

CITY OF HUDSON VELOCITY BROADBAND SERVICES AGREEMENT

The City of Hudson, Ohio, (hereinafter "Provider") and Customer, as named on the Services Order, hereby agree to be bound by the following General Terms and Conditions for Provider's services to Customer as well as the following exhibits attached and incorporated into this Services Agreement: Exhibit A: "City of Hudson Velocity Broadband Service Level Agreement"; Exhibit B: the "City of Hudson Velocity Broadband Acceptable Use Policy"; and Exhibit C: the "City of Hudson Velocity Broadband Right of Entry Installation Access Agreement."

GENERAL TERMS AND CONDITIONS

1. EFFECTIVE DATE, SERVICES, AND SERVICES TERM. This Services Agreement along with the Services Order and any additional attachments, filed tariffs, price lists or schedules, comprise the entire agreement between the parties (collectively, "Agreement") for each service described in the Service Order (the "Service"). This Agreement supersedes any and all prior discussions, representations, memoranda, or agreements; oral or written, between the parties related hereto. Provider reserves the right, in its sole reasonable discretion, to reject any Service Order prior to Provider's signature. This Agreement is fully binding and enforceable as of the date the Services Order(s) is/are signed by both parties ("Effective Date"). Provider agrees to provide to Customer (subject to availability and adequacy of underlying service) and Customer agrees to procure from Provider, the Services, at the locations set forth for the number of months set forth ("Services Term") as detailed on the Services Order(s) incorporated as part of this Agreement. If Customer is a tenant at the premises where services covered by this Agreement are being provided, by signing this Agreement, Customer is certifying and representing to Provider that Customer has the landlord's consent for the installation of the equipment and facilities necessary for the services covered by this Agreement to be provided. The Services Term commences upon installation of the Services by Provider ("Installation Date"). Installation of Services occurs at the delivery of operating circuits to the demarcation point at the Customer's premise ("Installation of Service"). Provider will use reasonable efforts to install Services on the date agreed upon by the parties; however, Provider does not guarantee that Services will be installed and provisioned on Customer's desired due date. Upon the expiration of the Services Term, this Agreement and the Services will continue on a month-to-month basis until terminated by either party on thirty (30) days' prior written notice to the other party.

2. RATES, CHARGES, BILLING AND PAYMENT. Rates and charges are described in the Services Order. Provider will notify Customer when Customer's circuit has been delivered and Installation of Service has occurred. Upon Installation of Service, Customer agrees to convert its services and commit to a specific conversion date. Customer further agrees that billing will commence immediately after Installation of Service regardless of the Customer's actual conversion date. Monthly recurring charges ("MRC") will be billed in advance each month. Non-recurring charges ("NRC") will be billed on the first invoice after the Installation Date, or if the NRC are incurred after the Installation Date, or are usage based, such charges will be billed on the next invoice thereafter. Payments are due on the Payment Date set forth on the Provider invoice. Customer must provide payment in full on Payment Date. If Customer believes it has been billed in error or otherwise disputes a charge, then Customer must notify Provider within thirty (30) days of the date of the invoice containing the disputed charge. Customer's notice must specifically detail the dispute and provide supporting documentation for the amount in dispute. Provider will investigate all disputes and notify Customer of the results of its investigation and, if appropriate, credit Customer's account or notify Customer of denial of the dispute. Provider may assess a late fee equal to the greater of \$10.00 or 1.5% per month (not to exceed the maximum rate allowed under state law) on any undisputed balances not paid when due or any disputed balances denied by Provider. Late fees may be assessed, as of the original Payment Date, against any disputed amount denied by Provider. Provider has the option to suspend Services and/or to pursue any and all other legal remedies against Customer until payment is made up to and including temporary and/or permanent suspension of Customer's Service. Customer agrees that Provider is not liable for any damages and/or claims related to loss of Service by Customer resulting from Provider temporarily and/or permanently terminating Customer's Service. Customer agrees to pay any and all costs incurred by Provider in collection of rates and charges due and payable, including reasonable attorney's fees and all collection agency costs, whether or not a suit is instituted. All payments hereunder will be in U.S. currency. Provider shall not be liable for any third party charges arising from or related to the termination of any previous agreement for services or the failure of Customer to terminate any previous agreement for services.

3. TERMS AND CONDITIONS MODIFICATIONS. Customer agrees and understands that Provider may change the terms and conditions of this Services Agreement upon thirty (30) days notice to Customer. The most current Services Agreement can be found at: <https://www.hudsoninnovates.com/intelligent-edge/velocity-broadband/terms-conditions>. Customer understands and agrees that Customer's use of Provider services after the thirty (30) day notice period shall be deemed consent to the changed terms and conditions. All charges for the Service are set pursuant to the terms and conditions contained in the Services Order and in Paragraphs Two (2) and Four (4) of this City of Hudson Velocity Broadband Services Agreement General Terms and Conditions and are not subject to the change and notice provisions contained within this Paragraph Three (3) of this Services Agreement.

4. TAXES, SURCHARGES, FEES AND ASSESSMENTS. Customer is responsible for payment of any and all federal, state and local taxes, surcharges, or fees, as may be imposed from time to time (excluding Provider income taxes). Provider will collect all such taxes, surcharges, and fees unless Customer provides Provider with proof of exemption. Customer will indemnify Provider for any and all costs, claims, taxes, charges, and surcharges levied against Provider relative to such exempt status. Surcharges and assessments, which are not required by regulatory agencies, but which Provider is permitted to charge to recover expenses, may be applied. All such charges will be set forth on a detailed invoice and shall be collected from Customer in the manner outlined in Paragraph Two (2) of this Services Agreement.

5. COMPLIANCE WITH LAW. This Agreement is subject to all applicable federal, state, and local laws, regulations, rulings, orders and other actions of governmental agencies ("Rules"), and the obtaining and continuance of any required approvals, authorizations, or tariffs or price lists filed with the FCC or any other governmental agency. Provider will use good faith reasonable efforts to obtain, retain, and maintain such approvals and authorizations. If any such Rule adversely affects the Services or requires Provider to provide Services other

than in accordance with the terms of this Agreement, either party may, without liability to the other party, terminate the affected Services upon thirty (30) days prior written notice to the other party.

6. RIGHT OF WAY. At its sole cost and expense, Provider shall be responsible for all public rights of way, public licenses and public easements. At its sole cost and expense, Customer shall be responsible for securing all private rights of way, private licenses and private easements (such as building entries and interior pathways).

7. SERVICES, MAINTENANCE AND UPGRADE OF FACILITIES. Services will meet industry standards. Provider will maintain its facilities and equipment used to provide the Services as set forth in the Agreement at no additional charge to Customer, except where work or service calls result from failure or malfunction in, or improper operation of, Customer's facilities and/or equipment. In such event, Customer will reimburse Provider for the cost of the required maintenance at Provider's standard time and material rate plus any taxes imposed upon Provider related to such maintenance, and Customer shall be responsible for the cost of repair or replacement of Provider equipment that is damaged by Customer's actions or equipment. Provider reserves the right to suspend Service for scheduled maintenance or planned enhancements or upgrades upon twenty-four (24) hours' advance notice to Customer or to suspend Service for emergency repairs to Provider's network without advance notice to Customer. Provider equipment will remain the sole and exclusive property of Provider or Provider's assignee. Customer will not tamper with, remove or conceal any Provider identifying plates, tags or labels. Customer shall indemnify, hold harmless, and defend Provider against any liens placed on Provider equipment due to Customer's action or inaction. Any lien will be discharged by Customer within ten (10) days of notice of filing. Failure to discharge any such lien shall be a material breach of the Agreement and may result in immediate termination. Customer will provide equipment compatible with the Services and Provider's network and facilities. Customer will bear the costs of any additional apparatus reasonably required to be installed because of the use of Provider's network or facilities. Provider reserves the right to substitute, change or rearrange any equipment used in delivering Services that does not affect the quality, cost, or type of Services. Provider will manage its network in Provider's sole discretion. Customer agrees to provide all reasonable information, authorizations, and access required by Provider for the purpose of installing Services, performing routine network grooming, maintenance, upgrades, and addressing emergencies.

8. SERVICE INTERRUPTION CREDITS. Credits are available only for business grade customers contracting for and agreeing to purchase from Provider dedicated bandwidth of 50/50 Mbps or higher, subject to the limitation of liability set forth in Section 9 and 10, and credits shall only be given for a disruption of Services in accordance with the City of Hudson Service Level Agreement attached as Exhibit A to this Agreement. No credit shall be owed for any disruption resulting from a Force Majeure event.

9. DISCLAIMER/LIMITED WARRANTY. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, PROVIDER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, UNDER THIS AGREEMENT AND SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND CUSTOMER MAY NOT RELY ON ANY STATEMENT TO THE CONTRARY BY ANY PERSON. PROVIDER DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE AND PROVIDER IS NOT LAIBLE FOR ANY ERRORS OR INTERRUPTIONS IN CUSTOMER'S SERVICE. THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

10. LIMITED LIABILITY. PROVIDER'S LIABILITY AND THE EXCLUSIVE REMEDY OF CUSTOMER FOR DAMAGES ARISING OUT OF OR RELATED TO THE SERVICES AND/OR THIS AGREEMENT, WILL BE STRICTLY AND SOLELY LIMITED TO AN AMOUNT NO GREATER THAN THE AMOUNTS PAID BY CUSTOMER TO PROVIDER DURING THE MONTH OF THE OCCURRENCE OF ANY CLAIM. IN NO EVENT WILL PROVIDER BE LIABLE TO THE CUSTOMER FOR LOSS OF USE, INCOME OR PROFITS, LOSS OF REVENUES, LOSS OF SAVINGS OR HARM TO BUSINESS OR ANY OTHER SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL LOSSES OR DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT AND/OR CUSTOMER'S USE AND/OR CONNECTION TO THE SERVICE REGARDLESS OF THE FORESEEABILITY THEREOF. THIS PARAGRAPH DOES NOT LIMIT CUSTOMER'S RESPONSIBILITY FOR PAYMENT OF ALL APPROPRIATE CHARGES UNDER THE CONTRACT DOCUMENTS. THIS SECTION SHALL SURVIVE THE TERMINATION OF THE CONTRACT DOCUMENTS.

PROVIDER ALSO SHALL NOT BE LIABLE FOR ANY DAMAGES ARISING OUT OF OR RELATING TO: INTEROPERABILITY, INTERACTION, ACCESS OR INTERCONNECTION PROBLEMS WITH APPLICATIONS, EQUIPMENT, SERVICES, CONTENT OR NETWORKS THAT ARISE AT OR BEYOND CUSTOMER'S DEMARCATION POINT WHERE SUCH EQUIPMENT, SERVICES, CONTENT OR NETWORKS ARE NOT PROVIDED BY PROVIDER; SERVICE INTERRUPTIONS OR LOST OR ALTERED MESSAGES OR TRANSMISSIONS (EXCEPT TO THE EXTENT SERVICE INTERRUPTION CREDITS ARE SEPARATELY CONTRACTED FOR BY CUSTOMER PURSUANT TO CUSTOMER'S SERVICES ORDER AND PURSUANT TO THE TERMS AND CONDITIONS CONTAINED IN EXHIBIT A); OR UNAUTHORIZED ACCESS TO OR THEFT, ALTERATION, LOSS OR DESTRUCTION OF CUSTOMER'S, USERS' OR THIRD PARTIES' APPLICATIONS, CONTENT, DATA, PROGRAMS, INFORMATION, NETWORK OR SYSTEMS.

11. E911 DISCLAIMER

PLEASE READ THIS INFORMATION REGARDING 911 VERY CAREFULLY. BY ACTIVATING AND PAYING FOR THE SERVICE, YOU ACKNOWLEDGE AND AGREE TO THE LIMITATIONS OF VELOCITY BROADBAND 911 EMERGENCY DIALING SERVICE AND UNDERSTAND THE DISTINCTIONS BETWEEN SUCH SERVICE AND TRADITIONAL 911 or E911 CALLS.

- **911 SERVICE DOES NOT WORK IF YOU FAIL TO REGISTER OR UPDATE THE 911 SERVICE WITH YOUR CURRENT LOCATION**
- **911 SERVICE WILL NOT WORK IF THERE IS AN ELECTRICAL OR INTERNET SERVICE OUTAGE DUE TO ANY CAUSE**
- **911 SERVICE WILL NOT WORK IF YOUR SERVICE HAS BEEN CANCELLED BY YOU OR TERMINATED BY VELOCITY BROADBAND**

- **CUSTOMER AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND VELOCITY BROADBAND FOR ANY CLAIMS AND/OR DAMAGES RELATED TO A FAILURE IN THE 911 SERVICE**

Most of Velocity Broadband customers in the U.S., including Alaska and Hawaii, have access to basic 911 or Enhanced 911 (E911) service. Enhanced 911 (E911) service is available for all U.S. customers who register a valid E911 service address.

With E911 service, when you dial 911, your telephone number and registered address is simultaneously sent to the local emergency center assigned to your location, and emergency operators have access to the information they need to send help and call you back if necessary. If you live in locations where the emergency center is not equipped to receive your telephone number and address, you have basic 911. With basic 911, the local emergency operator answering the call will not have your call back number or your exact location, so you must be prepared to give them this information. Until you give the operator your phone number and location, he/she may not be able to call you back or dispatch help if the call is not completed or is not forwarded, is dropped or disconnected, or if you are unable to speak.

As additional local emergency centers become capable of receiving our customers' telephone number and address information, customers will need to register a valid E911 service address to upgrade the service to E911. Velocity Broadband will not inform you that new local emergency centers have been added. If your address is not covered by E911 service, Velocity Broadband advises you to attempt to register your address periodically to determine if a new local emergency center has been added to your area.

Certain customers do not have access to either basic 911 or E911 because there are no local emergency centers in their area or they did not register for an E911 service address. If you do not have access to basic 911 or E911, your 911 call will be sent to the national emergency call center. A trained agent at the emergency call center will ask for the name, telephone number and location of the customer calling 911, and then contact the local emergency center for such customer in order to send help.

Emergency personnel do not receive your phone number or physical location when your 911 call is routed to a national emergency call center. Therefore, you must be prepared to give the operator your phone number and location and any other information that the operator might request. You authorize the national emergency call center to disclose your name and address to the third party or parties involved with providing emergency services to you, including, without limitation, call routers, call centers and local emergency centers.

A. Notify All Users

Customer's are responsible for informing any household residents, guests and other third persons who may be present at the physical location where you utilize the 911 Service of the important differences in and limitations of 911 SERVICE as compared with traditional 911 land line or cell phone service.

B. Registration of Physical Location Required

For each primary phone number that you use for the Service, you must register with Velocity Broadband the physical location where you will be using the Service with that phone number. When you move the Service to another location, you must register your new location. If you do not register your new location, any 911 calls you make using the 911 Service may be sent to an emergency center near your old address. You must register your initial location of use when you subscribe to the Service.

Thereafter, you may register a new location by following the instructions from the "911" registration link in your Velocity Broadband Account Portal. For purposes of the 911 Service, you may only register one location at a time for each primary phone line you use with the Service.

C. Re-Registration Required if You Change Your Number or Add or Port New Numbers

911 Service does not function if you change your phone number or if you add or port new phone numbers to your account, unless and until you successfully register your location of use for each changed, newly added or newly ported phone number and receive confirmation from Velocity Broadband.

D. Confirmation of Activation Required

Your 911 Service will not be activated for any phone line that you are using with the Service, unless and until you receive an email from Velocity Broadband confirming that the 911 Service has been activated for that primary phone number. The activation may take up to three (3) days to complete.

E. Service Outages

You acknowledge and understand that the Service and 911 Service does not function in the event of a power failure. Should there be an interruption in the power supply, the Service and 911 Service will not function until power is restored. A power failure or disruption may require the Customer to reset or reconfigure the Device and other CPE equipment prior to using the Service and 911. You also acknowledge and understand that the Service and 911 Service requires a fully functional broadband connection to the Internet (which is not provided and/or guaranteed by Velocity Broadband) and that, accordingly, in the event of an outage of, or termination of broadband service with or by your Internet service provider ("ISP") and/or broadband provider, the Service and 911 Service will not function. If there is an interruption in the power supply and/or an ISP/broadband outage, the Service and 911 Service will not function until the power supply is restored and/or the ISP/broadband outage fixed.

You acknowledge that Velocity Broadband is not responsible for any service outage related to the loss of electrical power, connectivity, suspension or termination by your broadband or Internet service provider, the blocking of ports by your broadband or Internet service provider, suspension or termination of your Velocity Broadband Services/Account or any failures resulting from local or national disasters.

F. Disclaimer of Liability and Indemnification.

You acknowledge and understand that Velocity Broadband will not be liable for any Service outage and/or inability to dial 911 using the Velocity Broadband Service or to access emergency service personnel due to the characteristics and limitations of the Velocity Broadband Service as set forth in this Agreement. You agree to defend, indemnify, and hold harmless the City of Hudson, Ohio, the City of Hudson - Velocity Broadband, its officers, elected officials, directors, employees, affiliates, volunteers and agents and any other service provider who furnishes services to you in connection with the Service, from any and all claims, losses, damages, fines, penalties, costs, and expenses (including, without limitation, reasonable attorney fees) by, or on behalf of, you or any third party user of the Service relating to the failure or outage of the Service, including those related to the 911 Service.

In addition, Velocity Broadband does not have any control over whether, or the manner in which, calls using the 911 Service are answered or addressed by any local emergency response center. Velocity Broadband disclaims all responsibility for the conduct of local emergency response centers and the national emergency calling center. Velocity Broadband relies on third parties to assist us in routing 911 Service calls to local emergency response centers and to a national emergency calling center. Velocity Broadband disclaims any and all liability or responsibility in the event such third party data used to route calls is incorrect or yields an erroneous result. Neither Velocity Broadband nor its officers, elected officials, directors, employees, affiliates, volunteers and agents and any other service provider who furnishes services to you in connection with the Service may be held liable for any claim, damage, or loss, and you hereby waive any and all such claims or causes of action, arising from or relating to the 911 Service unless such claims or causes of action arose from Velocity Broadband gross negligence, recklessness or willful misconduct. You agree to defend, indemnify, and hold harmless Velocity Broadband, its officers, elected officials, directors, employees, affiliates, volunteers and agents and any other service provider who furnishes services to you in connection the Service, from any and all claims, losses, damages, fines, penalties, costs and expenses (including, without limitation, reasonable attorneys fees) by, or on behalf of, you or any third party relating to the absence, failure or outage of the Service, including 911 Service, incorrectly routed 911 Service calls, and/or the inability of any user of the Service to be able to use 911 Service or access emergency service personnel.

Furthermore, you acknowledge that Velocity Broadband does not offer Lifeline service, and that if you are not comfortable with the limitations of the 911 Service, Velocity Broadband strongly recommends that you always have an alternative means of accessing emergency service.

12. CUSTOMER WARRANTIES. (a) The Customer represents and warrants that it is an entity, duly organized, validly existing and in good standing under the laws of its origin, with all requisite power to enter into and perform its obligations under this Agreement in accordance with its terms. (b) Customer represents and warrants that neither its equipment nor facilities will pose a hazard to Provider's equipment or facilities or create a hazard to Provider's personnel or customers or the public in general. (c) Customer represents and warrants that its use of the Services will comply and conform with all applicable federal, state and local laws, administrative and regulatory requirements and any other authorities having jurisdiction over the subject matter of this Agreement and it will be responsible for applying for, obtaining and maintaining all registrations and certifications which may be required by such authorities. (d) Customer represents and warrants that it will not resell all or a portion of the Service(s) provided by Provider under this Agreement. Customer will indemnify and hold Provider harmless from any and all loss, liability, claim, demand, and expense (including reasonable attorneys' fees) related to Customer's violation of this Section.

13. CONFIDENTIAL INFORMATION. The parties may have access to certain information, the ownership and confidential status of which is highly important to the other party and is treated or designated by one of the parties as confidential (herein referred to as "Confidential Information"). Neither party will disclose the other party's Confidential Information, directly or indirectly under any circumstances, to any third person without the express written consent of the other party, and neither party will copy, transmit, reproduce, summarize, quote, or make commercial or other use whatsoever of the other party's Confidential Information, except as may be necessary to perform its duties hereunder or as required by the Rules. Each party will exercise the highest degree of care in safeguarding the other party's Confidential Information against loss, theft, or other inadvertent disclosure and take all steps necessary to maintain such confidentiality. Confidential Information, for purposes of this section, does not include information, in any form whatsoever, that is subject to disclosure pursuant to the Ohio Public Records Act. Customer understands and agrees that the City of Hudson - Velocity Broadband is a division of a political subdivision of the State of Ohio and, therefore, City of Hudson - Velocity Broadband's records are subject to release pursuant to the Ohio Public Records Act. Customer agrees and consents to the City of Hudson - Velocity Broadband's release of any Customer information, in any form whatsoever, that is subject to release pursuant to the Ohio Public Records Act. Customer agrees that Provider is not liable to Customer for release of any information, in any form whatsoever, that is made pursuant to the Ohio Public Records Act.

14. CPNI. Under federal law, Customer has the right, and Provider has a duty, to protect the confidentiality of information about the amount, type, and destination of Customer's service usage ("CPNI"). Customer hereby consents to the sharing of Customer's CPNI or other personal information with Provider and its affiliates, agents and contractors, solely for the purpose of developing or bringing to the Customer's attention any products or services, or in the event of any merger, sale of some or all of the company assets or acquisition as well as in any insolvency, bankruptcy or receivership proceeding in which CPNI or other personal information would be transferred as one of the business assets of the company. This consent survives the termination of Customer's service and it valid until revoked by Customer. To remove this consent any time, Customer must notify Provider in writing at City of Hudson, 115 Executive Parkway, Suite 400, Hudson, Ohio 44236 and provide the following information: (1) Customer name, (2) Service billing address, (3) Telephone number including area code, and (4) Service account number. Removing consent will not affect the Customer's current service.

15. INDEMNIFICATION. Customer agrees to indemnify, hold harmless, and defend Provider, its officers, elected officials, directors, parent and/or affiliated companies, employees, agents, volunteers, and subcontractors from liabilities, claims or damages and expenses whatsoever (including reasonable attorney's fees) arising out of or in connection with Customer's use of the Services and/or Customer's end-users or third parties use of the Services, resale, or sharing of the Services. Customer's indemnification obligations do not apply to claims for damages to real or tangible personal property or for bodily injury or death, which is solely caused by Provider due to Provider's gross negligence or willful misconduct.

16. DEFAULT/TERMINATION. Customer's use of the Services provided herein and any equipment associated therewith shall not: (a) interfere with or impair service over Provider's network; (b) impair privacy of any communications over such network; (c) cause damage of any nature to Provider's assets or customers; (d) be used to frighten, abuse, torment or harass, or create hazards to Provider or its network; (e) violate any provision of the City of Hudson Velocity Broadband Acceptable Use Policy (attached hereto as Exhibit B). Provider may immediately suspend or terminate, without liability, the Services for any violation of the above provisions. Except as set forth above, if either party violates any provision of this

Agreement the non-defaulting party may send the defaulting party written notice detailing the default. The defaulting party will have thirty (30) days from the date of the written notice to cure a default. If the defaulting party fails to cure within thirty (30) days, the non-defaulting party may terminate this Agreement and any Services hereunder upon written notice to the other party, or pursue any and all other legal remedies. If Customer terminates this Agreement or all or any part of the Services at any time after the Effective Date, or if Provider terminates this Agreement as a result of Customer's breach, Provider may charge Customer an early termination fee equal to and including any or all of the following: 100% of the total MRC, surcharges and taxes for the Services Term then remaining, plus any unpaid activation, installation and/or special construction charges, and all other fees or costs, whether previously waived or not, less amounts already paid. Customer acknowledges that Provider's damages for early termination would be difficult to determine and the termination charge(s) constitutes liquidated damages and are not intended as a penalty but as a mutually-agreed upon amount representing, but not limited to, lost revenue, proportionate or actual third-party costs and capital expenditures, and internal costs. All such amounts will become immediately due and payable by Customer to Provider. Customer will not be liable for the early termination fees set forth above if Provider breaches the Agreement or if Customer orders from Provider, at the time of Service termination, services of equal or greater MRC than the Services terminated and the new services are approved by Provider. Separate recovery for the same damages is not permitted under this Agreement by either party.

17. FORCE MAJEURE. Except with respect to Customer's payment obligations, notwithstanding any other provision of this Agreement, neither party shall be liable to the other party for any delay or failure in performance of the Agreement to the extent such delay or failure in performance is caused by any Act of God, fire, casualty, delay or disruption in transportation, flood, war, explosion, accident, strike, lockout, epidemic, destruction or shut-down of facilities, shortage or curtailment, riot, insurrection, embargo, governmental acts or directives, civil or military authority, any full or partial failure of any third party communications or computer network or any other cause beyond such party's reasonable control. Any such delay or failure shall suspend the agreement until the Force Majeure ceases; provided, however, if such suspension continues for more than thirty (30) days, Customer may immediately terminate the Agreement upon delivery of written notice to Provider.

18. GENERAL. Except as otherwise permitted herein, any amendment must be in writing and signed by the parties hereto. Electronic or Facsimile copies of this Agreement and any amendments or modification hereto, including electronic or facsimile signatures, will be accepted by the parties as originals. The failure of either party to insist upon the performance of any provision or to exercise any right granted hereunder, will not be construed as a waiver of such provision(s), and the same will continue in full force. If any provision hereof is held to be invalid, void, or unenforceable, the remainder of the provisions will nevertheless remain unimpaired and in effect. All notices to Customer under this Agreement will be in writing and will be made by one or more of the following methods: regular mail, overnight delivery, certified mail, electronic mail, on Customer's invoice, or by facsimile transmission with receipt verification. Notices will be sent to the address of record, and in the event of multiple addresses, to the address of the parent account. In the case of a notice to Provider, all notices under this Agreement will be in writing and will be made by personal delivery, overnight delivery, or certified mail to 115 Executive Parkway, Suite 400, Hudson, Ohio 44236. The various rights and remedies given to or reserved by either party herein or allowed by law, are cumulative, and no delay or omission to exercise any of its rights will be construed as a waiver of any default or acquiescence, nor will any waiver of any breach or any provision be considered a condonement of any continuing or subsequent breach of the same provision. Customer may not assign its obligations hereunder without the prior written consent of Provider, which will not be unreasonably withheld. This Agreement will be governed by and interpreted in accordance with the laws for the State of Ohio. Nothing in this Agreement is intended to, or shall be construed, as creating a partnership or any third-party beneficiaries. The provisions of Sections 2, 4, 5, 9, 10, 11, 12, 14, 15, 16 and 17 shall survive termination. Provider reserves the right to revise the terms and provisions of all of its policies and procedures as it deems appropriate and this Agreement is subject to all revisions.

19. CUSTOMER SUPPORT. Support for technical and/or Service related assistance will be available to Customer via telephone between the hours of 8:30 a.m. and 4:00 p.m. Monday through Friday, excluding weekends and holidays observed by the City of Hudson, Ohio Municipal Government. Customer requests for support will be responded to as staffing and time permit. Provider makes no representations and/or warranties with respect to how quickly Provider will respond and/or resolve any Customer issues.

Provider does not provide technical assistance and/or support for third-party hardware or software. Any questions concerning third-party hardware or software should be directed to the supplier and/or manufacturer of that third-party product. Provider is not responsible for the operation or support, maintenance or repair of any equipment, software, or services that Customer elects to use in connection with their Service.

20. ACCESS/SITE PREPARATION AND INSTALLATION/INDEMNIFICATION FOR INSTALLATION

A. ACCESS/RIGHT OF ENTRY

City of Hudson Velocity Broadband requires reasonable access to each Service Location at any time throughout the Term as necessary for Velocity Broadband to provide the Services and to review, install, inspect, maintain, repair, or remove any Velocity Broadband Equipment used to provide the Services. If Customer owns or controls the Service Location(s), Customer hereby grants Velocity Broadband permission to enter the Service Location(s) in order for Velocity Broadband to fulfill its obligations and exercise its rights under the Services Agreement. If a Service Location is not owned or controlled by Customer, then Customer shall obtain prior written permission from the property owner for City of Hudson Velocity Broadband to enter on to the property for the purposes of installing, inspecting, maintaining, repairing, and/or providing the Services to Customer and Customer shall provide said permission to Provider in the form of the access agreement attached as Exhibit C to this Agreement. If such right of access for Velocity Broadband is not obtained by Customer, then Velocity Broadband reserves the right to decline Customer's request for Service with respect to the Service Location that Velocity Broadband has not received written permission to access.

B. SITE PREPARATION AND INSTALLATION

Neither the city, nor its contractors, are responsible for configuration of the Customer's computers, firewall, or network.

Any expenses related to connecting business computers and network will be the responsibility of the customer.

Your company and/or representatives will be responsible for connection of your computer(s), network, and firewall to the new Velocity Broadband fiber optic service.

C. INDEMNIFICATION FOR INSTALLATION

For and in consideration of there being no cost or assessment to the Customer for the Service Installation, and for other good and valuable consideration to Customer, the receipt of which is hereby acknowledged, the Customer does hereby authorize Hudson, its employees, agents, and contractors to enter upon the Property for the purpose of performing the following work and other work incidental thereto: **Ingress/egress of equipment; labor and materials for work on the property as required for construction of new conduit, pull boxes, fiber optic cable, interior and exterior building network wiring, and associated hardware. Construction of new conduit for fiber optic cable may be done via a combination of open cut and underground boring of conduit.** Hudson will reasonably repair any damage to the Customer's property that is directly and solely caused by Hudson's performance of the above work on the property. The Customer hereby releases and agrees to hold harmless the City of Hudson, Velocity Broadband and their respective appointed and elected officials, employees, and authorized agents from any and all damage or claims of damages resulting by reason of Hudson's access to the property or Hudson's performance of the above described work. It is understood that all contractors engaged for the purpose of performing the above described work are independent contractors, and, as such, they are solely responsible for damages or claims of damages arising from their performance of the work. It is further understood that the City of Hudson and/or Velocity Broadband assumes no obligation for the continued maintenance of the property after completion of the Service installation work. This indemnification shall remain in effect for thirty-six (36) consecutive months from the Effective Date.

21. INTERNATIONAL CALLS AND COMMUNICATIONS

Customer agrees and acknowledges that the use of Provider's Services to make international outbound calls increases Customer's risk of fraudulent activity on Customer's account. Customer understands and agrees that, when Customer elects to allow international outbound calling as a part of Customer's Services, Provider is not obligated to protect against and/or guarantee that Customer's account will not be subject to fraudulent activity. Customer further understands and agrees that, when Customer elects to allow international outbound calling as a part of Customer's Service, Customer may incur additional charges and/or costs not originally contemplated and/or anticipated by Customer, and that Customer, not Provider, will be responsible for paying for all of said charges and/or costs regardless of whether or not the charges and/or costs were the direct result of Customer's use of the Services. Customer further understands and agrees that international outbound calling may be subject to foreign laws and/or regulations. Customer agrees to follow and/or adhere to the laws and regulations of the foreign entity with which Customer calls and/or communicates. Customer further understands and agrees that Provider is not responsible for informing Customer of any laws and/or regulations associated with international outbound calling or calls.

If Customer elects to add international outbound calling services to Customer's Services, then Customer agrees to: (1) accept an increased risk of the possibility of fraudulent activity on Customer's account; and (2) pay for any fraudulent charges associated with Customer's account. Customer further agrees to indemnify, hold harmless, and defend Provider, its officers, elected officials, directors, parent and/or affiliated companies, employees, agents, volunteers, and subcontractors from liabilities, claims or damages and expenses whatsoever (including reasonable attorney's fees) arising out of or in connection with Customer's use of the Services for international outbound calls and/or Customer's end-users or third parties use of the Services, resale, or sharing of the Services for international outbound calls. Customer agrees to release Provider, its officers, elected officials, directors, parent and/or affiliated companies, employees, agents, volunteers, and subcontractors from liabilities, claims or damages and expenses whatsoever (including reasonable attorney's fees) arising out of or in connection with Customer's use of the Services for international outbound calls and/or Customer's end-users or third parties use of the Services, resale, or sharing of the Services for international outbound calls.

Exhibit A
CITY OF HUDSON VELOCITY BROADBAND SERVICE LEVEL AGREEMENT
(applicable ONLY to Dedicated Bandwidth Customers receiving 50/50 Mbps or higher)

1. Network Availability. Provider’s network is defined as all communications equipment, circuits and connections owned and/or operated by Provider for the transmission of Customer data. Provider is responsible for maintaining an availability of 99.5% for single path circuit (unprotected) and 99.9% for diverse path circuits (protected) for all components of service that are owned or operated by Provider. This does not include local loop that may be provisioned over another carriers network to reach Customer, nor does it include Internet networks that are not owned or operated by Provider such as upstream or peering networks, nor does it include end-user networks of Customer’s downstream customers. Network Availability Objective is defined by the following formula:

$$\text{Network Availability \%} = \frac{\text{Total Time} - \text{Outage Time}}{\text{Total Time}} \times 100$$

2. Network Unavailability. An event of “Network Unavailability” occurs when a particular Customer circuit is unable to transmit and receive data on the Provider network for more than five (5) consecutive minutes after Provider records such failure to transmit and receive data in its network management system. Network Unavailability is measured as minutes of outage time per calendar month. The initial five (5) consecutive minutes of any such event is not considered as part of Network Unavailability time. Network Unavailability is measured from the time the trouble ticket is opened, following five (5) consecutive minutes of Customer’s inability to send and receive data, to the time the Customer’s service has been confirmed by Provider to be able to transmit and receive data. Provider shall open a trouble ticket in response to (a) any faults reported by Provider’s Network Management System or (b) upon Customer’s notification of a fault.

3. Packet Delivery. Packet delivery is measured on an ongoing basis every five (5) minutes to adequately determine a consistent average monthly performance level for packets actually delivered between the relevant points of presence (“POPs”). Provider’s packet loss objective on its network, in accordance with the terms of this Exhibit A (hereinafter referred to as “**Packet Loss Objective**”) is defined in Table 1.

Table 1.

Network Availability Objective	99.5% for single path circuit (unprotected) 99.9% for diverse patch circuit (protected)
Packet Loss Objective	No greater than 0.5% for single path circuit (unprotected) No greater than 0.1% for diverse path circuit (protected)

4. Mean Time to Repair Objective. Provider is responsible for maintaining all equipment and cable on the provider network up to the Customer demarcation point which is defined as the point of interconnection between the Provider’s Customer premise equipment and the Customer. On receipt of a trouble alarm or notification, Provider will initiate action within sixty (60) minutes in response to trouble alarm and commit to a (4) four-hour service restoration if the loss of service is due to an equipment failure. In the event of a cable failure, including a fiber-optic cable cut, path or intra-facility cable break or related cable issue, Provider will commit to an (8) eight-hour service restoration for Customer.

5. Credit Requests. Customer’s remedy for loss of connectivity is reestablishment of service and credit for the period of lost connectivity. Subject to verification of trouble ticket and elapsed time of lost connectivity, Provider will credit the Customer according to the schedule below. Requests for credits must be in writing and received by Provider no later than seven days from the disruption in service as outlined in the guarantees above. Customers requesting credits must have opened a trouble ticket with the City’s Network Operations Center at the time of the incident. Please allow one (1) week for credit requests to be adequately researched by Provider prior to posting to a customers’ account. Total credits under this SLA are limited to the monthly service charge for the month in which the service does not meet the commitment.

Loss of Connectivity Increment	Credit on Monthly Recurring Service Charges
Exceeding 4 hours	10%
Up to 8 hours	20%

Each subsequent 4 hour increment	Additional 5% credit, the sum total not to exceed 100% of MRC
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6. Exceptions to Meeting Defined Objectives Due to Excluded Events. The following events shall not be considered events of Network Unavailability, failure to meet the Packet Loss Objective or failure to meet the Latency Objective (“**Excluded Events**”):

- a. planned, scheduled or emergency maintenance activities;
- b. problems caused by environmental conditions at the Customer or End User site (such as power supply, climate and housing), Customer’s failure to follow Provider’s procedures, or Customer’s unauthorized changes to Provider’s connectors or equipment;
- c. interruptions arising from the acts or omissions of the Customer or arising from noncompliance with the provisions of this Exhibit A, including without limitation the Services Order and the Services Agreement and any exhibits attached thereto by Customer or any authorized user, or any interruptions due to any party other than the City, or for events happening on Customer’s network, or the network’s or equipment of other third parties accessed on the internet through the service of the City or the City’s facilities.
- d. the failure or malfunction of equipment, applications or systems not owned or controlled by Provider;
- e. any violation of Provider’s City of Hudson Velocity Broadband Acceptable Use Policy resulting in suspension or termination of Services, including, but not limited to, abuse or fraud caused by Customer or End Users;
- f. a force majeure event as described in the City of Hudson Velocity Broadband Services Agreement;
- g. if fault repair time is prolonged due to Customer or an End User’s action or inaction;
- h. Customer requested upgrades, rearrangements and/or additions to the Services;
- i. Customer acknowledges that Provider shall supply the Services that are the subject of the Agreement on a commercially reasonable efforts basis and that Service failures and interruptions may occur and are difficult to assess as to the cause or resulting damages. Customer further acknowledges and understands that the Services do not function in the event of power failure; power or service disruptions or failures may also prevent dialing to emergency service numbers.

Exhibit B
CITY OF HUDSON VELOCITY BROADBAND ACCEPTABLE USE POLICY (“AUP”)

IN ORDER TO PROVIDE HIGH QUALITY SERVICE AND TO ENSURE THE INTEGRITY OF PROVIDER'S NETWORK, PROVIDER HAS ADOPTED THIS ACCEPTABLE USE POLICY. THE WORD CUSTOMER IS USED HEREIN TO REFER TO ANY PERSON, ENTITY OR BUSINESS ORGANIZATION THAT SUBSCRIBES TO THE SERVICE. BY USING THE SERVICE, CUSTOMER AGREES TO THE TERMS OF THIS ACCEPTABLE USE POLICY. PROVIDER RESERVES THE RIGHT TO IMMEDIATELY TERMINATE THE CUSTOMER'S SERVICE WITHOUT NOTICE, AT PROVIDER'S SOLE DISCRETION, IF CUSTOMER OR OTHERS WHO USE CUSTOMER'S SERVICE, VIOLATE THIS ACCEPTABLE USE POLICY. PROVIDER ALSO RESERVES THE RIGHT TO IMMEDIATELY REMOVE ANY MATERIAL OR INFORMATION THAT VIOLATES THIS POLICY FOR ANY REASON WHATSOEVER AT PROVIDER' SOLE DISCRETION WITHOUT PRIOR NOTICE.

1. USE. The service provided to the Customer is being provided solely for wholesale use and any unauthorized access by a third party, or any other function of the Service is in violation of this Policy and relieves Provider of any affirmative obligations it may have under the City of Hudson Velocity Broadband Services Agreement or Services Order. Customer will not resell or redistribute, nor allow others to resell or redistribute, access to the Service in any manner, except as expressly provided in the Services Order or the Services Agreement. The limitation on resale or redistribution of access includes, but is not limited to, providing access to other organizations across the Provider transport service beyond those services listed in the Services Order. Any violation of these policies may lead to termination of Customer's Service.

2. END USERS. Customer is responsible for ensuring that all end users of the Service comply with this AUP. Provider may disconnect Service if an end user violates this AUP. The Customer must make contact information publicly available and must respond in a timely manner to any complaints. Provider shall consider any complaints regarding the Customer's end users to apply to the Customer. The Customer is responsible for any misuse of the Service, whether by authorized or unauthorized end users. Therefore, the Customer must take steps to ensure that others do not gain unauthorized access to the Service. Customer is solely responsible for the security of (i) any device Customer chooses to connect to the Service, including any data stored or shared on that device and (ii) any access point to the Service.

3. NO ILLEGAL OR FRAUDULENT USE. Customer will not use, nor allow others to use, the Service to violate any applicable federal, state, local or international laws (including, but not limited to, the Children's Online Privacy Protection Act). Customer will not use, nor allow others to use, the Service to commit a crime, act of terrorism, or fraud, or to plan, encourage or help others to commit a crime or fraud, including but not limited to, acts of terrorism, engaging in a pyramid or ponzi scheme, or sending chain letters.

4. NO COPYRIGHT OR TRADEMARK INFRINGEMENT. Customer will not use, nor allow others to use, the Service to send or receive any information which infringes the patents, trademarks, copyrights, trade secrets or proprietary rights of any other person, entity or business organization. This includes, but is not limited to, digitization of music, movies, photographs or other copyrighted materials or software. If Provider receives a notice from a copyright owner alleging a Customer has committed copyright infringement, Provider will notify the Customer of the alleged infringement. If Provider receives more than one notice alleging copyright infringement on the Customer's part, Customer may be deemed a "repeat copyright infringer." Provider reserves the right to terminate the accounts and access to the Service of repeat copyright infringers.

5. NO THREATS OR HARASSMENT. Customer will not use, nor allow others to use, the Service to transmit any material that threatens or encourages bodily harm or destruction of property or which harasses, abuses, defames or invades the privacy of any other person or entity.

6. NO HARM TO MINORS. Customer will not use, nor allow others to use, the Service to harm or attempt to harm a minor, including but not limited to using the Service to send pornographic, obscene or profane materials.

7. NO "SPAMMING". Customer will not use, nor allow others to use, the Service to send unsolicited messages or materials, bulk e-mail, or other forms of solicitation ("spamming"). Provider reserves the right, in Provider's sole discretion, to determine whether such posting or transmission constitutes unsolicited messages or materials. This prohibition against spamming is applicable to mass mailings by Customers in conjunction with third parties and is designed to maintain Service quality for all Customers. Mass mailings are those sent to more than one hundred and fifty (150) recipients by Customer or in conjunction with a third party to any group of recipients.

8. NO "HACKING". Customer will not use, nor allow others to use, the Service to access the accounts of others or to attempt to penetrate security measures of the Service or other computer systems ("hacking") or to cause a disruption of the Service to other on-line users. Customer will not use, nor allow others to use, tools designed for compromising network security, such as password-guessing programs, cracking tools, packet sniffers or network probing tools.

9. NO SYSTEM DISRUPTION. Customer will not use, nor allow others to use, the Service to disrupt Provider network or computer equipment owned by other Provider customers. Any static IP address must be authorized and provisioned by Provider.

10. NO IMPERSONATION OR FORGERY. Customer will not impersonate, nor allow others to impersonate, another user, falsify one's user name, company name, age or identity in e-mail or in any post or transmission to any newsgroup or mailing list or other similar groups or lists. Customer will not, nor allow others to, forge any message header of any electronic transmission, originating or passing through the Service.

11. NO EXCESSIVE USE OF BANDWIDTH. If Provider determines, in Provider's sole discretion, that Customer is using an excessive amount of bandwidth over the Provider network infrastructure for transport or other functions using Provider's network resources, Provider may at any time and without notice, suspend excessive bandwidth capability or suspend Customer's access to the Service.

13. NO "VIRUSES". Customer will not use, nor allow others to use, the Service to transmit computer "viruses," worms, "Trojan horses" or other harmful software programs. Customer will use standard practices to prevent the transmission of such viruses or other harmful software.

14. INDEMNITY, NO LIABILITY. Provider takes no responsibility and assumes no liability for any content uploaded, transmitted, or downloaded by Customer or any third party, or for any mistakes, defamation, slander, libel, omissions, falsehoods, obscenity, pornography, or profanity that Customer may encounter. Provider is only the provider of the facilities and/or services, and shall not be liable for any statements, representations, or content provided by or encountered by our users in any online source.

Customer agrees to indemnify, defend and hold harmless, Provider, its officers, elected officials, directors, employees, agents, licensors, and suppliers from and against all losses, expenses, damages, and costs, including reasonable attorney's fees, resulting from Customer's violation of this AUP.

15. NO WAIVER. The failure by Provider or its affiliates to enforce any provision of this AUP shall not be construed as a waiver of any right to do so at any time.

16. REVISIONS TO POLICY. Provider reserves the right to update or modify this Policy at any time and from time to time with or without prior notice. Continued use of the Service will be deemed acknowledgment and acceptance of the policy. Notice of modifications to this Policy may be given by posting such changes to Provider's website by electronic mail or by conventional mail.

Technology changes rapidly, and any activity not specifically prohibited herein but determined by Provider, in its sole discretion, to be harmful to other customers or the general operations of the system or network may be halted by Provider. Provided, however, that in no event shall Provider be liable for failing to halt any activity, whether or not specifically proscribed hereunder.

Exhibit C
CITY OF HUDSON VELOCITY BROADBAND RIGHT OF ENTRY INSTALLATION ACCESS AGREEMENT
(To be completed by Property Owner at
Service Premises "Owner")

THIS RIGHT OF ENTRY INSTALLATION ACCESS AGREEMENT ("Access Agreement"), is entered into at Hudson, Ohio, as of this

_____ day of _____, 20_____(“Effective Date”) by and between the **CITY OF HUDSON**, dba **VELOCITY BROADBAND**, a municipal corporation in Ohio (collectively, “Hudson”) and _____ the owner(s) (“Owner”) of the real property located at _____ (Summit County Parcel No.: _____) (“Property”)

For and in consideration of there being no cost or assessment to the Owner for the work hereinafter described, and for other good and valuable consideration to Owner, the receipt of which is hereby acknowledged, the Owner does hereby authorize Hudson, its employees, agents, and contractors to enter upon the Property for the purpose of performing the following work and other work incidental thereto: **Ingress/egress of equipment; labor and materials for work on the property as required for construction of new conduit, pull boxes, fiber optic cable, interior and exterior building network wiring, and associated hardware. Construction of new conduit for fiber optic cable may be done via a combination of open cut and underground boring of conduit.** Hudson will reasonably repair any damage to the Property that is directly and solely caused by Hudson’s performance of the above work on the Property.

For the consideration above named, Owner hereby releases and agrees to hold harmless the City of Hudson, Velocity Broadband and their respective appointed and elected officials, employees, and authorized agents from any and all damage or claims of damages resulting by reason of Hudson’s access to the property or Hudson’s performance of the above described work. It is understood that all contractors engaged for the purpose of performing the above described work are independent contractors, and, as such, they are solely responsible for damages or claims of damages arising from their performance of the work. It is further understood that the City of Hudson and/or Velocity Broadband assumes no obligation for the continued maintenance of the Property after completion of the above described installation work. This Access Agreement shall remain in effect for thirty-six (36) consecutive months from the date and year first written above.

IN WITNESS WHEREOF, Owner has caused this Access Agreement to be signed as of the date and year first written above.

Signature: _____
By: _____ (name)
Entity: _____ (company)
Its: _____ (title)

Please return form to:
City of Hudson, attention: Velocity Broadband
In person: 115 Executive Pkwy, #400, Hudson, OH 44236
Email: Velocity@hudson.oh.us
Fax: 330.650.6756