

METRONET BUSINESS NETWORKNOW TERMS AND CONDITIONS

These NetworkNow Terms and Conditions, and the addendum with terms and conditions applicable to the level of Services purchased by Customer, govern Metronet's provision of certain managed Services (as defined in Section 1), subject to the terms, conditions, service descriptions, technical specifications, and policies, as set forth herein. All Service-specific Addendum terms and conditions applicable to the Services ordered under Customer's Business Agreement are hereby incorporated by reference as if the terms and conditions are set forth herein (collectively, "**NetworkNow Terms**"). This Service is separate from any Underlying Fiber Service (as defined below). These NetworkNow Terms constitute an agreement for Services and do not and will not be construed to provide Customer with any ownership right or rights in any of the Services, or any components thereof. You may not resell the Services, or any part thereof, to third parties without Metronet's prior express written consent.

1. DEFINITIONS.

Capitalized terms used in these NetworkNow Terms will have the definitions described below. To the extent a capitalized term used is not defined in these NetworkNow Terms, then it will be construed to have the meaning as otherwise defined in the Agreement.

- a. "**Agreement**" has the same meaning as that term is defined in the parties' Business Agreement incorporated therein.
- b. "**Authorized Users**" means Customer's employees, agents, and contractors who are authorized in writing by Customer to access and use the Services.
- c. "**Birth Certificate**" means a document provided to Customer by Metronet that signifies the Services have been configured, installed, activated, and shown to be working properly and in accordance with the Design Intake Form. Each Birth Certificate will include configuration and installation details and testing results. If Customer has multiple Service Locations, Customer will receive one Birth Certificate reflecting all Service Locations.
- d. "**Business Day**" means Monday through Friday, excluding holidays observed by Service Provider.
- e. "**Change Request**" means a written request made by Customer under Metronet's NetworkNow Policy that involves Metronet performing one or more Customer-requested changes to the Services, Managed Equipment, OEM Platform(s), or any portion(s) or combination(s) thereof.
- f. "**Customer Hardware**" means any Customer-owned and -provided equipment. Customer Hardware constitutes Third Party Equipment under the Agreement, and it is neither (and shall not be deemed to be) Equipment nor Managed Equipment.
- g. "**Design Intake Form**" means a mutually-developed written configuration document provided by Metronet and completed by Customer that outlines the low level design with details, including but not limited to traffic rules, port forwarding, DHCP reservations, DNS servers, and specialized router configurations. The final Design Intake Form will be provided to Customer with the Birth Certificate.
- h. "**Documentation**" means all then-current Design Intake Form or Birth Certificate, written policies, user manuals, technical specifications, and other documentation provided by Metronet relating to the Services. Documentation specifically includes Metronet's NetworkNow Policy, which may include additional terms, such as limitations on the number of Change Requests.

i. **“End Users”** means any natural person using the Services through or on behalf of Customer, whether or not specifically authorized by Customer. End Users include Authorized Users.

j. **“Equipment”** has the same meaning as defined in the Agreement.

k. **“Intellectual Property Rights”** means all intellectual property rights throughout the world, including copyrights, patents, mask works, trademarks, service marks, trade secrets, inventions (whether or not patentable), know-how, authors' rights, moral rights, and all other intellectual property rights, applications or registrations for any of the foregoing, and all rights therein whether now known or hereafter created.

l. **“Included Features”** refers to the OEM Features and/or Metronet-developed features/functionality provided to Customer under the Services, as purchased by Customer in its Business Agreement, which may not include one or more OEM Features otherwise provided for under the OEM Terms obtained by Metronet to provide Customer's purchased Services.

m. **“Local Area Network”** or **“LAN”** means a communications or computer network that connects computers, servers, workstations, printers, and other electronic devices within a limited geographic area, such as a single building, office, campus, or other defined physical location.

n. **“Managed Equipment”** means the Router, firewall, security cameras, and related hardware/physical device provided as part of the Services. Managed Equipment is Equipment, as that term is defined in the Agreement.

o. **“NetworkNow Terms”** has the meaning in the preamble.

p. **“NetworkNow Policy”** means Metronet's then-current written document with additional terms, conditions, and general information about these Services, as updated from time to time by Metronet in its sole discretion. Upon request, Metronet will provide Customer with its then-current NetworkNow Policy, which may be updated from time to time.

q. **“OEM”** means the third-party manufacturer or provider of a product or service that Metronet provides/includes as part of the Services. Metronet maintains a list of OEMs, their products, and a link to their respective websites for Customer to cross reference against its applicable Business Agreement.

r. **“OEM Features”** refers to the features or functionality provided by or on behalf of an OEM under its applicable OEM Terms. By way of example and not limitation, an OEM may provide a Level 3 or 4 firewall under its lowest license and provide a Level 7 firewall under its highest license.

s. **“OEM Platform”** means any software, platform, add-on, service, code (including open source), or product of an OEM that Metronet provides/includes as part of the Services. An OEM Platform will function as described in the Documentation. An OEM Platform is a **“Third-Party Service”** as defined in the Agreement. An OEM Platform may be white-labeled for Metronet.

t. **“OEM Terms”** means any OEM's terms and conditions or other agreements, including any license(s), applicable to its products or services, including any of the foregoing that are included by the applicable third party in the box for its product, as provided by Metronet as part of the Services.

u. **“Router”** is a piece of Managed Equipment that is specifically designed and programmed to deliver router services and is manufactured by and under license with an OEM. By way of example and not limitation, Cisco Meraki MX75, MX85, MX95, or MX105. Router does not include access points.

v. “Protective Measures” means Metronet’s acts or omissions that, in its reasonable judgment, are taken to protect against any actual or reasonably perceived (i) unlawfulness or illegality, or (ii) threat to its network, Services, systems (including Managed Equipment and OEM Platforms), or business, including security, privacy, or other network or business risks. Protective Measures may include, without limitation, (A) replacing, modifying, updating, degrading, physically removing, preventing access to, operation of, shutting off or otherwise limiting any Customer Hardware, Managed Equipment, Vulnerable Equipment, OEM Platforms, and/or Included Features, or the Services; or (B) otherwise modifying or changing the Services, even where doing so materially affects or otherwise decreases the functionality or performance of the Services.

w. “Read-Only Access” refers to a category of one or more access levels wherein an Authorized User can only passively read or view data and cannot make changes to or otherwise affect the Services.

x. “Service Location” means a premises at which Customer receives the Services.

y. “Services” or “NetworkNow Services” means the managed services—including without limitation, configuration, installation, monitoring, maintenance, and support services, as well as limited security and privacy services—provided by Metronet to Customer under these NetworkNow Terms and as further described by and subject to any additional Service-specific terms and conditions. The Services include all related Managed Equipment, OEM Platforms, and any Included Features thereof. However, the Services do not and will not include any Customer Hardware or End User equipment, such as computers, network cards, cabling runs, or peripheral devices.

z. “Term” means the Initial Term and any Renewal Terms, as those terms are defined in Section 4.

aa. “Turn Up Date” means the date upon which Metronet provides Customer its Birth Certificate and final Design Intake Form for Customer’s final Service Location under a Business Agreement.

bb. “Underlying Internet Service” refers to Customer’s underlying internet service purchased by Customer to access the internet. If Metronet provides the Underlying Internet Service, these the Underlying Internet Service will constitute a Fiber Service, as that term is defined in the Agreement. If the Underlying Internet Service is not provided by Metronet, the Underlying Internet Service must meet the technical specifications required by Metronet, and Metronet reserves the right to cancel installation and terminate the Services without liability if the Underlying Internet Service does not meet Metronet’s specifications. In either case, these Services also constitute a Fiber Service. Customer acknowledges and agrees that (i) it shall have sole responsibility for procuring at least one Underlying Internet Service; and (ii) Metronet will have no obligation to provide or support the Services unless an Underlying Internet Service is active at the applicable Service Location.

cc. “Updates” refer to modifications, enhancements, or corrections made to software, firmware, object code, or other digital products or services, including security patches, bug fixes, minor feature improvements, and legal, regulatory, or compliance adjustments, whether delivered automatically or manually.

dd. “Vulnerable Equipment” means any Managed Equipment, Customer Hardware, or OEM Platform that, as determined by Metronet has (A) reached the OEM’s end-of-support, (B) presents a security, privacy, or business risk to Metronet, or (C) is the subject of a U.S. government (or any U.S. state government) request or directive.

ee. **“Wi-Fi Services”** refers to Metronet-provided managed Wi-Fi services, which are subject to Metronet’s Managed Wi-Fi Terms and Conditions (<https://www.metronetbusiness.com/terms-conditions>, the **“Wi-Fi Terms”**). Wi-Fi Services has the same meaning as defined in the Wi-Fi Terms. If Customer purchases Metronet’s Wi-Fi Services, the term “Management Platform” as defined and used in said Wi-Fi Terms is an OEM Platform under these NetworkNow Terms.

ff. **“Write Access”** refers to a category of one or more access levels wherein, in addition to being able to passively read or view data, an Authorized User may actively make changes to or otherwise affect the Services without Metronet’s involvement. Write Access may be available across the entire OEM Platform or certain portions therein, as described in the Documentation. If Customer is granted Write Access by Metronet (whether or not at additional cost), any and all SLA(s) associated with these Services will not apply to any outages or other issues caused by Customer’s acts or omissions, whether or not related to Customer utilizing its Write Access. Only Metronet can grant Write Access.

2. CONDITIONS PRECEDENT TO THESE NETWORKNOW TERMS.

By executing these NetworkNow Terms or using the Services hereunder, Customer understands and agrees that the following are conditions precedent to Metronet providing the Services, and therefore Customer agrees to: (a) have at least one Service Location’s Underlying Internet Service be provided by Metronet; and (b) accept and agree to, or authorize Metronet, on Customer’s behalf, to accept or agree to, any OEM Terms necessary for the Services.

3. SERVICES; MANAGED EQUIPMENT; OEM PLATFORM(S).

a. **Services.** During the Term, Metronet will provide and Customer will pay for the Services. Metronet may make changes to the Services from time to time, provided that, except for Protective Measures, such changes do not materially decrease the functionality or performance of the Services. Metronet will use commercially reasonable efforts to provide Customer with reasonable advance notice of any material changes to the Services that decrease its functionality or performance. Notwithstanding anything to the contrary, Customer’s and its End Users’ use of the Services (and the Internet) is solely at their own risk and is subject to all applicable local, state, national, and international laws, rules, and regulations, and Customer agrees to cause all End Users to agree to the foregoing. Customer agrees that its purchase(s) of Services are not contingent on Metronet’s delivery of any future functionality or features, or dependent on any oral or written public comments made by Metronet regarding future functionality or features. All Services are provided subject to Metronet’s rights under any OEM Terms.

b. **Equipment.** In addition to Customer’s Equipment obligations as set forth in the Agreement, Customer agrees to the terms of this Section.

i. **Metronet-Provided.** For each Service Location, Metronet will provide all Managed Equipment necessary for the Services to function, including one or more Routers, each of which sits between Customer’s network and the public Internet. At all times during the Term, Metronet will maintain any OEM Terms, as necessary for the Services to function under these NetworkNow Terms.

ii. **Customer-Provided.**

A. **Metronet Permission Required.** Metronet, in its sole discretion, may permit certain Customer Hardware be used with the Services, but Metronet reserves the right, at any time, to revoke such permission and to immediately take any Protective Measures

with respect to any Customer Hardware. However, even if permitted under this paragraph, no Customer Hardware shall be placed/connected in between any Managed Equipment. Even if permitted by Metronet, Customer agrees that, unless otherwise agreed in writing by Metronet, all Customer Hardware (1) is neither covered under these NetworkNow Terms nor supported by Metronet in any way, and (2) may not appear in or be monitored by any OEM Platform (including any output thereof).

B. Unsupported Hardware. Even if permitted under paragraph (A), Metronet has no obligation to permit or otherwise support Customer Hardware, even if such Customer Hardware is manufactured or otherwise provided by the same OEM as Metronet's Managed Equipment and/or even if it is the same make or model.

iii. Customer Responsibilities.

A. With respect to all Managed Equipment, Customer is responsible for:

- I. maintaining adequate security thereof;
- II. providing electrical and environmental conditions that meet or exceed the standards set forth in the Agreement and/or the NetworkNow Policy; and
- III. any damage to or theft of all Managed Equipment, excluding normal wear and tear.

B. With respect to Customer Hardware, Customer is solely responsible for

- I. installing (including any cabling to and from), configuring, maintaining, operating, and supporting all Customer Hardware;
- II. procuring, agreeing to, and complying with all OEM Terms; and
- III. removing, upon Metronet's request, any Customer Hardware that (I) is or is reasonably believed by Metronet to be Vulnerable Equipment or (II) is placed between two Managed Equipment devices.

C. Customer will not move or otherwise alter any Managed Equipment that is secured to a surface (e.g., mounted to a wall, ceiling, or rack), unless directed to do so by Metronet. Customer acknowledges and agrees that moving or otherwise altering Managed Equipment and/or Customer Hardware may result in poor(er) performance of, or otherwise negatively affect, the Services.

iv. Vulnerable Equipment. Metronet may, in its sole discretion, require the replacement of such Vulnerable Equipment, and Customer may be responsible for any related replacement and installation costs. If Customer (I) refuses to replace Vulnerable Equipment, (II) fails to pay related replacement and/or installation costs (if any), or (III) declines complimentary upgrades or replacement of Vulnerable Equipment with substantially similar features/functionality, Metronet may, at its option: (X) treat such action or inaction as Customer's termination of the Services and/or Underlying Internet Service (if provided by Metronet), or (XI) suspend the Services. Termination under this paragraph will be deemed a breach of the Agreement by Customer, and the Base ETL under the Agreement, if any, will apply. With respect to (III) above, to the extent the government merely provides guidance, Metronet reserves the right to determine whether or not to require replacement of anything contemplated in this paragraph. Metronet shall have no liability whatsoever related to its actions taken under this paragraph, including any effects on Customer, its network, or its End Users. Metronet's sole obligation under this paragraph is to use

commercially reasonable efforts to restore Customer's Services, including, if necessary and technically feasible, providing alternative Managed Equipment and or an OEM Platform with substantially similar functionality without such Vulnerable Equipment. Accordingly, and to the extent necessary, Customer hereby authorizes Metronet to take such actions necessary to comply with any government actions.

c. OEM Platform(s); Access. Metronet may provide portions of the Services using one or more OEM Platforms, each of which is provided "as is" and "as available" without warranty of any kind.

i. Customer Access. Metronet may provide Authorized Users access to one or more OEM Platforms at varying levels, and such access levels are set forth in the Documentation. Access levels generally fall into one of two categories: Read-Only Access and Write Access. Authorized Users with Read-Only Access can passively read or view data about the Services and their performance; those with Write Access in one or more portions of an OEM Platform may actively make changes that affect the Services (e.g., turn on and off features/functionality, add/remove websites or categories of websites from a blocklist or whitelist).

ii. Metronet Access. As a managed service, Customer understands and agrees that, during the Term, Metronet will retain root access to all Managed Equipment and OEM Platforms and may use root access to manage the Services, including, without limitation, taking any necessary (e.g., Protective Measures) or requested (e.g., effectuating Change Requests) actions in furtherance of and in accordance with the Services, whether on Metronet's own accord or as directed by Customer.

iii. Liability based on Access. Metronet's sole obligation is to provide each Authorized User with the requisite access level. Metronet shall have no liability whatsoever for acts of Authorized Users. Customer is solely responsible for and assumes all liability and risk for or related to any acts or omissions of its Authorized Users, including, without limitation, with respect to the configuration, security, or privacy of the Services, Managed Equipment, or OEM Platform, and any effects such acts or omissions may have on the Services, Customer, or its End Users. Further, Customer expressly agrees that Metronet's liability shall be limited exclusively to its acts, whether performed on its own accord or at the direction of Customer, and under no circumstances will Metronet have any liability whatsoever with respect to its omissions where an Authorized User may otherwise act (or have acted) and such action by that Authorized User would have mitigated or negated such liability.

d. Included Features. Customer expressly agrees that Metronet, in its sole and exclusive discretion, determines what OEM Features are Included Features under the Services, when and how OEM Features become Included Features, and whether an Included Feature is subject to additional cost or requires Customer to upgrade the Services. Therefore, Customer understands and agrees that not all OEM Features are or will become Included Features (or otherwise made available by Metronet to Customer) of the Services, regardless of whether the OEM Terms to which Customer agrees otherwise include an OEM Feature. To avoid doubt, that an OEM Feature may be available under the applicable OEM Terms procured by Metronet to provide the Services and agreed to by Customer, does not render it an Included Feature hereunder or otherwise obligate Metronet to provide or make available to Customer said OEM Feature. Notwithstanding the foregoing, Metronet will not decrease Included Features once provided to Customer as part of its Services, except as necessary, in Metronet's reasonable discretion, to take any Protective Measures, or if Customer downgrades its Services.

e. Use Restrictions. Customer agrees that Managed Equipment must only be used for delivering the Services and may not be used for any other purpose without Metronet's prior written consent. Customer shall not, and shall ensure that End Users do not: (a) tamper with, modify, reverse engineer, or attempt to gain unauthorized access to the Managed Equipment; (b) remove or obscure any labels, markings, or proprietary notices on the Managed Equipment; (c) use the Managed Equipment in any manner that violates applicable laws or regulations; or (d) sublicense, rent, lease, or otherwise transfer the Managed Equipment to any third party.

4. PAYMENT.

a. Customer will pay all amounts due and payable to Metronet pursuant to the parties' Business Agreement for these Services. Customer shall bear all expenses incurred, *e.g.*, dispatch/labor costs, where any issue for which Metronet sent technicians on to a Service Location is found to be (a) the fault of Customer, its End Users, agents, representatives, or third-party suppliers, (b) caused by the environment at the Services Location in violation of the then-current NetworkNow Policy or applicable law, (c) related to Customer Hardware or Customer-provided equipment, or (d) caused by an End User's environment that is out of the control of Metronet to remedy (*e.g.*, an End User's camper being built out of aluminum, thereby creating a Faraday Cage-like effect).

b. Metronet may increase the fees of the Services from time to time upon thirty (30) days' prior written notice to Customer. Such increases shall not occur more frequently than once per 12-month period. In such a case, the applicable fees shall be deemed to be the maximum amount allowable under applicable law. Notwithstanding the foregoing, increases in any and all license, copyright, and/or other costs, charges, fees, or amounts including, without limitation, taxes and any and all other governmental fees, charges and/or other amounts, shall not be deemed to be included in the fees or limited by any provision in these NetworkNow Terms, and may be passed onto Customer at any time when such costs are passed on to Metronet.

c. Non-standard or complex network changes will be scoped and billed on a time and materials basis set forth in a new Statement of Work signed by the Parties.

5. TERM; TERMINATION; EFFECT OF TERMINATION.

a. Term. Commencing on the Turn Up Date, Metronet will provide the Services for the term identified on Customer's Business Agreement ("**Initial Term**"). Upon expiration of the Initial Term, these NetworkNow Terms will automatically renew for additional 1 year terms (each, a "**Renewal Term**"), unless either party provides written notice of its intention not to renew the Agreement at least sixty (60) days prior to the expiration of the then current Term.

b. Termination.

i. Customer may only terminate the Services as permitted in the Agreement. If Customer terminates the Services for any reason (or Metronet terminates due to Customer breach) before the end of the then-current Term, the Base ETL under the Agreement shall apply with respect to these Services.

ii. Metronet may, in its sole discretion, block, suspend, restrict, or terminate, in whole or in part, the Services, Customer's and its End Users' access thereto:

A. upon thirty (30) days advance notice, if it ceases to offer the Services generally or to your location;

B. immediately, without prior notice and without liability to Customer or its End Users, at any time, if Metronet believes that (I) Customer or its End Users have violated or acted inconsistently with these NetworkNow Terms or the Agreement, including the AUPP; (II) the use of the Services is a threat to Metronet's network, systems, or business; or (III) any End User content is illegal.

c. Effect of Termination. If these Services are terminated for any reason or otherwise expire:

i. Customer will immediately cease all use of the Services and will pay all amounts due to Metronet, including any Base ETL.

ii. Customer will return all Managed Equipment to Metronet within X days in good working condition, at Customer's sole cost. If Customer does not return all Managed Equipment or such Equipment is not in good working condition, Customer will be charged the amount specified in Metronet's then-current Non-Returned Equipment Fee table available at ([URL]), which may be updated by Metronet from time to time without notice.

iii. Metronet will terminate all End Users' access to any associated OEM Platforms.

iv. Metronet will have no liability whatsoever related to the Services as of the termination effective date. The provisions of these NetworkNow Terms that by their nature are intended to survive termination shall survive.

6. CUSTOMER RESPONSIBILITIES.

Customer is solely responsible for:

a. timely designating and removing any Authorized Users, in writing and in accordance with the then-current NetworkNow Policy.

b. all End Users' access to and use of the Services, whether or not the Customer has knowledge of or authorizes said access to or use of the Services, and whether or not said End User is able to access the Underlying Internet Service.

c. ensuring that all End Users understand, agree to, and will comply with (i) these NetworkNow Terms, (ii) the Agreement, (iii) Metronet's AUPP (available at www.metronet.com/aup-privacy), (iv) any other applicable terms of Metronet, (v) applicable OEM Terms, and (vi) all applicable local, state, federal, and international laws, rules, and regulations, including copyright and intellectual property rights laws. **CUSTOMER EXPRESSLY AGREES TO ASSUME ALL LIABILITY WITH RESPECT TO ANY END USER'S USE OF THE SERVICES.**

d. taking any necessary or reasonable precautions to prevent unauthorized access to or use of the Services, Managed Equipment, OEM Platforms, and related systems, networks, facilities, services, and accounts.

e. notifying Metronet immediately of any confirmed or suspected unauthorized or unlawful access to or use of the Services, Managed Equipment, or OEM Platforms.

f. causing End Users to agree, to: (i) utilize secure, accurate, and complete access credentials, (ii) utilize a device(s) that meet the technical specifications to connect to the Services, and (iii) protect the password, username, and security information used to access the Services.

g. obtaining from all relevant parties/people, including End Users, any necessary consents to the collection, use, transmission, processing, monitoring, and maintenance of data in connection

with the provision of the Services, including, but not limited to, for purposes of improving the Services, communication regarding the Services, and providing support and maintenance thereto.

7. REPRESENTATIONS AND WARRANTIES.

a. Mutual. Each party represents and warrants to the other party that:

i. it is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its organization or incorporation;

ii. it has the full right, power, and authority to enter into and perform its obligations under these NetworkNow Terms;

iii. its signatory to the Business Agreement, and their execution thereof, has been duly authorized by all necessary corporate or other action; and

iv. the NetworkNow Terms constitute its legal, valid, and binding obligation, enforceable against it in accordance with its terms.

b. Metronet. Metronet represents and warrants that

i. the Services will be performed in a professional and workmanlike manner in accordance with generally accepted industry standards;

ii. it has obtained and will maintain all necessary licenses, consents, and permissions necessary for the provision of the Services; and

iii. to the best of its knowledge, the Services do not infringe or misappropriate the Intellectual Property Rights of any third party.

c. Customer. Customer represents and warrants that it has obtained and will maintain all necessary licenses, consents, and permissions necessary for Metronet to provide the Services, including any authorizations of the lawful property owner(s) of any Service Location necessary for Metronet to install and maintain the Services.

8. DATA SECURITY AND PRIVACY.

a. Metronet agrees that, in performing any network management functions of the Services, it will use or monitor End User data only for network management purposes and for providing metrics reports, consistent with Metronet's AUPP; and

b. With respect to its use of the Services, Customer is responsible for its data and the way said data is accessed and used by Customer, and Customer is responsible for its End Users' access to and use of the data, content, or communications generated by or through the Services.

c. Location Data. To the extent the Services allow Customer to collect and use an End User's location through Bluetooth Low Energy (BLE) and Wi-Fi based location technologies, and to the extent Customer collects or uses such location data, Customer agrees to comply with all applicable U.S. and international laws and regulations, including those promulgated by the Federal Trade Commission and other industry regulators (e.g., Privacy Forum's Mobile Location Analytics Code of Conduct, NAI, GDPR, CCPA), with which Customer agrees to comply. Customer agrees not to provide or sell End Users' location data to third parties without Metronet's prior written authorization.

9. INTELLECTUAL PROPERTY.

a. Metronet IP. As between the parties, Metronet and/or its licensor(s), as applicable, owns and will retain all right, title, and interest in and to the following, including all Intellectual Property Rights in or related thereto:

- i. the Services (including OEM Platforms, Equipment, etc.);
- ii. the Documentation;
- iii. all modifications, improvements, and derivative works of any of the foregoing.

b. Customer IP. As between the parties, Customer owns and will retain all right, title, and interest in and to the Customer Hardware, including all Intellectual Property Rights in or related thereto.

c. Prior Approval for Use of Metronet IP. Customer may not use Metronet's names, brands, or marks, in connection with the Services without Metronet's express prior written consent, including but not limited to on network splash pages.

d. Feedback. If Customer provides Metronet with any suggestions, comments, or other feedback regarding the Services or Equipment ("**Feedback**"), Customer hereby grants to Metronet a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to use, reproduce, disclose, sublicense, distribute, modify, and otherwise exploit the Feedback without restriction.

10. INDEMNIFICATION.

a. CUSTOMER AGREES TO INDEMNIFY AND HOLD HARMLESS METRONET, ITS AFFILIATES AND PARENT COMPANY, FROM AND AGAINST ANY AND ALL CLAIMS AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, ARISING OUT OF OR RELATED IN ANY WAY TO (a) THE USE OF THE SERVICES BY CUSTOMER OR ANY END USERS, OR (b) OTHERWISE ARISING OUT OF CUSTOMER'S BREACH OF ANY MATERIAL TERM OF THESE NETWORKNOW TERMS.

b. Metronet will defend, indemnify, and hold harmless Customer from and against any and all claims and expenses, including reasonable attorneys fees, arising out of or related in any way to infringement of any intellectual property rights of a third party.

11. RESERVATION OF RIGHTS.

Metronet reserves the right to take any steps that it believes are necessary or appropriate to enforce and/or verify Customer and/or its End Users' compliance with these NetworkNow Terms, the Agreement, the AUPP, or applicable OEM Terms.

12. COOPERATION WITH LAW ENFORCEMENT.

If, in our sole judgment, Metronet believes Customer or any End Users may be using any of the Services for an illegal purpose, Customer acknowledges and agrees that Metronet may provide information about usage to proper legal authorities for investigation and prosecution. Customer also agrees that we may forward information about Customer, any End Users (including any unauthorized users), and any use of the Services in response to law enforcement requests, subpoenas, court orders, or similar requests when Metronet determines that the disclosure of such information is appropriate and warranted under the circumstances.

13. DISCLAIMER(S) OF WARRANTIES.

a. WITH RESPECT TO THE SERVICES, EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THESE NETWORKNOW TERMS, EACH PARTY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. METRONET DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, PATCHED, CORRECTED, OR THAT THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS. THE SERVICES ARE OFFERED ON AN "AS-IS," "WHERE IS", AND "AS AVAILABLE" BASIS.

b. CUSTOMER ACKNOWLEDGES AND AGREES, AND WILL CAUSE END USERS TO ACKNOWLEDGE AND AGREE, THAT THE TRANSMISSION OF INFORMATION VIA THE SERVICES IS NOT SECURE. METRONET MAKES NO WARRANTIES AS TO THE SECURITY OF YOUR DATA OR INFORMATION TRANSMITTED VIA THE SERVICES.

c. CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES, AND SHALL CAUSE END UESRS TO ACKNOWLEDGE AND AGREE, THAT ACCESS TO AND USE OF THE SERVICES IS AT ITS AND THEIR SOLE RISK AND THAT CUSTOMER IS SOLELY RESPONSIBLE FOR SECURING ALL SERVICES AND ANY DATA OR INFORMATION TRANSMITTED THROUGH, SENT BY, RECEIVED BY, PROCESSED IN CONNECTION THEREWITH, OR STORED THEREIN. CUSTOMER AGREES THAT, EXCEPT AS OTHERWISE PROVIDED HEREIN, NEITHER METRONET NOR ANY OF ITS AFFILIATES, INCLUDING ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS (COLLECTIVELY, THE "**METRONET PARTIES**") WILL HAVE ANY LIABILITY FOR END USERS' THE SERVICES. YOU ACKNOWLEDGE THAT YOU HAVE NO EXPECTATION OF PRIVACY WHILE USING THE SERVICES. WE DISCLAIM ALL LIABILITY FOR INDENTITY THEFT OR ANY OTHER MISUSE OF IDENTITY OR PERSONAL INFORMATION. IN NO EVENT WILL THE METRONET PARTIES BE LIABLE FOR DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH THE USE OR INABILITY TO USE THE SERVICES, OR ANY END USER'S USE OR INABILITY TO USE ANY THE SERVICES OR ANY OEM PLATFORM OR OTHER THIRD PARTY SERVICES, INCLUDING ANY INDIRECT, INCIDENTAL SPECIAL CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER OR NOT THERE IS NEGLIGENCE ON THE PART OF THE METRONET PARTIES, OR WHETHER OR NOT THE METRONET PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES. IN NO EVENT WILL THE METRONET PARTIES' LIABILITY EXCEED THE AMOUNT ACTUALLY PAID BY CUSTOMER FOR THE SERVICES DURING THE THREE MONTHS PRECEDING THE CIRCUMSTANCES GIVING RISE TO THE CLAIM. CUSTOMER ACKNOWLEDGES THAT IT IS NOT ENTERING INTO THESE NETWORKNOW TERMS IN RELIANCE ON ANY TERM, CONDITION, REPRESENTATION, OR WARRANTY NOT EXPRESSLY STATED HEREIN.

d. IN ADDITION TO THE AGREEMENT, METRONET MAKES NO REPRESENTATIONS OR WARRANTIES THAT THE SERVICES WILL WORK WITHIN ANY CERTAIN RANGE OR FOR ANY SPECIFIC NUMBER OF END USERS. THE SERVICES SHOULD NOT BE RELIED ON FOR CRITICAL USES. THE SERVICES MAY USE RADIO TRANSMISSIONS, SO YOU MAY NOT BE ABLE TO USE THE WIRELESS COMPONENT OF THE SERVICES IF YOUR WIRELESS DEVICE IS NOT WITHIN RANGE OF THE MANAGED EQUIPMENT. EVEN WITHIN A COVERAGE AREA, THERE ARE MANY FACTORS THAT MAY IMPACT AVAILABILITY AND QUALITY OF THE SERVICES, INCLUDING, BUT NOT LIMITED TO: NETWORK CAPACITY, INTERIOR AND EXTERIOR SPACE ARRANGEMENTS AND CONFIGURATIONS, BUILDING CONSTRUCTION MATERIALS, NUMBER OF END USERS, TYPES OF DEVICES BEING USED, TERRAIN, TREES, PLACEMENT OF BUILDINGS, AND THE CHARACTERISTICS OF ANY WIRELESS DEVICE

AND/OR ANY DEVICE TO WHICH IT IS ATTACHED. DATA DELAYS AND OMISSIONS MAY OCCUR.

e. Notwithstanding the foregoing, the limitations of liability set forth in this Section shall not apply to:

- i. either party's indemnification obligations under Section 10;
- ii. Customer's payment obligations hereunder;
- iii. damages arising from a party's gross negligence, willful misconduct, or fraud; or
- iv. any liability that cannot be limited or excluded under applicable law.

14. WI-FI SERVICES.

To the extent Customer (a) has purchased Wi-Fi Services, or (b) otherwise uses the Services to provide wireless internet access/services to End Users, Customer agrees to Metronet's Wi-Fi Terms, which are incorporated into these NetworkNow Terms and deemed part of the Services effective, in the case of (a), upon Wi-Fi Services being first made available to Customer, and in the case of (b), upon Customer's use of the Services to provide End Users access to Wi-Fi Services.

15. MISCELLANEOUS.

Solely with respect to these Services, if there is a direct conflict between the NetworkNow Terms and any provision included within the Agreement, the provision of these NetworkNow Terms shall control with respect to the Services provided under these NetworkNow Terms. All other terms and conditions of the Agreement, if not specifically addressed through these NetworkNow Terms, shall apply to the Services. Nothing in these NetworkNow Terms is intended to create or will be construed as creating an employer-employee relationship or a partnership, agency, joint venture, or franchise. Neither party has the authority to commit the other party in any way and will not attempt to do so or imply that it has the right to do so. Unless otherwise stated, no term or provision of these NetworkNow Terms is intended to, or shall, be for the benefit of any person, firm, corporation, or other entity not a party hereto (including End Users) and no such person shall have any right or cause of action hereunder.