from and against all loss, liability or damages of any type and expense, including without limitation reasonable legal fees and disbursements, arising from any and all claims by any third party, including without limitation, end users and distributors (collectively, the "**Third Party**"), in connection with the use of the Services (and related equipment) by the Customer or any Third Party, or in connection with the Customer's failure to comply with its obligations under this Agreement, whether the failure is attributable to the Customer's, or one or more other person's, use of the Services with or without permission of the Customer.

5.2 Under no circumstances shall Megawire, or its respective directors, officers, employees and agents, be liable to the Customer for any incidental, special or consequential damages, expenses, costs, liability, loss or damage whatsoever.

5.3 Neither Megawire, nor its respective directors, officers, employees and agents, shall be liable for any lost profits, anticipated revenue, loss of data, loss of use of any information system, lost business revenue, failure to realize expected savings or any other commercial or economic loss of any kind whatsoever arising out of or in connection with this Agreement or the provision of the Services, even if Megawire has been advised of the possibility of such loss.

5.4 Megawire, its affiliates, their successors and assigns, and their respective directors, officers, employees and agents, are not liable for any failure or delay in performance hereunder if such failure is due, in whole or in part, to any cause beyond Megawire's reasonable control.

5.5 This section shall apply even in the event of a breach of condition, a breach of an essential or fundamental term or a fundamental breach of this Agreement. The indemnities contained within this section shall survive termination of this Agreement for the maximum time period permitted by law.

6. Change Request for Service

6.1 If the Customer wishes to order additional services or make a change to the Services:

- a) the Customer may submit to Megawire a change request in writing via email, detailing the change in the Services being requested (the "**Change Request**");
- b) Megawire will respond to the Customer in writing via e mail within ten (10) business days of receipt of the Change Request, stating whether the change may be made, and if so, specifying the estimated cost and time required to implement the change and the impact, if any, of the change on the Services; otherwise, such change will not be made and this Agreement will remain unamended.

7. Customer Equipment & Infrastructure

7.1 Megawire will provide a network service, connected at a point of demarcation, usually at a termination panel located in proximity to either the telecommunication or electrical service entrance equipment of and at the Customer's place of business.

8. Customer Obligations

8.1 Subject to any other term of this Agreement, the Customer shall:

- a) provide Megawire and its employees, agents and representatives with access to conduit, cables, termination panels and any other equipment located on private property to which access is required or desirable to provide the Services;
- b) provide Megawire with 24 hours/day, 7 days/week access to the Customer's premises as required to support this Agreement;
- c) be responsible to provide first line support personnel who will be the interface between Megawire and the Customer for all services performed as part of this Agreement;
- d) notify Megawire of the Customer's due date for moves, additions and changes; and
- e) obtain written consent from Megawire for moves, additions and changes to the Services and Megawire's equipment.

9. Restrictions on Use of Services

The Customer shall use the Services in accordance with the terms and conditions outlined in Megawire's standard Acceptable Use Policy.

10. Permitted Service Suspension

10.1 The Customer agrees that it may be necessary for Megawire to temporarily suspend service for technical or maintenance reasons, the timing of which, other than emergency maintenance, will be agreed upon in advance. The parties may agree to regularly scheduled maintenance windows for this purpose. Such a suspension of service will not be considered network unavailability for the purposes of this Agreement.

10.2 Without incurring liability, Megawire may immediately and without notice: (a) discontinue or suspend the Services; (b) cancel a request for the Services; or (c) temporarily block service to a particular jurisdiction, sector, authorized code or other criteria, as Megawire determines, if Megawire deems such action is necessary, either to prevent improper use, as outlined in this Agreement, or to protect against fraud or the commission of suspected illegal activities, or to otherwise protect its personnel, agents, facilities or services.

11. Compliance with Laws

The Customer agrees to comply with all applicable laws relating to the use of the Services. Without limiting the generality of the foregoing, the Customer shall not use the Services to upload, download or transmit any illegal content.

12. Confidentiality

The Customer agrees that the Quote and the terms and provisions of this Agreement shall remain strictly confidential and may not

be disclosed to any third party without the express written consent of Megawire, which consent may be arbitrarily withheld.

13. Governing Law

This Agreement shall be interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The Customer and Megawire attorn to the exclusive jurisdiction of the Courts of Ontario and the Customer and Megawire attorn to the exclusive venue for litigation of Kitchener, Ontario, Canada.

14. Force Majeure

Megawire shall not be liable for failure to perform or delay in performance of its obligations due to fire, flood, extreme weather, strike or other labour difficulty, act of God, act of any governmental authority or of the Customer, embargo, fuel or energy shortage, car shortage, wrecks or delays in transportation, or due to any other cause beyond Megawire's reasonable control. In the event of delay in performance due to any such cause, the date of delivery, time for completion or performance of the Services will be extended by a period of time reasonably necessary to overcome the effect of such delay.

15. Notice

Any notice, approval, request, authorization, direction or other communication (the "Notice") under this Agreement may be given in writing to the party delivered personally, or sent by registered mail, postage prepaid, or by facsimile transmission, or by PDF or DOC file attached to an email at the address set out in the Quote. Any such Notice shall be conclusively deemed to have been given or made on the day on which such Notice is delivered, or, if mailed, then four (4) business days following the date of mailing, as the case may be. Notice given by facsimile in accordance with the terms of this section will be deemed to be received the next business day after sender's receipt of a transmission report generated by sender's facsimile machine, which confirms that the facsimile was successfully transmitted in its entirety. Notice given by commercial overnight carrier shall be deemed to have been given upon written verification of receipt.

16. Severability

The invalidity or unenforceability of any portion or provision of this Agreement shall in no way affect the validity or enforceability of any other portion or provision hereof. Any invalid or unenforceable portion or provision shall be severed from this Agreement and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

17. Assignment

This Agreement shall be binding on Megawire and the Customer and their respective successors in interest and assigns. The Customer shall not have the power to assign or subcontract this Agreement without the prior written consent of Megawire.

18. Receivables Assignment

Megawire, at its sole discretion, shall have the right to assign monies payable under this Agreement to a financing partner whether pursuant to a lease, a conditional sale, receivable sale or otherwise, (a) all or any part of the payments due under this Agreement; and (b) Megawire's rights under this Agreement to any service provided for in this Agreement, in such case to secure its obligations in connection with the financing of and or provision of such service. The Customer shall make all payments under this Agreement to Megawire provided that Megawire is not in default ("Default") of an assignment agreement with a financing partner for all or part of the payments under this Agreement. In the event of a Default, the financing partner may notify the Customer of the Default and direct the Customer in writing to remit the payments

under this Agreement directly to such financing partner. Upon receipt of and in accordance with such notice and direction, the Customer agrees to make the payments under this Agreement directly to the financing partner. The Customer will be required to sign an acknowledgement with respect to their concurrence with said assignment and direction to make such payments directly to the assignee in the event of a Default by Megawire.

19. Survival

All terms and conditions of this Agreement, which by their nature extend beyond the terms hereof or which are required to ensure that Megawire and the Customer fully exercise their rights and perform their obligations hereunder, shall survive the completion or earlier termination of this Agreement.

20. Enurement

This Agreement shall enure to the benefit of and be binding upon Megawire and the Customer and their respective successors and permitted assigns.

21. Entire Agreement

The terms and conditions set forth in the Quote and this Agreement constitute the full and final expression of the sale of the Services to the Customer by Megawire. The Quote and this Agreement constitute the entire agreement between the parties regarding the subject matter hereof and supersede all proposals and prior discussions and writings between the parties with respect thereto.

22. Modification

Megawire reserves the right to modify this Agreement from time to time. The Customer agrees to review this Agreement periodically to ensure the Customer is apprised of the terms of service.

23. Relationship

The relationship of Megawire to the Customer will be that of an independent contractor, and neither Megawire nor any employee of Megawire will be deemed to be an agent or employee of the Customer.

24. Confidentiality

The receiving party agrees that it shall not use the Confidential Information, as defined by *The Personal Information Protection and Electronic Documents Act* (PIPEDA), of the disclosing party other than as required for the performance of this Agreement, and shall take all reasonable security measures to protect against unauthorized access, such measures to be of the same standard of care as the receiving party uses for its own Confidential Information and in any event no less than a commercially reasonable standard of care. Upon request, the receiving party shall return all tangible material concerning the Confidential Information of the disclosing party.