

MetaLINK Technologies, Inc.  
Internet Access and Service Agreement

**PLEASE READ THIS AGREEMENT CAREFULLY TO ENSURE THAT YOU UNDERSTAND EACH PROVISION. THIS AGREEMENT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTION LAWSUITS, AND ALSO LIMITS THE REMEDIES AVAILABLE TO CUSTOMERS IN THE EVENT OF A DISPUTE. IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS, DO NOT USE THE SERVICES.**

This INTERNET ACCESS AND SERVICE AGREEMENT (the "Terms of Service") is entered into by and between MetaLINK Technologies, Inc. ("MetaLINK", "we" "our," "its," or "us") and the individual or company/organization/entity (collectively referred to as "Customer") specified in the Business Service Order or Wireless Service Order (collectively referred to as "Service Order"). This Terms of Service specifically incorporates the provisions of the Service Order signed by the Customer.

Customer certifies to MetaLINK that Customer is not a minor and has the legal authority to enter this Terms of Service. If Customer is a company, organization or another entity, the individual signing this Terms of Service certifies that he/she has legal authority to accept and execute this binding Terms of Service on behalf of the Customer. Underage users MUST have a parent or legal guardian open the account, which constitutes the parent's, or guardian's acceptance of and responsibility for the terms and conditions set forth herein. Your use of the Services indicates that you have read, understood, and agree to follow and be bound by the terms and conditions of this Terms of Service. If you do not meet all of these requirements, you must not apply for the Services.

**1. TERMS OF SERVICE; NATURE OF SERVICE**

(a) MetaLINK shall provide Customer a "Connection" to the Internet ("Service" or "Services"). The Connection is defined as the link between the Customer's demark to MetaLINK's closest Point of Presence ("POP") according to the terms and conditions of this Terms of Service and the Service Order. Customer will receive from MetaLINK the requirements necessary to provide Customer with the Connection, which shall include, but not be limited to computer or router configuration information, the Customer's demarcation point (the "Requirements").

(b) Customer understands, acknowledges and agrees that use of the Services is subject to the terms and conditions of MetaLINK's then-current signed Service Order and Terms of Service (which can be found linked from the MetaLINK Home Page at <http://www.metalink.net/tos.html>), as well as the license agreements associated with the software provided by MetaLINK, all of which are incorporated herein. MetaLINK reserves

the right to change this Terms of Service at any time as provided elsewhere in this Terms of Service.

By accepting this Terms of Service and using the Services, Customer signifies that Customer has read the Terms of Service in its entirety, understands all clauses in this Terms of Service, and agrees to be bound and responsible for all terms and contained herein. If Customer does not agree to all the terms of this Terms of Service, Customer must NOT install or use the Services on their computer(s) or other access device and must contact MetaLINK immediately to terminate Services. Should Customer fail to cancel Services, Customer shall be held responsible for the terms and conditions. Usage of the Services is acceptance of the terms and conditions of this Terms of Service. MetaLINK reserves the right to refuse any account.

(c) MetaLINK may modify the terms and conditions of this Terms of Service at any time and in any manner. Any modifications to the terms and conditions are effective immediately upon either a posting at <http://www.metalink.net/tos.html>, electronic mail, or conventional mail. MetaLINK also may modify its rates for any Customer not in a 2-year term contract by notifying Customer at least thirty (30) days in advance of the effective date of such a rate change. The Customer's continued use of the Service following notice of any modification to this Terms of Service shall be conclusively deemed as acceptance of all such modification(s). If any modification to this Terms of Service is unacceptable to the Customer, the Customer may immediately terminate the account as provided in this Terms of Service.

(d) Customer agrees to provide MetaLINK with accurate, complete, and updated information including Customer's legal name, billing address, e-mail address, and telephone number(s). Customer agrees to notify MetaLINK within ten (10) days of any changes in the Customer's registration information. Maintaining current and accurate Customer contact information is a material obligation of this Terms of Service.

(e) Fixed Location Service. Customer acknowledges that this is a fixed-location Service and may not be moved to a different residence or place of business. An adequate signal is required for this Service. If Customer moves residences or its place of business, the Customer shall notify MetaLINK that this Terms of Service shall be terminated and the applicable provisions of this Terms of Service will apply. Customer understands that wireless Internet connectivity requires an adequate signal, and that any obstruction between MetaLINK and Customer antenna may degrade the Customer signal. MetaLINK is not responsible or liable for any of the following: Any obstruction(s) that might be erected or grow between Customer antenna and MetaLINK POP causing degradation or loss of service; debris or ice on an antenna; damage to antenna by any external source; re-aiming the antenna later than fourteen (14) days after installation; installing hardware and/or software in a different computer after initial installation; and reconfiguration of

network settings due to, but not limited to: tampering, re-installation of operating system, accidental removal, moving the hardware to another computer.

Customer understands that Setup Fees are non-refundable if the Connection is operable and that setup fees are not refundable later than fourteen (14) days after installation. Setup fees are only refundable if the connection is not working within 14 days after installation.

## 2. TERM

(a) Two Year Minimum Service Requirement. If the Customer selects a term commitment, the Customer agrees to maintain the wireless Services for a minimum period of twenty-four (24) months. If prior to the end of the 24-month term, Customer cancels the Services for any reason or MetaLINK terminates the Terms of Service due to Customer's breach for non-payment of the Terms of Service, Customer agrees to pay to MetaLINK an early termination charge of \$199.95 (US) or such greater amount as is specified in the Service Order. The early termination fee is derived from providing Equipment to Customer below cost in consideration for the 24-month term during which MetaLINK can recover the equipment subsidy to the Customer. Thus, Customer received the benefit of not having to pay the full Equipment cost up front. The return of the Equipment does not relieve the Customer of the early termination charge.

(b) Service Commencement. This Terms of Service shall commence on the date the Connection is activated (the "Activation Date") and shall expire at the end of the service commitment ("Initial Term"). In the event the delay in activating the Connection is the result of Customer's failure to comply with or provide any of the requirements of this Terms of Service, the Activation Date shall be the date MetaLINK completes its work on the Connection. At the end of the two years, this Terms of Service shall automatically renew for successive month-to-month terms (each a "Renewal Term") unless terminated by either party at least fifteen (15) days prior to the date of termination of the Initial Term or Renewal Term. MetaLINK reserves the right to change its rates for any Renewal Term by notifying Customer at least thirty (30) days in advance of the effective date of such a rate change.

## 3. SERVICES

(a) Customer understands, acknowledges and agrees that MetaLINK may use its Affiliates and/or "Operational Service Providers" to assist in providing its Services. An Operational Service Provider is defined as an independent third party that provides goods and/or services on MetaLINK's behalf, to help serve Customers better, or to perform functions in order to support MetaLINK's businesses and operations.

(b) Customer may increase their package speed at any time by contacting MetaLINK during normal business hours. Package speed increases are normally processed within 2-

8 business hours. Upgrade in packages and decrease in package speed requests will be processed at the end of the current billing cycle.

(c) Retail Prices. This rate is subject to periodic discounts and promotions. The actual amount charged for Equipment will match the current promotional rate for Customer's market and type of installation. The actual price is referenced on the Service Order.

(d) The Wireless Equipment Protection Plan ("WEPP") will protect the Customer from incurring any additional charges associated with service calls and/or labor for the replacement of Equipment purchased and installed from MetaLINK. Customers not enrolled in WEPP will incur normal service call charges as outlined in this Terms of Service. WEPP will cover up to two (2) service calls and equipment replacements per twelve month period from the date the WEPP program was setup. The program covers Equipment at Customer account installation address only. WEPP does not cover abused or misused Equipment.

Customer may apply for the WEPP program at any time by filling out an application currently located on MetaLINK's website. Once the completed application is received and processed, a monthly fee of \$4.95 (US) will be charged to Customer's account on a monthly basis. Customer agrees to maintain continuous MetaLINK Service for a period of no less than one (1) year after beginning the WEPP program. Customer must subscribe to WEPP for sixty (60) days prior to submitting a claim, or agree for one full year from date of activation and pay two (2) months at the time of activation for a total of fourteen (14) months.

#### **4. INSTALLATION**

(a) Access and Authorization. Customer authorizes MetaLINK and its employees, agents, contractors and representatives to enter Customer's premises in order to install, maintain, inspect, repair and remove the Equipment. All such services will be conducted at a time mutually agreed to by MetaLINK and Customer. Customer is responsible for cancellation of any previous Internet access service using the same infrastructure.

(b) Charge; Special Situations. The Customer is responsible for an installation charge. A typical home installation includes the simple mounting of an antenna, running of cable, and mounting of the Ethernet converter and configuration of the Customer's device for use of the Service. A business installation or an atypical installation may result in higher installation charges to the Customer. Any non-typical installation charges will be quoted to Customer for acceptance prior to installation. MetaLINK authorized installers can handle most common installations, but are not equipped for specialized or exceptionally difficult situations. Specialized installations include, but are not limited to, the following: should an installer need to enter a crawl space or attic, it needs be dry and clear of debris, must be capable of supporting a technician; and any installation requiring the

rental/use of a bucket truck, crane, etc. An adult age eighteen (18) or older must be present on the premises at all times.

(c) Scheduling an Installation Appointment; No Show Charge. To have a MetaLINK authorized installer complete the installation Customer will need to be present. Customer may be charged a no-show charge of \$65.00 (US) for failing to keep a scheduled appointment or for canceling an appointment less than twenty-four (24) hours in advance of the appointment. This charge applies whether the appointment is for installation or for service.

(d) METALINK DOES NOT REPRESENT, WARRANT OR COVENANT THAT INSTALLATION BY CUSTOMER OR A THIRD PARTY CHOSEN BY CUSTOMER WILL ENABLE CUSTOMER TO SUCCESSFULLY ACCESS, OPERATE OR USE THE SERVICES, NOR THAT SUCH INSTALLATION WILL NOT CAUSE DAMAGE TO CUSTOMER-OWNED EQUIPMENT, CUSTOMER'S, DATA, SOFTWARE, FILES OR PERIPHERALS. IN ADDITION, METALINK AND ITS AGENTS AND CONTRACTORS SHALL HAVE NO LIABILITY WHATSOEVER FOR ANY DAMAGE, OR FOR THE FAILURE TO PROPERLY INSTALL, ACCESS, USE OR OPERATE THE EQUIPMENT OR SERVICES BY ANY CUSTOMER WHO CHOOSES THIS METHOD OF INSTALLATION. THE FOREGOING LIMITATION OF LIABILITY IS IN ADDITION TO AND SHALL IN NO WAY BE CONSTRUED TO LIMIT ANY AND ALL LIMITATIONS OF LIABILITY SET FORTH ELSEWHERE IN THIS TERMS OF SERVICE.

(e) If software is installed in connection with the Service, Customer will comply with the terms and conditions of the manufacturer's license for such software.

## **5. REPAIRS**

(a) MetaLINK's Technical Support group, a free service, is on call via telephone to resolve any problems Customer may encounter. Customer may contact technical support for standard assistance. Should Customer have a problem that cannot be resolved over the telephone with our technical support, Customer may elect to schedule a repair visit. Repair calls are charged at \$65.00 (US)/per technician /per hour with an additional one-half of the drive time being charged plus the cost of replacement Equipment, if necessary, as noted in the "Warranty" section below. If the repair requires the MetaLINK technician to open the computer, tablet or other Customer-owned device (collectively, "Customer-Owned Equipment"), the Customer understands, acknowledges and agrees that MetaLINK takes no responsibility for Customer-Owned Equipment or any problems with such Customer-Owned Equipment in the future and will hold MetaLINK harmless from any such repair or attempt to repair. Repair calls cover the following conditions: replacement of defective equipment which may include antennae, cable, Ethernet converter or jack, radio network interface card, amplifier and/or a router, if necessary, provided MetaLINK originally supplied it; and troubleshooting of connection problems. Any service calls made after the initial 14-day post install time frame are subject to a fee

of \$65 (US) per hour. Any charges incurred from the service call will be billed in the same method as monthly billing. To receive optimal service, Customer agrees to notify MetaLINK of any additional equipment purchased and added to the wireless setup as some equipment may alter or interrupt current service.

(b) The Premium Technical Support & Monitoring Service (“PTS Service”) is intended to address networking issues outside the supported scope of MetaLINK’s standard technical support. The PTS Service includes (a) configuration troubleshooting; (b) evaluation of and attempts to correct software, operating systems and networking issues; and (c) Pro-active monitoring of your systems to protect against malicious threats. This is an annual contract that if elected it cannot be cancelled for twelve (12) months. The PTS Service will be billed at \$9.95 (US) per month on your monthly billing. Customer understands, acknowledges and agrees that MetaLINK is not responsible for damage to any Customer-Owned Equipment resulting from the assistance of technical support in a good faith effort or for software and/or system failures that happen at the same time as the Customer installs or uses the software provided by MetaLINK.

MetaLINK reserves the right to change any of the features or applications offered as part of the PTS Service at any time with or without notice to Customer. Customer, understands, acknowledges and agrees that, unless explicitly stated otherwise, any new features offered through or on the PTS Service, including changes and enhancements to existing features, shall be subject to this Terms of Service.

The PTS Service does not support all software, hardware or Internet-related products, applications or features and we reserve the right to defer support issues to Customer’s equipment or software vendor. The PTS Service does not include training on hardware or software use.

The PTS Service is not intended to replace the more advanced technical support that may be available from hardware or software manufacturers. The PTS Service is for incident-specific troubleshooting and problem resolution, and specifically excludes: i) computer programming; ii) software development; iii) warranty repairs or product replacement; iv) support for Windows; or applications. Use of the PTS Service does not constitute a license to use the software, applications or equipment being supported, or an upgrade thereto.

In some cases, we may not be able to diagnose or resolve a problem because of complications with Customer’s computer or its configuration. The PTS Service is offered as a “best efforts” service and without warranty except as specifically set forth in this Terms of Service. We reserve the right to refuse to troubleshoot software not on our list of supported products.

Customer understands, acknowledges and agrees that technical problems may be the result of software or hardware errors not yet resolved by the product manufacturer, and

that we may not have the ability to obtain the information necessary to resolve a specific technical problem. Customer is solely responsible for any and all restoration and reconstruction of lost or altered files, data, or programs that may occur in the course of performing the PTS Service, and for ensuring that any information or data disclosed to MetaLINK is not confidential or proprietary to Customer or any third party.

(c) PLEASE NOTE THAT METALINK AUTHORIZED INSTALLERS WILL NOT BE ABLE TO CORRECT HARDWARE OR SOFTWARE PROBLEMS WITH CUSTOMER-OWNED EQUIPMENT, OTHER THAN AS NECESSARY TO REPLACE AN INOPERABLE WIRELESS EQUIPMENT OR NETWORK INTERFACE CARD PROVIDED BY METALINK. FOR GENERAL EQUIPMENT REPAIR OR SUPPORT UNRELATED TO WIRELESS SERVICE, PLEASE REFER TO THE EQUIPMENTMANUFACTURER OR SOFTWARE VENDOR FOR FURTHER SUPPORT INFORMATION OR AUTHORIZED REPAIR SERVICES.

## 6. PAYMENT TERMS

(a) Customer shall pay MetaLINK a monthly service and installation fee as outlined in the Service Order which shall be due upon Customer execution hereof.

(b) MetaLINK's accounting cycle begins on the first (1st) of each calendar month. Service charges will be billed in advance of receiving Services. The exception to this is during the first month for unlimited accounts. In this circumstance, the Service payment for the time period between the Activation Date and the end of the month for the unlimited accounts will be prorated and included either on an invoice enclosed with the MetaLINK's software, mailed separately, or on the next billing cycle. Customer acknowledges responsibility for the account until the payment is made in full. The Customer's account will be billed via US Postal Mail, e-mail or credit card. Invoices sent via US Postal Mail will incur a \$1.00 (US) monthly processing fee.

(c) Customer is required to have a valid credit card on file at all times. Should Customer become delinquent on their payments, MetaLINK reserves the right to process overdue charges automatically to the credit card on file. **Customer expressly consents to MetaLINK processing delinquent amounts on the credit card provided.**

(d) By accepting these terms, Customer is bound and responsible for the full term of the Service package sold. Customer's action is required to cancel the Service. Failure to cancel said Service package does not waive the Customer's responsibility for the account. Cancellation must be requested in writing or via phone prior to the end of said term. If cancellation is requested by phone, a cancellation confirmation number will be given to the Customer confirming the request. Packages automatically renew at the end of the agreed upon term on a month-to-month basis unless the Customer provides written notice to MetaLINK or calls in and receives a cancellation confirmation number. Likewise, package change requests must be given prior to the beginning of the next term. In the event of cancellation (for all Services other than the two- year term Service for Wireless

and/or DSL Service) or package change request, Customer acknowledges that cancellation or changes will not take effect until the end of the current billing cycle, and there are no refunds for partial months.

(e) Agreement to Pay. Customer agrees to pay the monthly charges and other fees, including applicable taxes, for the Equipment and Services as established from time to time by MetaLINK. Current charges are set forth in the Service Order and are subject to change as specified elsewhere in this Terms of Service.

(f) Payment Methods. Customer will be invoiced monthly in advance for all amounts due and owed to MetaLINK. All payments are due within fifteen (15) days after the date of such an invoice. Customer's account may be terminated or suspended if payment is not received by the 16th of the following month.

(g) Price Changes. Unless in a 2-year term contract, Customer acknowledges and agrees that MetaLINK has the right to change its charges at any time subject to applicable law and upon thirty days prior notice to Customer.

(h) Customer Charges. Customer acknowledges that Customer may incur charges while using the Services. For example, charges may be incurred as a result of accessing certain information, or purchasing or subscribing to certain offerings, via the Internet. Customer agrees that all charges, including all applicable taxes, shall be paid by Customer and are not the responsibility of MetaLINK.

(i) Unless in a 2-year term contract, MetaLINK reserves the right to change fees, surcharges, and monthly fees or to institute new fees at any time upon thirty (30) days prior notice. In the event that a Customer's account is terminated or canceled, credits will be forfeited. Customer's account is not convertible to cash or other forms of credit. If MetaLINK does not receive the full amount of Customer's account balance by the invoice due date, a five dollar late charge will be added to Customer's account balance and shall be due and payable. MetaLINK reserves the right to disable Customer's account for non-payment once an account is in past due status. Customer accounts disabled for non-payment will be charged a reconnect fee up to \$45 (US) per occurrence. Service will not be re-activated until all charges including late fees are paid in full. Customer shall also be liable for all attorney and collection fees arising from MetaLINK's efforts to collect any unpaid balance of Customer's account(s). Customers turned over to collections will not have their service reinstated until said fees along with the outstanding balance are paid in full.

(j) Payment plans are available for accounts in past due status. Payment arrangements must be setup within thirty (30) days of the date the first outstanding charge posted to the Customer account. Minimum payment arrangements of \$20 (US) will be acceptable with all other payment amounts considered. Payment arrangements will not cease additional late fees from being applied against the Customer account. If a payment is not



made as agreed, Customer account will automatically be sent to a collection agency for further collection action.

(k) Customer agrees that the Service charges are based on the Customer's account being active and available. MetaLINK is not responsible for crediting for time when the Customer's account was active and available but not being used for any reason. If Customer notifies MetaLINK in writing that they will not be using the Service for the period of a full month or more, and then calls back at the end of the period of inactivity, MetaLINK may at MetaLINK's option credit a month's time at the end of the Customer's current package or each month the account was not being used. MetaLINK is under no obligation to make such arrangements if Customer does not notify MetaLINK in advance. MetaLINK reserves the right to refuse this arrangement in specific cases to be determined by MetaLINK, or at any time Customer's package goes past its regular ending period.

(l) Accounts may be placed on hold or vacation mode for periods up to 3 (three) full months. Customer must inform MetaLINK in advance of the account hold/vacation. All requests will be made effective at the end of the current billing cycle and will automatically resume at the end of the 3rd month. If Customer is still under a term contract, the months on hold will be added to the end of the term contract. For example, if the 2-year contract term began on 1/1/2018 and ended 1/1/2020, the three months would be added making the new contract end date 4/1/2020.

(m) In the case of termination of the 2-year term Service for Wireless and/or other Service, Customer will be responsible for the full charge of any early termination fee and all applicable late fees. Cancellations will be processed as outlined in this Terms of Service.

(n) Customers are responsible for payment regardless of whether or not an invoice was received. MetaLINK is not responsible for any payments that are not received. Customer's current balance and payments received as well as other billing information may be obtained by phone at 888-999-8002 option 1 or on the Internet at <https://billing.metalink.net>.

(o) When Customer provides a check as payment, MetaLINK is authorized to use information from the check to make a one-time electronic fund transfer from the account, or to process the payment as a check. The Customer authorizes MetaLINK to collect a fee up to \$25 (US), (plus a bank fee if allowed by state law) through electronic fund transfer from the account if the payment is returned unpaid for any reason. All returned checks or insufficient funds checks are also subject to this \$25 NSF Processing Fee.

(p) Customers requesting automatic credit card billing will have monthly charges processed around the 10th of each month. The exception to this is the first billing cycle.

Any start-up fees will be billed in advance of the installation while the initial monthly fees will be billed shortly after the installation is completed. The initial charges may include any additional equipment purchased at the time of the installation, prorated services for the current month and the next full month service depending on the time of month the installation is completed in comparison to our normal monthly billing process. It is the customer's responsibility to maintain their card on their account.

## 7. USE OF SERVICES

(a) MetaLINK sells "Unlimited Interactive Access" plans that are defined as a temporary, on-demand connection to the Internet that incurs no overtime charges for usage beyond a particular point. Unlimited Interactive Access explicitly implies that Customer terminates the Internet connection when it is not actively being used and does not use any artificial means to stimulate usage in order to remain online. MetaLINK reserves the right to terminate connections that have been in place for an excessive period of time. MetaLINK also reserves the right to terminate connections that have been inactive for an excessive period of time. In both cases, MetaLINK reserves the right to determine what is considered an excessive period of time.

(b) Customer fully understands that MetaLINK can only offer a method to access the Internet, and does not edit the content of the Internet or make any measures to restrict the content available on the Internet, except in some limited cases where the Customer has requested such action, and even in those cases the MetaLINK's ability to filter undesirable information is not complete. MetaLINK does not assume any responsibility for material that the Customer accesses online, whether such material is obscene, indecent, violent, or whether it contains computer viruses or anything else objectionable to the Customer or harmful to Customer-Owned Equipment, as MetaLINK has no control over such material available online. MetaLINK reserves the right to attempt to filter some unwanted material, but provides no assurance that such attempts are guaranteed to work and assumes no liability if the Customer accesses such information despite any filtering.

(c) Customer is responsible for all activities and charges resulting from the use of the Customer's account for the Service. Customer agrees to pay all monthly fees and other charges incurred by Customer and/or his/her/its designated users. In the event of a breach of the Customer's account, Customer will remain liable for any unauthorized use of the Service up to the time Customer notifies MetaLINK of the breach or it is otherwise discovered by MetaLINK.

(d) MetaLINK's Free Technical Support Service includes configuring and maintaining the Service and related features of the Service as they relate to the MetaLINK. Issues relating to other providers, website specific applications or the Customer's system hardware may not be supported. MetaLINK is not responsible for damage to any computer resulting

from the assistance of technical support in a good faith effort or for software and/or system failures that happen at the same time as the Customer installs or uses the software provided by MetaLINK.

(1) Should Customer have a problem with the Equipment provided by MetaLINK, Customer may follow the procedures outlined herein. Note that these procedures are subject to modification at any time. Contact MetaLINK Technical Support at 888-999-8002 (419-782-3472 in Defiance) to make sure the Equipment that may include antennae, cable, Ethernet converter or jack, radio network interface card, amplifier and/or a router, if necessary, is the problem. If immediate replacement is required, a new piece of equipment can be purchased from MetaLINK at full retail price.

(2) Note that manufacturer warranties typically do not cover damage due to external causes, including accident, abuse, and misuse, problems with electrical power (including lightning strikes), unauthorized service, or usage not in accordance with product instructions.

(e) “Managed Wi-Fi” Service is a scalable, end-to-end wireless networking solution that helps businesses and residences provide seamless Wi-Fi Internet access virtually anywhere across the location with MetaLINK's comprehensive management tools that help manage and maximize wireless access. The router used to provide the service provides up to four times the coverage compared to other routers. It allows services such as voice over Internet protocol (VoIP), video, and browsing to be prioritized based upon quality requirement needs for listening and viewing. Other features include parental controls, fully encrypted, and managed by trained technical support agents. The benefits of Managed Wi-Fi are available for \$7.95 (US) per month, per managed router. There is a one-year initial term agreement for the Managed Wi-Fi service after which it will transfer to a month-to-month term agreement. A \$100.00 (US) early termination fee per managed router will be applicable if cancelled during the first year.

(f) Customer understands, acknowledges, and agrees to the following:

- (1) To provide MetaLINK with accurate, complete, and updated information including Customer's legal name, address, and working contact telephone number(s).
- (2) To notify MetaLINK within thirty (30) days of any change in Customer's registration data.

(g) Customer may order and purchase merchandise, services, and/or software from other third-party vendors (“Seller(s)”) on the Internet, who are not affiliated with MetaLINK. (An “Affiliate” is an entity that controls, is controlled by, or is under common control with MetaLINK”). MetaLINK shall not be a party to a transaction between Customer and Seller, or be liable for any cost or damage arising either directly or indirectly from any action or

inaction of either Customer or Seller. MetaLINK will not be bound by any licensure associated with these agreements between Customer and Sellers.

(h) MetaLINK assumes no liability for any fees charged by phone companies or other third parties due to long distance calls and/or additional services. It is the Customer's responsibility to verify the number they are dialing for Internet access is correct and understand that third party charges may apply.

(i) Services from MetaLINK may only be used for lawful purposes. Customer's use of account or service in an illegal manner shall be considered grounds for immediate termination. Upon request of MetaLINK, Customer agrees to defend, indemnify and hold harmless MetaLINK, its Affiliates, employees, officers, directors, agents, representatives, shareholders, Operational Service Providers and licensees of MetaLINK against any claims or expense, including reasonable attorney's fees that arise from Customer's use of Service and the Internet.

(j) MetaLINK reserves the right to control and alter bandwidth for high-speed accounts when it can be shown that the activity on those accounts is adversely affecting system performance. MetaLINK reserves the sole right to determine what adverse performance is. Please see our [Open Internet Policy](#) for details.

(k) MetaLINK has a regularly scheduled maintenance window for servicing affecting issues from 12 A.M. till 6 A.M. During this time, MetaLINK's services may be offline. MetaLINK will give advance notice as much as possible of any anticipated downtime outside of this window. MetaLINK cannot guarantee uptime outside of this window and occasionally service outages may arise which are out of MetaLINK's control (Such as attacks on our network or acts of God). MetaLINK assumes no liability for downtime outside of the maintenance window.

(l) Customer must not attach any device that permits access to Services in violation of this Terms of Service. In addition, federal and state laws prohibit the possession, use, or attempted use of any Equipment to receive any MetaLINK Services except as expressly provided by the Terms of Service. The Customer assumes all responsibility for use of the Service by the Customer or by other persons using the Customer's personal computer or account, including persons less than 18 years of age.

(m) MetaLINK and its authorized representative make no representation or warranty that any software installed on the personal computer or that the Customer may download from the Internet, on-line service provider, or other information provider does not contain any virus or other damaging or destructive attributes. MetaLINK and its authorized representatives have no responsibility and assume no liability for such acts or occurrences.

(n) Because the Internet is a shared resource, MetaLINK cannot and does not warrant the security of any information on the Customer's personal computer, or the security or accuracy of any information or data transmitted or received through the Service. MetaLINK has no liability for unauthorized access by third persons to the personal computer, files, or data of the Customer. MetaLINK does not warrant that any data or files will be transmitted or received in uncorrupted form or within a reasonable period of time.

(o) MetaLINK offers Customer access to the Internet. Customer hereby acknowledges that the Internet is not owned, operated, managed by, or in any way affiliated by MetaLINK or any of its Affiliates, and that it is a separate network of computers independent of MetaLINK. Customer's use of the Internet is solely at Customer's own risk and is subject to all applicable local, state, national, and international laws and regulations. Access to the Internet is dependent on numerous factors, technologies, and systems, many of which are beyond MetaLINK's authority and control.

(p) Access to other networks connected to the MetaLINK Network must comply with the rules appropriate for that other network. MetaLINK exercises no control whatsoever over the content of the information passing through its network.

## **8. ACCEPTABLE USE AND PROHIBITED ACTIVITIES POLICY**

(a) The MetaLINK Network can only be used for lawful purposes. The transmission of any material in violation of any local, state, national, or international law or regulation is prohibited. This includes, but is not limited to, copyrighted material, material that is threatening, indecent, obscene, or harmful, material protected by trade secret, or material that is otherwise deemed to be proprietary or judged by MetaLINK in its sole discretion to be inappropriate or improper such as bulk e-mail messages that are not compliant with the federal CAN-SPAM Act. "Bulk e-mail" is defined as the same or similar e-mail messages sent to more than twenty-five (25) recipients.

(b) Customer understands, acknowledges, and agrees that MetaLINK has the right to stop any e-mail processes being run by Customer that are adversely affecting system performance. In these and all instances of system performance being affected, MetaLINK is the sole judge of what is adverse.

(c) Customer must maintain the confidentiality of his/her password and assumes all responsibility for any failures to maintain said confidentiality.

(d) "Prohibited Activities" specifically prohibited by MetaLINK include, without limitation, the following:

(1) Permitting other individuals who do not reside at the Customer's address to use the Customer's account.

(2) Using same username in use on two or more dial-in sessions at the same time unless Customer's service plan allows for such usage.

(3) Using background and/or server-type applications – Including without limitation to IRC bots, HTTP servers, MUDs, and any other harmful process which were initiated by the Customer that continues execution on the system upon Customer logout. FCC authorized smart home systems and IoT devices are excluded from this prohibition.

(4) Sending unsolicited bulk e-mail ("UBE") or unsolicited commercial e-mail ("UCE") that are not compliant with the federal CAN-SPAM Act, or the sending of harassing and/or threatening messages to other users, and the forging of e-mail addresses so as to make the e-mail appear to be from another user are strictly prohibited, whether it is through MetaLINK's connectivity services or e-mail servers. If a person is reasonably suspected of violating this subsection (5), MetaLINK reserves the right to immediately deactivate the account. MetaLINK will only re-activate the account after a thorough discussion of the issue with the Customer, and even then we reserve the right to not do so. If it is confirmed that a Customer has violated MetaLINK's e-mail policies, MetaLINK reserves the right to permanently terminate the account with no refund and issue a \$250 (US) fine with additional charges of \$50 (US) per complaint received. Abusive conduct in e-mail shall also not be tolerated and shall be considered grounds for account deactivation in a like manner. MetaLINK does not restrict personal e-mail or newsgroup postings.

(e) Permitting long-term storage of data – Long-term storage of data is referred to as the storage of files which are not used regularly in an account for an extended period of time. This specifically includes, without limitation, programs such as shareware programs which the Customer may download to their account for purposes of transferring to their home computer(s)/device(s). Such programs should be removed at such time as they are successfully transferred to the Customer's personal system.

(f) Flooding or abusing other users – Flooding is a fairly common occurrence on the Internet, and one which is dealt with strictly by MetaLINK. Flooding takes place in numerous ways, including, without limitation, ICMP flooding, mail bombing (sending large amounts of e-mail repeatedly to a person for purposes of harassment), phishing, mass mailings to multiple addresses vial bulk e-mail not in compliance with the CAN-SPAM Act, MSG/CTCP flooding on IRC, as well as other, less common methods.

(g) Attempting to compromise system and/or network security – Programs such as packet sniffers, password crack programs, and similar utilities found to be running from Customer's account are prohibited. This also includes attempts to hack into non-MetaLINK systems.

(h) Sharing of accounts – Sharing Customer's Internet Service with another party for purposes of avoiding payment for a second Service is strictly prohibited. Customer may connect multiple computers/devices within a single location to Customer's modem, router, and/or radio to access the Internet Service, but only through a single MetaLINK-issued IP address.

(i) Using PPP/SLIP emulation software – Since PPP/SLIP is a product offered by MetaLINK, Customers desiring such access are required to sign up for that service rather than attempting to emulate it by software. Any such software will be removed from Customer's account by MetaLINK immediately when found.

(j) Sending bulk broadcast data – This includes flood ping, broadcast ping, multicast, or IGMP use outside of the private network.

(k) Using port scanning

(l) Conducting commercial business through a residential account – The residential single-Customer Internet accounts provided by MetaLINK are designed for the home/casual Customer and may not provide the level of service, capacity or speed required for conducting commercial activities. Therefore, conducting business with a residential account is not allowed. Please contact MetaLINK's sales department to upgrade to a business account.

(m) Permitting excessive use of system resources – This includes without limitation the continued use of programs or commands which take a large amount of system resources, be that processor time, memory, network bandwidth, and/or drive space on the host system. Customer may not resell Service.

(n) Permitting USENET news abuse – Similar to e-mail abuse, includes forging of addresses, harassment/threats, the posting of the same message to multiple newsgroups (spamming), as well as the posting of information in groups where it is not relevant and unwanted.

(o) Permitting pyramid/money-making schemes – Such activities as the transfer of information or solicitation of persons via the Internet in an attempt to extort money or other valuables or the use of pyramid/chain letters are all prohibited.

(p) Permitting pirated software – Pirated software is defined as the illegal exchange of software for purpose of avoiding the purchase of said software by the individuals involved. This includes most commercial applications such as Adobe Photoshop, Microsoft Office, etc. Such activities are prohibited by Federal law and are thus not allowed in any form on MetaLINK. Such prohibition also includes the unauthorized copying of copyrighted material including, without limitation to digitization and distribution of photographs from magazines, books, or other copyrighted sources and copyrighted software. The exportation of software or technical information in violation of U.S. export control laws is strictly prohibited.

(q) Using high-traffic websites – Residential Internet service is intended to provide access to individuals only. As most individuals primarily download content, rather than upload it, the performance for everybody on the systems is optimal. However, some individuals occasionally choose to host content on their account that could degrade performance for other users. Due to such circumstances, MetaLINK may have to implement certain limitations on the amount of web hosting traffic an individual Customer’s residential account can receive.

## **9.CONTENT ON THE INTERNET**

(a) MetaLINK Content Rights. MetaLINK has no obligation to monitor any information, content, communications, or other material (collectively “Content”) that is transmitted, received or is otherwise available using the Services. However, Customer understands, acknowledges, and agrees that MetaLINK has the right, at its sole discretion, to monitor, review, modify or to remove Content electronically at any time and to disclose any Content as necessary to satisfy any law, regulation or other governmental request, and to operate the Services properly or to protect itself, its Customers, or the general public. MetaLINK reserves the right to refuse to post, suspend or to remove any Content, in whole or in part, that in its sole discretion, are unacceptable, undesirable, or in violation of this Terms of Service. Customer understands, acknowledges and agrees that Content transmitted through the Internet in general is not confidential or secure, and therefore MetaLINK can take no responsibility or liability for the privacy or protection of the Customer relating to any such information.

(b) No MetaLINK Liability for Third Party Content. Customer acknowledges that there is Content on the Internet or otherwise available through the Services which may be objectionable, or which may not be in compliance with all laws, regulations and other rules. For example, it is possible through the use of the Services to obtain access to Content that is pornographic, obscene, indecent, harmful or threatening or otherwise inappropriate or offensive, particularly for children. MetaLINK assumes no responsibility for and exercises no control over the Content contained on the Internet or otherwise



available through the Services. In particular and without limiting the generality of the foregoing, MetaLINK neither censors nor monitors the legality of any such Content. All Content accessed or received by Customer through the Services is accessed and used by Customer at Customer's own risk, and MetaLINK and its Affiliates, officers, directors, employees, shareholders, agents, Operational Service Providers, and representatives, licensees, and licensors shall have no liability whatsoever for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to the access to or the receipt of such Content by Customer.

## **10. LIMITED WARRANTY**

(a) ALL EQUIPMENT AND SERVICES ARE PROVIDED BY METALINK "AS IS" AND "AS AVAILABLE", WITHOUT WARRANTY OF ANY KIND EXCEPT AS NOTED HEREIN. METALINK DOES NOT WARRANT UNINTERRUPTED USE OR OPERATION OF THE EQUIPMENT OR SERVICES. METALINK DOES NOT WARRANT THAT ANY DATA OR FILES SENT BY OR TO CUSTOMER WILL BE TRANSMITTED IN UNCORRUPTED FORM OR WITHIN A REASONABLE PERIOD OF TIME. ALL REPRESENTATIONS, WARRANTIES, ENDORSEMENTS AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION ANY WARRANTIES OF TITLE OR NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY AND THOSE ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE, ARE HEREBY EXCLUDED.

(c) METALINK MAKES NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, REGARDING ITS SERVICE AND AVAILABILITY. WHILE A GOOD FAITH EFFORT WILL BE MADE TO HOLD ANY PERIODS OF A LACK OF SERVICE TO SCHEDULED MAINTENANCE PERIODS, NO GUARANTEES ARE MADE AS TO ANY ACCOUNT, PRODUCT, OR SERVICE OFFERED BY METALINK. METALINK ALSO OFFERS NO WARRANTY, EXPRESS OR IMPLIED, REGARDING ANY TRANSMISSIONS MADE BY CUSTOMER ON THE INTERNET, OR METALINK'S SERVICE AND TECHNICAL REPAIR EFFORTS REGARDING CUSTOMER-OWNED EQUIPMENT. CUSTOMER IS SOLELY RESPONSIBLE FOR ANY LOSSES, DAMAGES, OR EXPENSES RELATED TO SERVICE FAILURE, WHETHER CAUSED BY METALINK OR CUSTOMER, AND UNDERSTANDS, ACKNOWLEDGES, AND AGREES THAT METALINK SHALL NOT BE LIABLE FOR ANY OR ALL OF THE SAME.

## **11. SPECIFIC RISKS FOR WHICH METALINK SHALL HAVE NO LIABILITY.**

(a) MetaLINK shall have no liability for interruption to the signal that is required for Service.

(b) Security Breaches. The Internet is a shared resource among many persons. Because of this, there is a risk that Customer could be subject to a variety of security breaches, including but not limited to eavesdropping and denial of service attacks. This means that other people may be able to access, monitor and/or alter Customer's files, data or other traffic sent or received using the Services, and/or negatively affects Customer's ability to

use the Services. ANY INFORMATION SENT BY CUSTOMER OVER THE SERVICES NETWORK IS SENT AT CUSTOMER'S SOLE RISK, AND METALINK SHALL HAVE NO LIABILITY WHATSOEVER FOR ANY CLAIMS, LOSSES, ACTIONS, DAMAGES, SUITS OR PROCEEDINGS ARISING OUT OF OR OTHERWISE RELATING TO SUCH ACTIONS BY CUSTOMER.

(c) FTP/HTTP Server Setup. Customer should also be aware that when using the computer to access the Internet or any other on-line network or service via the Services, there are certain applications, such as FTP (File Transfer Protocol) server and HTTP (Hyper Text Transfer Protocol) server, which may be used to allow other Service users and Internet users to gain access to Customer's computer. Customer is permitted to run such applications for Customer's personal use and within the limitations of Sections 8 and 9 of this Terms of Service; provided, however, that Customer understands, acknowledges and agrees that if Customer chooses to run such applications, Customer should take the appropriate security measures and that the risk of security breaches as described in Section 12(b) of this Terms of Service may be significantly increased. MetaLINK shall have no liability whatsoever for any claims, losses, actions, damages, suits or proceedings resulting from or arising out of or otherwise relating to the use of such applications by Customer, including, without limitation, damages resulting from other users accessing Customer's computer.

(d) Routine Maintenance and Periodic System Repairs. Routine maintenance and periodic system repairs, upgrades and reconfigurations, public emergency or necessity, force majeure, restrictions imposed by law, acts of God, labor disputes and other situations, including mechanical or electronic breakdowns may result in temporary impairment or interruption of service. As a result, MetaLINK does not guarantee continuous or uninterrupted service and reserves the right from time to time to temporarily reduce or suspend service without notice.

## **12. LIMITATION OF LIABILITY; INDEMNITY.**

(a) Customer Shall Indemnify MetaLINK. Customer shall indemnify MetaLINK, its Affiliates, officers, directors, employees, shareholders, , agents, representatives, licensees, and licensors and any of their successors and assigns from any and all claims, actions, liabilities, costs, fees and expenses arising from Customer breach of any provision of this Terms of Service or incurred as the result of any interruptions or omissions of service.

(b) All rights given to MetaLINK by this Terms of Service shall be cumulative in addition to any laws which exist or might come into being. Should MetaLINK waive the right to enforce any breach of this Terms of Service, that waiver shall be considered temporary and not a continuing waiver of any later breach. Although MetaLINK may know when accepting payment for the Service that Customer is in fact violating one or more of the terms of this Terms of Service, MetaLINK's acceptance of the payment does not waive

MetaLINK's right to enforce the breach. The MetaLINK shall not waive the right to enforce any breach unless MetaLINK signs a waiver in writing.

(c) MetaLINK under no circumstances, including negligence, or anyone else involved in creating, producing, or distributing the Service or the MetaLINK's software, shall be liable for any damages that result from the use of or inability to use the Service or the MetaLINK's software. This includes, but not limited to, reliance on any information obtained on the Service; or that result from omissions, interruptions, deletion of files, errors defects, viruses, delays in operation, or transmission, or any failure of performance, whether or not limited to acts of God, communications failure, theft, destruction or unauthorized access to the MetaLINK's records, programs or services. Because some states do not allow the exclusion or limitation for consequential or incidental damages, the MetaLINK's liability is limited to the greatest extent provided by law.

(d) MetaLINK's liability to Customer for direct damages shall be limited to a maximum of the fees paid by Customer to MetaLINK for the Services during the twelve (12) month period prior to the time when Customer's claim for direct damages arose; provided, however, that MetaLINK shall have no liability whatsoever for any damage to, loss of, or destruction of any software, files or data. In addition, METALINK WILL NOT BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR:

(1) any indirect, incidental, special, punitive or consequential losses or damages, including loss of profits, loss of earnings, loss of business opportunities and personal injuries (including death), resulting directly or indirectly out of, or otherwise arising in connection with, the use of the Services by Customer or any other use of the Equipment or Services, including without limitation, any damage resulting from or arising out of Customer's reliance on or use of the Equipment or Services, or the mistakes, omission, interruptions, deletion of files, errors, defects, delays in operation, transmissions, or any failure of performance of the Equipment or Services; and

(2) any losses, claims, damages, expenses, liabilities or costs (including legal fees) resulting directly or indirectly out of, or otherwise arising in connection with, any allegation, claim, suit, or other proceeding based upon a claim that the use of the Equipment or Services by Customer or a third party infringes the copyright, patent, trademark, trade secret, confidentiality, privacy, or other industrial or intellectual property rights, proprietary rights or contractual rights of any third party.

(e)The foregoing limitations apply to the acts, omissions, negligence and gross negligence of MetaLINK, its Affiliates, officers, directors, employees, agents, Operational Service Providers, representatives, licensees or licensors, which, but for this provision, would give

rise to the cause of action against MetaLINK in contract, tort or any other legal doctrine. Customer's sole and exclusive remedies under this Terms of Service are as expressly set out in this Terms of Service.

**13. AMENDMENT OF THIS TERMS OF SERVICE.** Except as otherwise provided in this Terms of Service, MetaLINK may, in its sole discretion, change, modify, add or delete portions of this Terms of Service at any time. MetaLINK will provide notice of any such changes, modifications, additions or deletions to Customer by electronic mail or postal mail. Customer's continued use of the Service following such notice shall be deemed to be Customer's acceptance of the revised Terms of Service. If Customer does not agree to any changes, modification, additions or deletions of this Terms of Service, Customer may terminate this Terms of Service in accordance with Section 15(d) of this Terms of Service.

**14. TERMINATION.** Upon the occurrence of a default by Customer of any provision hereunder, MetaLINK reserves the right, in addition to any other remedies which may be available to it, to terminate this Terms of Service and the Services to Customer.

(a) MetaLINK's Discretionary Termination Rights. MetaLINK may terminate this Terms of Service, without cause, at any time by providing the Customer with not less than twenty-four (24) hours written notice of such termination. In such a case, the early termination charge will not apply.

(b) MetaLINK's Right to Terminate upon Customer Breach. MetaLINK may terminate this Terms of Service at any time based upon a Customer's breach of this Terms of Service ("with cause"). In such case, the early termination charge will apply. A Customer breach may be based upon non-payment, and/or any other breach by the Customer under this Terms of Service (known as "with cause"). If services are terminated, a reconnection charge will apply to re-start services.

(c) Minimum Service Agreement. If the Customer selects a term commitment, the Customer agrees to maintain the Services for the minimum service agreement period. Both the minimum service period and the early termination charge are included with MetaLINK's published rates, and are set forth in Attachment A.

(d) Customer Obligations upon Termination. Customer agrees that upon termination of this Terms of Service:

(1) Customer will pay MetaLINK in full for Customer's use of Services up to the end of the billing cycle in which the Services have been disconnected; and (2) Customer will pay an early termination charge, if applicable. Should Services be cancelled prior to the twenty-four (24) month minimum service requirement, Customer agrees to pay an Early Termination Fee of \$199.95 (US). The return of the Equipment does not relieve the Customer of the early termination charge.

## 15. ARBITRATION AGREEMENT

(a) **CUSTOMER AND METALINK AGREE TO ARBITRATE ALL DISPUTES AND CLAIMS BETWEEN CUSTOMER AND METALINK THAT THE PARTIES ARE NOT ABLE TO RESOLVE THROUGH GOOD FAITH DISCUSSION OR NEGOTIATION.** The agreement between Customer and MetaLINK to arbitrate all disputes and claims between them is intended to be broadly interpreted. It includes without limitation: claims arising out of or relating to any aspect of the relationship between Customer and MetaLINK, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory, claims that arose before this or any prior Terms of Service (including, but not limited to, claims relating to advertising), claims that are currently the subject of purported class action litigation in which Customer is not a member of a certified class and claims that may arise after the termination of this Terms of Service. For the purposes of this Section 15, references to Customer include, if applicable, Customer's subsidiaries, affiliates, agents, officers, directors, employees, shareholders, agents, representatives, predecessors in interest, successors, and assigns, as well as all authorized users or unauthorized users or beneficiaries of the Service. **CUSTOMER UNDERSTANDS, ACKNOWLEDGES, AND AGREES THAT, BY ENTERING INTO THIS SERVICE AGREEMENT, CUSTOMER AND METALINK ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION WITH RESPECT TO THIS TERMS OF SERVICE.** This Terms of Service evidences a transaction in interstate commerce, and thus the Federal Arbitration Act governs the interpretation and enforcement of this provision. This arbitration provision shall survive termination of this Terms of Service.

(b) A party who intends to seek arbitration must first send to the other, by certified mail, a written notice ("Arbitration Notice"). An Arbitration Notice to MetaLINK must be addressed to MetaLINK at the address set forth in this Service Agreement for notices. An Arbitration Notice to Customer must be addressed to Customer at Customer's then-current billing address. The Arbitration Notice must (i) describe the nature and basis of the claim or dispute and (ii) set forth the specific relief sought. If Customer and MetaLINK do not reach an agreement to resolve the claim within SIXTY (60) calendar days after the Arbitration Notice is received, Customer or MetaLINK may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by MetaLINK or Customer shall not be disclosed to the arbitrator until after the arbitrator determines the amount, if any, to which Customer or MetaLINK is entitled.

(c) The arbitration shall be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association (the "AAA"), as modified by this Terms of Service, and shall be administered by the AAA. The AAA Rules are available online at [www.adr.org](http://www.adr.org), by calling the AAA at 1-800-778-7879 or written request to the MetaLINK. The arbitrator shall be bound by the terms of this Terms of Service. All issues are for the arbitrator to decide, except that issues relating to the scope and enforceability of the

arbitration provision are reserved to the decision of a court of competent jurisdiction. Unless Customer and MetaLINK agree otherwise, any arbitration hearings shall take place in Defiance County, Ohio. The right to a hearing shall be determined by the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator shall issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based. The party initiating arbitration proceedings shall bear all the arbitration-related costs and expenses of both parties including, without limitation, legal fees and expenses.

(d) The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. CUSTOMER AND METALINK AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both Customer and MetaLINK agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding.

(e) Notwithstanding any provision in this Terms of Service to the contrary, Customer and MetaLINK agree that if MetaLINK makes any future change to this arbitration provision (other than a change to the address to which an Arbitration Notice is to be sent), Customer may reject any such change by sending MetaLINK written notice within thirty (30) days of the change. By rejecting any future change, Customer agrees that Customer will arbitrate any dispute between Customer and MetaLINK in accordance with the language of this provision.

**16. METALINK CONTACT ADDRESS.** For any inquiries or notices required in connection with this Terms of Service, Customer should contact MetaLINK at the published toll-free Customer Service number, or in writing to MetaLINK Technologies, Inc., Customer Service, PO BOX 1124, Defiance, OH 43512.

**17. GOVERNING LAW.** This Terms of Service, the rights and obligations of the parties hereto, and any claims or disputes hereunder, shall be governed by and construed in accordance with the laws of the State of Ohio without reference to its conflicts of law principles. All disputes arising out of or relating to this Terms of Service shall be submitted to the exclusive jurisdiction of the Defiance County Court in Ohio, or only upon a court order, transferred to a federal court in Lucas County, Ohio, and each party irrevocably consents to such personal jurisdiction and waives all objections thereto. Customer may not bring any claim, suit, action or proceeding more than one (1) year after the date of the cause of action.

## 18. GENERAL.

(a) Nothing contained in this Terms of Service shall be construed to limit MetaLINK actions or remedies in any way, and MetaLINK reserves at all times all rights and remedies available to it at law or in equity. This Terms of Service constitutes the entire agreement and understanding between the parties with respect to the subject matter of this Terms of Service and supersedes and replaces any and all prior written or verbal agreements. In the event that any portion of this Terms of Service is held to be unenforceable, the unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties and the remainder of the provisions shall remain in full force and effect. MetaLINK's failure to insist upon or enforce strict performance of any provision of this Terms of Service shall not be construed as a waiver of any provision or right. Neither the course of conduct between the parties nor trade practice shall act to modify any provision of this Terms of Service.

(b) MetaLINK may assign this Terms of Service without Customer's prior consent and all of MetaLINK's rights, title, and interest herein shall inure to the benefit of such assignee, its successors and assigns. This Terms of Service shall not be assignable by Customer except with the written consent of MetaLINK. Subject to the foregoing, this Terms of Service shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(c) MetaLINK, solely, shall hold all password and authentication information on the MetaLINK connected computer or router at the Customer's location until termination of this Terms of Service. Upon termination of this Terms of Service: (1) by MetaLINK without cause, (2) upon termination of this Terms of Service by Customer after the completion of the term and the Customer's compliance with this Terms of Service, or (3) upon termination of this Terms of Service by Customer and the Customer's compliance with all terms of this Terms of Service, including the payment of Early Termination Fee, if applicable.

(d) Except as otherwise provided in this Terms of Service, MetaLINK may modify these terms and conditions upon written notice published on its website. Customer's continued use of Service after such notice shall constitute Customer's acceptance of the modification of this Terms of Service implied in fact.

(e) Force Majeure. If MetaLINK's performance hereunder is prevented, restricted or interfered with by causes beyond its reasonable control including, but not limited to, acts of God, fire, explosion, vandalism, cable cut, power outage, storm or other similar occurrence including rain fade or other atmospheric conditions, any law, order, regulation, direction, action or request of any government, or of any department, agency, commission, court, bureau, corporation or other instrumentality of any one or

more of said governments, or of any civil or military authority, or by national emergencies, insurrections, riots, wars, acts of terrorism, strikes, lockouts or work stoppages or other labor difficulties, supplier failures, shortages, breaches or delays, then its obligations due to such causes shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction or interference.

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