

Terms and Conditions - Fibre Services

1. Terms and Conditions of Service

The Terms and Conditions of Service set forth herein, as well as the General Terms and Conditions – Business of Cogeco, and any supplements which may be attached hereto, and in addition to the contract executed between the Customer and Cogeco, constitute the full and final expression of the contract for the sale of products or services (hereinafter referred to as “Service(s)”) by Cogeco Connexion Inc. (“Cogeco”), to the Customer, and supersedes all prior quotations, purchase orders, correspondence or communications whether written or oral between Cogeco and the Customer. Notwithstanding any contrary language in the Customer’s purchase order, correspondence or other form of acknowledgement, Customer shall be bound by these Terms and Conditions of Service when it sends a purchase order or otherwise indicates acceptance of this contract or when it accepts delivery from Cogeco of the Service(s). The contract for sale of Service(s) is expressly limited to the terms and conditions of sale stated herein. Any different terms or conditions proposed by a party are rejected unless expressly agreed to in writing by the other party. No contract shall exist except as herein provided.

Cogeco shall furnish to the Customer certain Service(s) in accordance with the description shown in the service order form(s) (hereafter referred to as “Service Order Forms”) and schedule(s) (hereafter referred to as “Schedules”) that may be attached hereto from time to time and may include additional terms and conditions applicable to provision of the Service(s). Both parties must approve the Schedules before being attached and included as part of the contract.

2. Quotations

Written quotations are valid for thirty (30) days from the date of issuance unless otherwise stated in the quotation or terminated sooner by notice. Verbal quotations, unless accepted, expire the same day they are made.

3. Taxes

The price stipulated in the Service Order Form does not include any taxes. Customer shall be responsible for the payment of any applicable taxes such as the Harmonized Sales Tax, the Goods and Services Tax, Provincial Sales Tax and other taxes of a similar nature applicable to, or imposed by a government entity (or quasi-governmental agency) in Canada.

4. Term

This Agreement shall commence on the day it is fully executed by both parties and shall continue in full force during the duration of the Term specified on the Service Order Form and shall continue until the latest date of expiration or termination of the last remaining Service Order unless otherwise terminated in accordance with the provisions herein. Furthermore, upon expiration of the Term specified on the Service Order Form, Service(s) being provided pursuant to the expired Service Order shall be automatically extended on a month-to-month basis pursuant to the terms and conditions of this Agreement and the monthly Recurring Fee(s) (the “Recurring Fees”) for such Service(s) shall be increased by twenty-five (25%) percent, effective on the first day following the expiration of the Service Order, unless the Service(s) are terminated in accordance with the provisions herein, or Customer renews the Service(s) for a fixed term pursuant to a rate agreed to by Cogeco and the Customer.

5. Service Order Procedure

The Customer shall acquire Service(s) from Cogeco using Service Order Forms. Each Service Order Form shall be prepared and furnished by Cogeco, and shall contain the following provisions:

- Description of Service(s);
- Monthly Recurring and Non-Recurring Charges payable to Cogeco
- Locations of Customer Service Site(s);
- Additional Service-Specific Terms and Conditions;
- Length of the Term of the Service(s) expressed in years or months, as applicable;
- Anticipated date(s) of activation of the Service(s);
- All relevant provisioning, technical, and billing contacts;
- Technology requirements for each Customer Service Site including point(s) of demarcation (the “Demarcation Point”) and/or interconnection.

6. Provisioning of Service Procedure:

Cogeco shall notify the Customer (the “Service Provision Notice”), in advance, as to the date and time that Cogeco shall activate Service(s) at the Demarcation Point. Upon receipt of the Service Provision Notice, the Customer shall affix a time, date and designate and provide a representative to meet a representative of Cogeco at the Service Site(s) within two (2) Business Days (the “Service Provision Date”), in order to complete installation and testing of the Service(s) from the Demarcation Point to the Customer’s communications equipment (“Communications Equipment”). In the event that the Customer fails to complete such installation, by the Service Provision Date, it shall be deemed that Cogeco shall have completed all necessary work for provision of the Service(s). Thereafter, the Effective Date in respect of the commencement of the Term for each Service shall be the Service Provision Date and all charges payable to Cogeco in respect of the provision of the Service(s) shall be calculated as from the Service Provision Date. If the Service Provision Date shall fall on a day other than the first day of the calendar month, the monthly charge(s) for the provision of the Service(s) during that calendar month shall be pro-rated to the Service Provision Date. For the purposes of this contract, “Business Days” means Monday to Friday from 08:00 to 17:00 Eastern time, excluding Statutory Holidays as observed in the Province of Ontario, Canada, if the services are delivered by Cogeco to the Customer in the said Province, or Statutory Holidays as observed in the Province of Québec, Canada, if the services are delivered by Cogeco to the Customer in the said Province.

7. Access Requirements

The Customer shall obtain and grant to Cogeco, its employees, agents, contractors and subcontractors, access to the Service Site(s) at any agreed upon hour for the purpose of providing requested Service(s), including installation, maintenance and removal of Cogeco equipment and/or facilities. All Cogeco employees, agents, contractors and subcontractors shall carry an identification card bearing the company name of Cogeco or the agent’s or subcontractor’s company, the employee’s number, picture and signature. The Customer should refuse admittance to any Customer site to anyone claiming to be an employee, agent or subcontractor of Cogeco who does not present such a card. After normal business hours, it shall be the obligation of the Customer to grant access to the Service Site(s) for repair and/or restoration of Service(s).

8. Price

The total price for Service(s) (exclusive of taxes) shall be specified in the Order Form(s) and Schedules appended to this Agreement.

9. Invoicing

The Customer shall be invoiced thirty (30) days in advance (the "Billing Date") for all Service(s) provided under this Agreement with payment due within thirty (30) days of the Billing Date. Payments will be credited to the account of the Customer on the date the payment is received by Cogeco. Recurring fees ("Recurring Fees") for Service(s) will not be considered in arrears until the Business Day following the first calendar day of the month when Service(s) are provided (the "Payment Due Date"). In the event of non-payment of an invoice Cogeco may, in addition to all other rights and remedies under this contract and in law, suspend any or all Service(s) or terminate this Agreement after providing the Customer with written notice, two (2) Business Days prior to the date fixed for Service(s) suspension. All suspended Service(s) shall be restored to the Customer upon payment in full to Cogeco of all monetary sums, which are in arrears, and the Customer shall also pay to Cogeco any and all costs to terminate and restore such Service(s). If Cogeco is required to bring legal action for the recovery of any amounts due hereunder, the Customer agrees to be responsible for the payment of reasonable legal fees and costs incurred by Cogeco. The right of termination shall be in addition to any other rights or remedies Cogeco may have in law or equity.

The Customer may be assessed maintenance service charges for incidents involving truck rolls in response to Customer requested support, wherein the problem is determined to be a non-Cogeco service issue. Requests to have a Cogeco or contractor available on a standby basis for support of a customer-initiated move or change to their network may be subject to charges. For further clarification, no maintenance service charges will apply to any incidents that are determined to be a Cogeco network fault.

10. Security for Arrears Accounts

In addition to the remedies available to Cogeco set forth in Section 9 herein, in the event that Customer shall fail to pay an account by the Payment Due Date, Cogeco may, at its sole and exclusive option, require the Customer to pay all outstanding arrears, and further to provide advance payment for three (3) month's Service(s), payable by the Customer within two (2) Business Days following receipt of such written notice. In the event that the Customer shall fail to provide Cogeco with advance payment for three (3) month's Services in accordance with the above, Cogeco may, at its sole and exclusive option, terminate the Service(s).

11. Cancellation of Service(s) by Customer

Unless otherwise specified in writing by Cogeco and the Customer, each Service shall have a minimum term of twelve (12) months commencing on the Service Provision Date. Subject to the Substituted Service provisions set forth in section 12 below, in the event that the Customer shall terminate all or any portion of such Service(s) (the "Terminated Service") at any time commencing on the date of the acceptance of the Service Order by Cogeco and ending prior to the provision of Service the Customer shall pay to Cogeco forthwith upon demand by Cogeco, all of the charges including out-of-pocket expenses incurred by Cogeco prior to the date of receipt of the notice of termination from the Customer. For greater clarity, such charges may include Cogeco engineering costs, as well as third party contractual obligations (including inter-carrier costs) incurred by Cogeco for which Cogeco is obligated to make payment with respect to the Terminated Service(s). No rebate will be given for any activation (including line termination fees), or installation charges paid by the Customer prior to the Service Provision Date. The penalty for early cancellation of a Service Order, at any time after the Service Provision Date, is sixty (60%) percent of the outstanding value of the Service Order, plus any applicable taxes for such Service(s). Following the first anniversary of the Service Provision Date the Customer's request for a cancellation of a Service(s) must be sent in writing with sixty (60) days' prior notice to Cogeco.

12. Substituted Service

Customer may substitute a Service (the "Substituted Service") during the initial twelve (12) month term (or such minimum term specified in the Service Order Form), provided, that the monthly recurring cost of such Substituted Service shall be equal to or greater than the cost of the terminated Service and Cogeco has sufficient capacity available on its network to provide the Substituted Service. In such case, Customer shall bear all non-recurring activation and installation charges in respect of the provision of the Substituted Service. Upon provision of the Substituted Service, the Customer may not suspend or terminate the Substituted Service for a period of twelve (12) months from the date when the Service substitution took effect (the "Substituted Service Term"). In the event that the Customer shall suspend or terminate the Substituted Service, prior to the completion of the Substituted Service Term, the Customer shall pay to Cogeco forthwith upon demand by Cogeco, all of the charges (plus applicable taxes) which would otherwise have been payable by Customer to Cogeco had the Substituted Service been provided as contemplated for the balance of the twelve month Substituted Service Term. In the event that Customer shall terminate the Service(s) after the completion of the Substituted Service Term, the penalty for early termination shall be is sixty (60%) percent of the outstanding value of the Service Order, plus any applicable taxes for such Service(s).

13. Limited Liability

Cogeco makes no warranties of any kind, whether express or implied for the Services it is providing and disclaims any warranty of title, representations, implied warranties of merchantability, non-infringement and fitness for a particular purpose or failure to realize expected savings and warranties arising from a course of dealing, usage or trade practice. Cogeco specifically denies any responsibility for the accuracy or quality of information obtained through the Services. Use of all information obtained or transmitted via the Services is at the Customer's own risk.

In no event shall Cogeco be liable to the Customer or to any third party for any special, indirect, incidental, punitive or consequential damages, or any damages, penalty or fine whatsoever resulting from loss of use, data, or profits, (including without limitation any damages claimed for loss of income, revenue or profits or for loss of goodwill or legal fees) whether in an action of breach of contract, negligence or other tortious action arising out of or in connection with the performance of this Agreement.

The liability of Cogeco for claims arising from the furnishing of Service(s) or equipment pursuant to this Agreement or claims arising from the interruption or loss of use thereof, whether such Services are provided over its own facilities or through any connecting carriers or through facilities operated by its agents, shall be limited to, and the Customer's exclusive remedies shall be: (i) the correction of errors of which Cogeco has received written notice and proof within thirty (30) Business Days of occurrence; or (ii) where such correction is not practicable, the Customer shall be entitled only to an equitable credit not to exceed the charges invoiced to Customer for that portion of Service(s) which produced the erroneous result. In any event Cogeco total liability (including claims based on negligence) shall be limited in the aggregate to the Customer's direct damages not to exceed the invoiced value for a thirty day period, of the Service(s) which was affected which gave rise to the claim.

The Customer further agrees to indemnify and hold Cogeco and its directors, officers, managers, employees, agents, and representatives harmless from and against any loss, cost (including legal fees and court costs), damage, injury, liability, claim, penalty, fine, interest, or any course of action whatsoever resulting from the breach of this Agreement or from any act or omission whatsoever by the Customer, its officers, managers, employees, agents, and representatives.

14. Additional Work

Should Cogeco incur any additional costs or expenses in the execution of its work provided herein resulting from any errors, omissions, defects or other problems contained in the information, materials and/or instructions provided to it by

the Customer, Cogeco shall be fully paid for said reasonable additional costs and expenses by the Customer over and above all payments due under this Agreement within thirty (30) days from the receipt of a statement to that effect.

15. Access to Service Site

The Customer is responsible for providing Cogeco and its employees, contractors, subcontractors, agents and representatives with access to cables, termination panels and any other equipment located on private property. Service(s) outage time shall not include any time that Cogeco or its employees, contractors, subcontractors, agents and representatives are delayed by the Customer in gaining such access.

16. Termination for Loss of Access

Cogeco may terminate affected Service(s) at any time upon written notice to the Customer if Cogeco rights of access to a Service Site(s) through which it serves the Customer are terminated by the Building owner or property manager. Cogeco however, shall employ commercially reasonable efforts to renew or extend access to the affected Service Site(s). Such efforts may include a request for regulatory intervention.

In the event that Cogeco rights of access to a Service Site(s) are terminated by the Building Owner or Property Manager due to damage or destruction or reconstruction of the premises housing the Equipment, Cogeco and Customer shall consult to determine whether there shall be work-around solutions in order to continue to provide Service(s) to the Service Site(s) and determine a plan for migration of the Service(s) to an alternative Service Site(s).

17. Termination of Service by Cogeco

Cogeco may terminate or suspend Service(s) if the Customer:

Uses or permits others to use any of Cogeco Service(s) for a purpose or in a manner which is not permitted pursuant to the provisions of the Service Order Form, or in a manner that is contrary to Canadian Law; or fails to provide Cogeco with reasonable entry and access, at reasonable hours, to install, inspect, repair and remove Cogeco Equipment or facilities, and to perform necessary maintenance in cases of network-affecting disruptions involving Customer-provided facilities; or if the Customer re-arranges, disconnects, removes, repairs or otherwise interferes with Cogeco Equipment (except in cases of emergency); or interferes with Cogeco Network; or otherwise interferes with the delivery of the Service(s); or engages in behaviour that is illegal and such termination or suspension of Services is necessary in order to protect Cogeco from legal liability; or if Customer is adjudicated bankrupt or insolvent by a decree of any governmental authority or Customer has filed a petition in or been assigned into bankruptcy, or consents to the filing of, or has filed against it, or becomes an insolvent person within the meaning of the Bankruptcy and Insolvency Act [R.S. 1985, c. B-3, as amended], or other protection under any provision of law relating to insolvency or bankruptcy, or Customer is granted protection from its creditors pursuant to the Companies' Creditors Arrangement Act [R.S. 1985, c. C-36] or any substantial part of its property is taken, or in the event Customer liquidates or winds up its daily operations for any reason whatsoever.

18. Network Management Service

The following Network management functions shall be performed on a 7 day per week, 24 hour a day basis for "lit" Service(s):

- Network Surveillance;
- Fault Management;

The following Network management functions will be performed during Cogeco normal business hours, 08:00 to 17:00 EST Monday through Friday:

- Management of Moves, Adds and Changes;
- Name and Address Management.

19. Customer Obligations

The Customer shall:

- Be responsible to provide first line support personnel who will be the interface between the parties for all Services performed as part of the Agreement;
- Notify Cogeco of the Customer due date for moves, adds and changes.
- Moves, adds and changes must be vetted by Cogeco and requests provided in writing to Cogeco in advance
- Shall not upload or download any illegal material.

20. Compliance with Laws

The parties agree to comply with all applicable laws of Canada.

21. Ownership of Equipment

The Equipment, as detailed in a Service Order Form, shall be supplied and installed by Cogeco shall be maintained and repaired only by Cogeco or Cogeco authorized agents. The Customer acknowledges that, unless otherwise specified elsewhere in this Agreement, Cogeco is the owner of all right, title and interest in the Equipment, or has obtained the right to make the Equipment available for use by the Customer from a third party. Such Equipment shall remain the property of Cogeco, or such third party and shall not by reason of the attachment, installation or connection of any part thereof to any realty become or be deemed a fixture to such realty, nor be pledged by the Customer as part of collateral to any third party. The Customer shall be responsible for any loss, cost, claim or damage caused to or by the Equipment at the Site from any cause whatsoever including, without limitation, theft, or in connection with its installation, removal, use, maintenance or repair, unless such loss or damage is due to the negligence or wilful misconduct of Cogeco or Cogeco authorized agents. The Customer shall not, except as necessary in an emergency, without Cogeco prior written consent, make any alteration, addition or correction to the Equipment, connect any of the Customer's equipment to the Equipment, or permit access to the Equipment by any person not approved by Cogeco.

22. Confidentiality

The parties agree that the terms and provisions of this Agreement (including drawings, blueprints, plans, network architecture, equipment lists, schematics, contract pricing and price lists supplied to the Customer) shall remain strictly confidential and may not be disclosed to any third party without the express written consent of both parties.

23. Adequate Assurances

The Customer authorizes Cogeco, its subsidiaries and affiliates, and/or their respective agents to disclose, share and/or exchange information that they have concerning the Customer for the purpose of assessing the Customer's credit worthiness.

24. Delayed Payment

If payments are not made in accordance with these terms, a service charge will, without prejudice to the right of Cogeco to immediate payment, be added in an amount equal to 1.5% per month or fraction of a month (equivalent to 19.56 % per annum) on the unpaid balance. When any payment hereunder shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day.

25. No Right of Offset

The right of Cogeco to any payment provided for under this Agreement shall not be subject to any abatement, reduction, set off, defence, counterclaim or recoupment of any amount due or alleged to be due by reason of any past, present or future claims of the Customer.

26. Force Majeure

Neither Cogeco nor the Customer shall be liable for any delay in performance or for non-performance in whole or in part of this Agreement and periods set out for performance of responsibilities pursuant to this Agreement shall be extended for a period equal to the period of the delay caused by the occurrence of acts of God, floods, war, fires, natural disasters, famine, earthquake, embargoes, labour disputes, casualties, civil disturbance, acts of insurrection by civil and military authorities, terrorist acts, fibre, cable, equipment or other material or component failures, (including fibre cuts), lack of or delay in transportation, shortages, unavailability or delay in delivery not resulting from the responsible party's failure to timely place orders therefore, government codes, permits, ordinances, laws, rules, regulations, restrictions or any other contingency beyond its reasonable control. In the event of delay in performance due to any such cause, the date of delivery or time for completion will be extended by a period of time reasonably necessary to overcome the effect of such delay.

If a Force Majeure Event causes a material failure or delay in the performance of any Service(s) by Cogeco for more than thirty (30) consecutive days, the Customer may, in addition to any other rights it may have, immediately terminate the affected Service(s) with two (2) Business Days written notice to Cogeco without liability to Cogeco.

27. Scheduled Network Downtime

To ensure that Cogeco Network is operating at optimal performance, Cogeco may elect to schedule and inform the Customer of periodic downtimes for diagnosis and maintenance of its dedicated fibre-based services. To the extent it is commercially feasible, Cogeco shall provide the Customer with seven (7) days notice by means of e-mail, in advance of a scheduled downtime of fibre services and shall schedule these periodic downtimes during non-peak hours from Monday through Friday from 12:01 AM until 6:00 AM.

28. Customer Care

The Customer can contact a Cogeco Customer Service representative

Via telephone, in Ontario at 905-333-7914 and in Québec at 1-855-567-4029 (to open trouble tickets).

The Customer shall notify Cogeco immediately in the event of degradation or interruption of Service(s). Cogeco shall make available a Cogeco Customer Service representative on a twenty-four (24) hours a day, seven (7) days a week basis. The Customer should request the Cogeco representative to open a "trouble ticket".

29. Dispute Resolution

In the event of any dispute arising out of this Agreement, (or Service Orders or Schedules hereto) the parties agree as follows:

To attempt in good faith, to negotiate a settlement of the dispute between themselves within twenty (20) Business Days from the date the dispute arose; and in the event that the parties cannot settle the dispute between themselves, either party may, following the passage of at least twenty (20) Business Days from the date the dispute arose (as evidenced by writing between the parties), submit the dispute for resolution by arbitration by delivery of a notice of submission to the other party. The notice of submission shall name an arbitrator. If the party receiving the notice delivers a reply, disagreeing with the arbitrator named in the notice within five (5) Business Days of receipt of the notice, either party may make an application to the courts for appointment of arbitrator. If no reply disagreeing with the arbitrator named in the notice is received within the five (5) Business Day period, the arbitrator named in the notice shall conduct the arbitration relating to any dispute. Any arbitrator selected to act under this Agreement shall be qualified by education, training and experience to arbitrate the particular question in dispute and shall have no connection to either of the parties other than in acting in previous arbitrations. Arbitration shall be conducted in Toronto, Ontario, in accordance with the provisions of the *Arbitration Act, 1991* (Ontario), if the Services are delivered by Cogeco to the Customer in the Province of Ontario, or in Montréal, Québec, in accordance with the provisions of the *Code of Civil Procedure* (Québec) and the *Civil Code of Québec* if the Services are delivered by Cogeco to the Customer in the Province of Québec, and the decision shall be final and binding with no right of appeal.

Notwithstanding the foregoing, the following matters will not be subject to arbitration proceedings and will be dealt with through litigation in the courts of competent jurisdiction: disputes or claims for which an indemnification has been provided; and disputes involving claims for injunctive relief by a party herein.

30. Assignment

This Agreement shall not be assigned in whole or in part by either party without the prior written consent of other party, such consent not to be unreasonably withheld, provided that this Agreement may be assigned to any Affiliate of the parties. Any permitted assignment requiring consent shall be conditional upon the assigning party providing to the other party a true copy of the assignment agreement, and an agreement and undertaking from the assignee to be directly bound by the provisions of this Agreement and not to further assign its rights hereunder without complying with the provisions herein contained. Cogeco shall have the right to deny an assignment of this Agreement, to party unaffiliated with the Customer in the event that Cogeco shall determine that such unaffiliated party is not in Cogeco's judgement, credit-worthy.

31. Customer's relations with Building Owner(s)

In the event of disruption of Service(s), or any loss or damage (whether direct or indirect) resulting from, or arising out of any act or omission of the Customer's Landlord (or the Building Owner(s)) of a Service Site(s), the Customer shall undertake no action whatsoever, which would join Cogeco in any action against said Landlord. Any cessation or interruption of Service(s) occasioned by Customer's Landlord(s) or any other breach of a Building Access or Telecommunications License Agreement between Cogeco and the Customer's Landlord(s) shall not constitute a default or a breach under any lease and/or other agreement between the Customer and its Landlord(s). This Agreement and all Building Access or Telecommunications Access Agreements entered into between Cogeco and the Customer's Landlord(s) are entirely separate and distinct from and independent of any lease and/or other agreement between the Customer and its respective Landlord(s).

32. Entire Agreement

This Agreement constitutes the entire understanding between the Customer and Cogeco with respect to the subject matter, merging and superseding all prior agreements, understandings and representations and warranties. No amendment or modification hereto shall be binding on Cogeco unless made in writing by an authorized representative of each party. Prior dealings, usage of the trade or a course of performance shall not be relevant to determine the meaning of this contract even though the accepting or acquiescing party had knowledge of the nature of the performance and opportunity for objection. It is expressly agreed that if the Customer issues a Purchase Order or other document for the Service(s) provided under this Agreement, such instrument will be deemed for the Customer's internal use only, and any provisions contained therein shall have no effect whatsoever upon this Agreement. Only

completed Service Order Forms in the form proscribed by Cogeco shall obligate Cogeco to provide a Service hereunder.

33. Governing Law

This contract shall be governed by, and construed in accordance with, the laws applicable in the Province in which the fibre services are delivered by Cogeco to the Customer.

34. Notice

Any notice, request, demand, consent or other communication provided or permitted hereunder shall be in writing and given by personal delivery, or sent by registered mail, postage prepaid, or transmitted by email or other form of recorded communication tested prior to transmission, addressed to the party for which it is intended at its address set out in this Agreement provided, however, that either party may change its address for purposes of receipt of any such communication by giving five (5) Business Days prior written notice of such change to the other party in the manner prescribed above. Any notice given by post, shall be deemed to have been received three (3) Business Days following mailing. In the case of notices delivered by courier, on the date following transmission, and if it was delivered or transmitted by email or other form of electronic communication, on the date of transmission provided that the party transmitting the facsimile or other form of electronic communication retains proof of successful transmission of the communication. During times of postal disruption, notice shall be given by personal delivery or transmitted by email or other form of recorded communication tested prior to transmission.

To Cogeco at the following address:

Legal Affairs
Cogeco Connexion Inc.
5 Place Ville-Marie, Suite 1700
Montréal, Québec H3B 0B3
Email: legal@cogeco.com

35. Method of Payment

Invoices must be paid by wire transfer, electronic funds transfer or by cheque made payable to Cogeco and sent to the following address:

Cogeco Connexion Inc.
Attention: Collections Analyst
5 Place Ville-Marie, Suite 1700
Montréal, Québec H3B 0B3

36. Privacy and Security of Transmissions & Acceptable Use Policies

Cogeco does not warrant the security of the content of telecommunications transmitted by the Customer. The Customer is advised to utilize appropriate encryption technology to safeguard the content of its transmissions.

The Customer shall at all times ensure that the Services are used by it and its customers and end-users in accordance with Cogeco's Acceptable Use Policy (AUP) as published or posted on Cogeco's website from time to time.

37. General Conditions

Any Article, Section, Item or other subdivision of the Agreement which is, or becomes illegal, invalid or unenforceable shall be severed from the Agreement and be ineffective to the extent of such illegality, invalidity or unenforceability and shall not affect or impair the remaining provisions hereof or thereof.

The Customer is permitted to resell the Services provided by Cogeco pursuant to a Service Agreement. If the Customer uses or allows the use by its customers (the "End Users") of the Services for the provision of Voice over Internet Protocol services ("VoIP Services") and the Customer or its End Users are not already subject to the requirements of the Canadian Radio-television and Telecommunications Commission (the "CRTC"), as regards the provision of VoIP Services, then the Customer shall ensure it, and its End Users comply with the decisions, directives and other requirements of the CRTC with respect to emergency services obligations, message relay services obligations and consumer privacy safety obligations applicable to the provision of VoIP Services.

This Agreement, including any schedules, addendums, appendices or other attachments hereto, shall enure to the benefit of, and be binding upon, the parties hereto, and their respective successors and permitted assigns.

The individuals executing this Agreement on behalf of Cogeco or the Customer, as the case may be, each represent that they are authorized to execute the Agreement on behalf of Cogeco and the Customer, as the case may be.

The Customer, during the Term of the Agreement shall obtain and keep in force all requisite consents from the Building Owner(s) of the Service Site(s), to permit the Customer to connect its Communications Equipment to Cogeco's Communications facilities at the Demarcation Point.

Any delay or omission of Cogeco (or the Customer) in the enforcement of any provision of the Agreement shall not affect the right of Cogeco (or the Customer) thereafter to enforce the same provision. Nor shall the waiver by Cogeco (or the Customer) of any breach of any provision of the Agreement be taken or held binding by the Customer (or Cogeco), unless in writing and such waiver shall not be taken or held to be a waiver of any future breach of the same provision or prejudice the enforcement of any other provision.

38. Schedules

In the event of any inconsistency or contradiction with regards to interpretation or applicability between or among them, the following declining order of precedence shall govern:

- (i) Service Orders – purchase order or executed contract between the Customer and Cogeco;
- (ii) Terms and Conditions of Service – Business Fibre;
- (iii) General Terms and Conditions – Business;
- (iv) Schedules to the Service Orders.