

Client Services Agreement

This Client Services Agreement (“Agreement”) is between ACTIVITEL INC. (“ACTIVITEL”) and the Client (“Client”).

THESE TERMS AND CONDITIONS MAY BE CHANGED AND UPDATED FROM TIME TO TIME BY ACTIVITEL. ACTIVITEL WILL POST UPDATED TERMS AND CONDITIONS ON ITS WEBSITE (WWW.ACTIVITEL.CA) AND MAY ADDITIONALLY PROVIDE CLIENT NOTICE OF ANY CHANGES BY LETTER OR IN CLIENT’S MONTHLY BILL. CLIENT’S CONTINUED USE OF THE RELEVANT SERVICES WILL BE DEEMED ACCEPTANCE BY CLIENT OF SUCH CHANGES. ACTIVITEL ENCOURAGES CLIENT TO REGULARLY VISIT ITS WEB SITE FOR THE LATEST TERMS AND CONDITIONS.

1. Definitions

For the purposes of these Terms and Conditions:

“Acceptable Use Policy” or “AUP” is the acceptable use policy located at www.activitel.ca.

“Support Policy and Service Level Commitment” or “SLC” is the support policy and service level commitment with respect to the Services located at www.activitel.ca.

“Agreement” means the Client Services Agreement as well as any Schedules, order forms, quotations and all documents supplementing, amending or confirming the Agreement.

“Equipment” means any equipment, facilities and products, including but not limited to modems and routers that ACTIVITEL uses in order to deliver Service to the Client.

“Client Premise Equipment” or “CPE” means any Equipment located at Client premise.

“Client Owned Hardware” or “COH” means any hardware or equipment owned by the Client whether purchased from ACTIVITEL or another supplier.

“Fees” means the rates and charges set out in the Service Applicable as well as any additional usage charges, surcharges, pricing and features applicable to any specific Service.

“Parties” means Client and ACTIVITEL and “Party” means either one.

“Service” or “Services” means the communication services, whether telecom, cloud or internet, that ACTIVITEL provides to Client on an ongoing basis.

“Professional Services” means the one-time or per incident services such as consultation, installation, or training that ACTIVITEL provides to the Client.

“Estimate” means the estimate for products, Services and/or Professional Services provided by ACTIVITEL to the Client.

“Schedule” means all additional schedules that are attached to this Agreement and any additional schedules executed from time to time by the Parties.

“User” includes any person (including but not limited to Client), firm, corporation or other entity that utilizes the Services or otherwise through Client’s authorization or other means utilizes the Services. Derivative terms such as “Usage” and “Use” will have corresponding meanings.

“Upstream Provider” is a third party that interoperates with the Service by providing certain aspects of the Service that are outside of ACTIVITEL’s control.

“Upstream Provider Issue” is an issue with the Upstream Provider’s services that affects the Services.

“Regular Operating Hours” means Monday –Friday, 9:00AM to 5:00PM EST, with the exception of statutory or public holidays.

“Network Operations Center” or “NOC” is an operations center that monitors all ACTIVITEL owned and/or operated Equipment 24/7/365. If there is a network wide outage, it will be serviced immediately by the ACTIVITEL NOC.

“MACD” means a Move, Add, Change, or Delete request with respect to the Services. This includes but is not limited to requests for changes to system and/or services functionality.

“ACTIVITEL Network” means any servers, services, or other Equipment owned and/or operated by ACTIVITEL.

“Internet Service Provider” or “ISP”: The service provider, whether ACTIVITEL or third party, that delivers Internet Service to Client premise.

“Measurement Period” is the measurement period begins on the first day of each month and ends on the last day of such month. For service initiation, the measurement period begins on the first day of the next full month after service is initiated. For service termination, the final measurement period is considered the last full month prior to service termination.

2. Use of Services

2.1. ACTIVITEL agrees to provide the Client with the Services specified in the Estimate.

2.2. Client is liable for any and all Use of the Services by any User, and Client shall remain solely responsible for all use of service ordered or billed to Client’s service identifiers, for determining who is authorized to use Client’s service, and for promptly notifying ACTIVITEL of any unauthorized use. Client agrees to indemnify ACTIVITEL against any and all fees, charges, damages, liability, costs and expenses (including reasonable legal fees, as applicable) associated with such Use.

2.3. ACTIVITEL provides the Services to Client as an independent contractor. In subscribing for the Services, Client obtains no proprietary right or interest in, any particular facility, service, telephone number, IP addresses or code associated with the Services, and ACTIVITEL makes no representation or warranty that the Services are compatible with any particular facilities, equipment or other infrastructure.

3. Term and Termination/Suspension

- 3.1. The Term of this Agreement will commence on the date that the Service is activated for an initial term as specified in the Estimate. The Agreement thereafter automatically renews for successive terms of equal length, unless Client or ACTIVITEL gives advance written notice to the other at least 30 days before the end of the then current term.
- 3.2. ACTIVITEL may immediately suspend or terminate Service, without any liability to Client whatsoever, if Client (or other User, as may be applicable): fails to pay Client's account that is 60 days past due; fails to meet ACTIVITEL's credit requirements; becomes bankrupt or otherwise insolvent; is reasonably suspected by ACTIVITEL of Using the Services in a fraudulent or illegal manner; fails to comply with ACTIVITEL's reasonable Usage policies instituted from time to time, including the Acceptable Use Policy; otherwise interferes with ACTIVITEL's facilities, Equipment, network or connections; or otherwise is in material breach of this Agreement.
- 3.3. Prior to suspension or termination, ACTIVITEL will make reasonable efforts to provide Client with advance notice, stating the reason for the proposed suspension or termination, the amount owing (if any) and any notice period, determined in ACTIVITEL's reasonable discretion, during which Client will have the opportunity to rectify the reason for proposed suspension or termination.
- 3.4. If Client terminates this Agreement during the initial term as set out in the Estimate, other than in accordance with the terms of this Agreement, Client shall pay ACTIVITEL as liquidated damages, and not as a penalty, an amount which is equal to one hundred percent of the monthly recurring charge for each of the Services, multiplied by the number of months remaining in the then current term, including without limitation, installation charges, removal costs and rental costs, and Client will forfeit a refund of any prepayment or deposit made for the Services.
- 3.5. In the event of a suspension or termination of the Service, all features and services, including emergency 9-1-1 service, will also be suspended or terminated. A suspension or termination will not affect Client's obligation to pay any amounts owed to ACTIVITEL either during or after the suspension or termination, including the full month's charges for the month where Client's Service is suspended or terminated.
- 3.6. If the Service is suspended or terminated, a reconnection service charge may be applied for reconnecting the Service. Following a suspension or termination of Service, ACTIVITEL cannot guarantee the availability or resumption of any previous numbers, codes or other identifiers that may have been applicable to Client.

4. Rates and Charges

- 4.1. Client shall pay the rates and charges for all Services as set out in this Agreement, including applicable usage fees, fixed monthly charges, installation, upgrade and support fees, and any other charges incurred in using the Services.

- 4.2. In addition to rates and charges, Client shall pay all applicable provincial and federal taxes, interest on prior overdue amounts and any administrative surcharges for returned cheques as specified on ACTIVITEL's invoice.
- 4.3. ACTIVITEL reserves the right to change rates for any and all Services upon thirty days advance notice.

OTHER APPLICABLE FEES RELATING TO CERTAIN SERVICES

Please see ACTIVITEL's web site at www.activitel.ca or contact ACTIVITEL customer service as provided in these Terms and Conditions for updated rates, fees, surcharges, pricing and features applicable to any specific Service, including those described below.

LOCAL AND LONG DISTANCE SERVICES

- Additional per call charges will apply for calls using the toll free (as opposed to local access dial) phone numbers.
- Additional per minute surcharges may apply for all ACTIVITEL long distance voice services in respect of calls terminating on mobile phones or special country code terminations in certain countries.
- Applicable cellular service charges will continue to be invoiced by your cellular service provider.

All of ACTIVITEL's rates, fees, pricing and features are subject to change without notice for Client's that have not committed to a term. If Client would like confirmation of such changes before using a service, please verify with ACTIVITEL's web site at www.activitel.ca. Alternatively, please contact ACTIVITEL Customer Service using the contact information described in these Terms and Conditions. ACTIVITEL seeks to provide twenty-four hour turnaround on e-mail inquiries (sales@activitel.ca).

5. Billing and Payments

- 5.1. ACTIVITEL will invoice Client monthly. Fixed charges will be billed monthly in advance and other charges will be billed at the end of the current month.
- 5.2. Invoiced amounts are due 30 days from the date of invoice, without any right of deduction or setoff. ACTIVITEL will charge Client interest on any outstanding balances at a rate of 1.5 % per month or the maximum allowable by law, whichever is less.
- 5.3. Client may apply for and pay invoices by pre-authorized payment (PAP). By so doing, Client authorizes ACTIVITEL to deduct all invoiced amounts from the credit card or bank account designated by the Client.
- 5.4. Client shall bring all invoice disputes to ACTIVITEL's attention in writing within thirty days of the invoice date, otherwise Client will be deemed to have accepted the contents of the invoice and will have no further right to challenge the invoiced amounts.

6. Credit

- 6.1. As a precondition to providing Services or the continued provision of Services, Client consent and agrees:

- a) ACTIVITEL may check Client's credit rating from time to time, including in advance of initiating Service. Client consents to the receipt and provision of account information from and to credit grantors and credit bureaus, as well as collection agencies if and as required.
- b) ACTIVITEL may require Client provide a security deposit and/or special payment terms and/or prepayment for Services as ACTIVITEL may reasonably determine.

7. Customer Premise Equipment

- 7.1. Where required, ACTIVITEL will provide and install CPE to provide Client with Services. Unless Client purchases the CPE, title and ownership to CPE will at all times remain with ACTIVITEL and Client will have no right, title or interest in or to the CPE except to use the Services.
- 7.2. The CPE will be considered in good working condition, unless Client provides notice to ACTIVITEL to the contrary within five days of receiving the CPE.
- 7.3. Client shall:
 - a) not re-arrange, disconnect, remove, reconfigure or remove any CPE, including passwords, except as specified by ACTIVITEL;
 - b) upon de-activation or termination of Services, promptly return any rented or borrowed CPE to ACTIVITEL in good working conditions. Charges for CPE will continue until the CPE is returned and failure to do so within the time specified by ACTIVITEL may result in ACTIVITEL repossessing the CPE, at Client's expense, or Client paying ACTIVITEL the replacement cost of such CPE; and
 - c) pay the replacement value of the rented or borrowed CPE, as well as any applicable shipping and handling fees, if the CPE is damaged, lost or stolen while in Client's care, or returned to ACTIVITEL in an unusable condition.

8. Customer Owned Hardware

- 8.1. COH is the property and responsibility of the Client.
- 8.2. Maintenance, repair and administration of COH are the responsibility of the Client.
- 8.3. In the event that the Client purchases COH from ACTIVITEL, the Hardware Purchase Agreement will apply. ACTIVITEL will pass through to the Client any manufacturer's warranty associated with COH and Client agrees to rely solely on the warranties provided by such third party suppliers.

9. Provision of Service

- 9.1. Client shall provide ACTIVITEL (and its agents) access to its premises at ACTIVITEL's reasonable request:

- a) to make necessary installations, service, inspections, tests as necessary for the provision of Services; and
 - b) in order for ACTIVITEL to repossess or remove any rented or borrowed CPE it has provided to Client.
- 9.2. Client agrees that ACTIVITEL may conduct a preliminary check to determine if a Service is available in Client's area.
- 9.3. ACTIVITEL will provide Service only where commercially reasonable. ACTIVITEL may refuse to provide Service where commercially unreasonable including, but not limited to, where:
- a) ACTIVITEL would have to incur unusual expenses which Client will not pay; for example, special construction;
 - b) Client owes amounts to ACTIVITEL that are past due other than as a guarantor;
 - c) ACTIVITEL reasonably suspects that Client will use in the Service in an illegal or fraudulent manner; and
 - d) Client does not provide credit information satisfactory to ACTIVITEL or a reasonable deposit, as requested by ACTIVITEL from time to time and as determined, at least in part, by Client's Usage patterns and quantity.

10. Service Interruption and Maintenance

- 10.1. ACTIVITEL may interrupt Client's Service at any time for a reasonable duration of time, without any notice or liability, in order to install, repair, replace or to perform necessary maintenance on the Equipment or for other technical reasons as may be required.
- 10.2. ACTIVITEL does not guarantee uninterrupted operation of Service, or of its equipment, facilities, connections or network, or that there will not be delays, errors, defects or failures associated with the Services.

11. Service Limitations

- 11.1. The Equipment and the Service related VoIP:
- INCLUDING 9-1-1 SERVICE, will not work during a power outage, broadband service outage, interruption or slow-down, or other service interruption or problem with the relevant computer apparatus. Client may be required to reset or reconfigure the CPE and/or COH, as the case may be, prior to utilizing the Service following a power outage, broadband service outage or other service interruption or rectification of the computer apparatus problem.
 - Does not support 900/976 calling, and therefore Client will not be able to make 900 calls using the Service.

- Does not support collect calling.
- Does not come with a telephone directory.
- Only works on a high-speed Internet connection and service quality may vary depending on the quality, upload speed and service level of the high-speed Internet connection and other factors/third party services providers extraneous to ACTIVITEL.
- May not support 411 listing (White Pages) outside of major rate centers.
- Does not support 311 dialing.
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12. Emergency/9-1-1 Limitations

12.1. Client acknowledges that ACTIVITEL utilizes voice over Internet protocol (“VoIP”) for the delivery of local voice services. This is an importance difference from traditional wireline local services and affects the quality and nature of 9-1-1 services available. As a result, the VoIP 9-1-1 services provided by ACTIVITEL have certain limitations compared to Enhanced 9-1-1 services (“E 9-1-1”) available for most wireline local services. These differences include, but are not limited to:

- a) a bilingual call centre agent will answer the 9-1-1 emergency call, request the caller’s location and the emergency service required and route the call to the 9-1-1 public service answering point (“PSAP”) serving the location provided by the caller;
- b) unlike tradition E 9-1-1 service, the caller’s location information and phone number will not be automatically delivered to the VoIP 9-1-1 call centre and call control features that provide the PSAP agent with control over the line on which the 9-1-1 emergency call is made;
- c) the caller’s location and telephone number may not be automatically transmitted with the 9-1-1 emergency call. The caller must be able to verbally communicate his/her location to the call centre agent.
- d) if the caller is unable to speak, the 9-1-1 operator may assume that the caller is at the last registered address for the local voice service. Customers need to keep their location information current with ACTIVITEL.
- e) VoIP 9-1-1 emergency calls made from locations outside of Canada cannot be completed by the call centre agent. The caller will be told to use an alternate service to VoIP 9-1-1.
- f) Traditional wireline 9-1-1 are not available in all locations within Canada. VoIP 9-1-1 services within Canada are subject to the availability of traditional wireline 9-1-1 service at the caller’s physical location. If 9-1-1 is not available from User’s location, User should contact emergency services such as fire, police or ambulance directly.

- g) VoIP 9-1-1 service will not function if the COH or CPE is not configured properly or if Client's Service is not functioning for any reason.
- h) VoIP 9-1-1 service will not be available during a power outage and will be unavailable during a broadband Internet outage.
- i) VoIP 9-1-1 services will not be available if Service is suspended or terminated.
- j) VoIP 9-1-1 calls from ACTIVITEL's local voice service will take longer to be connected to the emergency authority than those made from a traditional wireline phone.
- k) Client understands the 9-1-1 limitations of ACTIVITEL's local voice services and Client acknowledges that it is their obligations to make all other Users, or potential Users, of the Service aware of these limitations.
- l) If Client maintains an analog line it may be possible to route 9-1-1 calls through this line and the above differences will not exist.

12.2. Callers to VoIP 9-1-1 should:

- a) be prepared to provide their physical location, call back number and the nature of the emergency; and
- b) ensure that they do not hang-up, whether the call was dialed intentionally or accidentally, and stay on the line to provide details to the operator

12.3. If the Client does not understand or does not agree with the limitation of VoIP 9-1-1 services, then Client should consider alternative arrangements to provide access to traditional 9-1-1 or E 9-1-1 services. 9-1-1 services are mandatory on local voice services. ACTIVITEL's 9-1-1 service will be provisioned on all applicable Services. Any alternate arrangement will be in addition to ACTIVITEL's applicable Service.

12.4. The Client understands that it is their obligation to ensure that all Users are aware of the limitations of VoIP 9-1-1 services. The Client understands the limitation of VoIP 9-1-1 services and assumes all liability and responsibility for the provision of emergency services and agrees unless told to by the 9-1-1 call centre agent. If a caller is disconnected they should redial 9-1-1 to hold ACTIVITEL, its officers, directors, employees and agents harmless for any injury, death or damage whether direct or indirect that may result from : (1) the VoIP 9-1-1 service provided by ACTIVITEL (including but not limited to situations of unavailability of 9-1-1 as described in these terms and conditions and incomplete or incorrect address information provided by the Client); (2) Client's failure to obtain access to conventional 9-1-1 service as part of a telephone line subscription from another telephone company under separate agreement; or (3) Client's failure or delay in utilizing conventional 9-1-1 service.

13. Telephone Numbers and Portability

13.1. Telephone numbers and numbers or addresses for other Services are a limited public resource. Client does not own the number(s) assigned to it and ACTIVITEL reserves the right

to change the number(s) assigned to Client. ACTIVITEL will take all reasonable measures to prevent such occurrences.

- 13.2. At Client's request, ACTIVITEL will facilitate the transfer of Client's existing telephone numbers to the Services. ACTIVITEL will not be responsible for any termination fees imposed by any other service provider as a result of Client transferring telephone numbers to ACTIVITEL. ACTIVITEL cannot guarantee or warrant the date on which Client will be able to switch the telephone number, nor can it guarantee or warrant that Client will be able to transfer its telephone number to the Services. ACTIVITEL may provide Client with a temporary telephone number.
- 13.3. The timeframe for porting is not guaranteed but typically takes less than 30 business days. It is the Client's responsibility to provide the correct information on the porting application. Incorrect contact or address information may result in a rejection. Other reasons for a rejection include but are not limited to; existing order or request for change on the line(s) to be ported, existing contract on the line(s) to be ported, DSL service on the line(s) to be ported, or the line(s) to be ported is the pilot of an existing hunt group. If a porting request is rejected, ACTIVITEL will re-issue the request. A rejection fee of \$25 applies each time the request is rejected.
- 13.4. During the porting process the line(s) will stay with the current provider until the day the line(s) port. ACTIVITEL will take all reasonable measures to make this transition seamless. Many aspects of this process are in the control of the losing provider and ACTIVITEL cannot guarantee that there will be no downtime during the transition.

14. Support

- 14.1. Support for the Service and Equipment is subject to the terms and conditions of the Support Policy and Service Level Commitment.
- 14.2. ACTIVITEL will monitor and support all ACTIVITEL owned or operated Equipment and infrastructure 24/7/365. This does not include any CPE.
- 14.3. ACTIVITEL will support CPE 24/7/365 but will not monitor CPE.
- 14.4. The Client is responsible for supporting COH and their Local Area Network. ACTIVITEL will be reasonably available to provide per incident support for COH and the Local Area Network with respect to the Services under the terms and conditions of the Professional Services Agreement.

15. Confidentiality

- 15.1. In addition to the provisions of any confidentiality agreement between the Parties, each Party shall hold all confidential information of the other Party, including the terms of this Agreement, in confidence and shall not disclose such information to any third party without the prior written consent of the other Party, unless required by law. In addition to any other remedies a Party may have, if a Party breaches these confidentiality obligations, then the Parties agree that any further or continuing disclosure will cause irreparable harm to the other Party and that Party will be entitled (and the disclosing Party agrees not to defend and consent to) an injunction barring any further disclosure of such confidential information, in

addition to monetary damages for such breach.

15.2. Notwithstanding the above, Client authorizes ACTIVITEL to disclose information including, but not limited to, name, address and telephone numbers in the following circumstances:

- another telecommunications company as is required so that ACTIVITEL may provide the Services to the Client;
- a company involved in providing communications directory and related services;
- ACTIVITEL's agents and affiliates;
- emergency services in an emergency situation;
- a credit collections agency;
- a person who, in the reasonable estimation of ACTIVITEL, is an agent of the Client; and
- any other third party, upon receiving the consent of the Client or as is required by law.

15.3. Client shall treat all access codes and passwords (where applicable) as confidential. If Client discovers such codes or passwords are stolen, lost or used in an unauthorized manner, Client shall immediately notify ACTIVITEL by calling 1-866-931-9232.

16. Warranty Disclaimer and Limitation of Liability

16.1. EXCEPT AS SPECIFICALLY PROVIDED, ACTIVITEL MAKES NO WARRANTIES OF ANY KIND IN CONNECTION WITH ITS NETWORK, CONNECTIONS, EQUIPMENT, FACILITIES OR SERVICE, AS CONTEMPLATED HEREIN, WHETHER WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE, AND ALL SUCH REPRESENTATIONS, WARRANTIES, OR CONDITIONS OF ANY KIND ARE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, HEREBY EXCLUDED.

16.2. ACTIVITEL WILL NOT BE LIABLE TO CLIENT OR ANY OTHER PERSON FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, RELIANCE OR PUNITIVE DAMAGES, OR FOR ANY LOST PROFITS OF ANY KIND OR NATURE WHATSOEVER, REGARDLESS OF THE FORESEEABILITY THEREOF, ARISING OUT OF THE PROVISION OF SERVICE OR IN ANY WAY ARISING OUT OF THIS AGREEMENT AND ANY RELATED AGREEMENTS. CLIENT'S EXCLUSIVE REMEDY AND ACTIVITEL'S LIABILITY, IF ANY, FOR DAMAGES FOR ANY CAUSE WHATSOEVER, WILL BE NO MORE THAN THE RECURRING CHARGES PAID BY CLIENT FOR THE AFFECTED SERVICE FOR THE ONE MONTH PRECEDING THE EVENT ALLEGED TO HAVE CAUSED THE DAMAGES.

- 16.3. CLIENT MUST INSTITUTE ANY LEGAL ACTION ARISING IN CONNECTION WITH THIS AGREEMENT WITHIN ONE YEAR AFTER THE CAUSE OF ACTION ARISES.
- 16.4. FOR THE PURPOSE OF THIS SECTION, "ACTIVITEL" INCLUDES ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND AFFILIATES.
- 16.5. IN ADDITION TO ANY OTHER INDEMNITIES CONTAINED IN THIS AGREEMENT, CLIENT SHALL INDEMNIFY AND DEFEND ACTIVITEL, ITS AFFILIATES, AND EACH OF THEIR SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS, LICENSORS AND SUPPLIERS FROM AND AGAINST ALL CLAIMS, LOSSES, EXPENSES, DAMAGES AND COSTS, INCLUDING REASONABLE LEGAL FEES, RESULTING FROM ANY ACTION, INACTION OR BREACH OF THIS AGEEMENT BY CLIENT OR OTHER USERS. THE PROVISIONS OF THIS SECTION SHALL SURVIVE TERMINATION OR EXPIRATION OF THIS AGREEMENT.

17. ACTIVITEL Intellectual Property

- 17.1. ACTIVITEL or its affiliates or licensors, as the case may be, are the exclusive owners of all names, trade-marks, trade names, service marks and any copyright material relating to the Services ("Intellectual Property"). Nothing in these Terms and Conditions contemplates or creates permission of use of Intellectual Property for any marketing or advertisement by Client or a transfer of license of Intellectual Property from ACTIVITEL to Client.

18. Miscellaneous

- 18.1. Entire Agreement: Notwithstanding any other agreement that may exist between ACTIVITEL and the Client, this Agreement constitutes the entire agreement between the Parties regarding the provision of Services, and supersedes and replaces all prior agreements and representations whether written or oral with respect to the provision of Services.
- 18.2. Amendment: Agreement can only be amended by a signatory authorized by ACTIVITEL and not by any ACTIVITEL sales representatives, agents or employees.
- 18.3. Jurisdiction: This Agreement will be governed by the laws of Ontario and the applicable laws of Canada and the Parties agree to be subject to the exclusive jurisdiction of the courts of Ontario.
- 18.4. Notices: Any notice or other communication required or permitted by this Agreement will be in writing and be provided by personal delivery, email, or by facsimile to Client or ACTIVITEL at the last address or facsimile number provided in writing by each Party. Notices delivered in person will be effective on the date of such delivery and notices delivered by facsimile or email will be effective on the date of transmission provided printed proof of transmission is obtained.
- 18.5. Force Majeure: ACTIVITEL will not be liable for any failure nor delay in performance to the extent caused by factors beyond its reasonable control, including, without limitation, labour disputes, fires or other casualties, weather or natural disasters, damage to facilities, or the

- conduct of third parties.
- 18.6. Assignment: Client cannot assign this Agreement in whole or in part without ACTIVITEL's prior written consent. This Agreement is binding upon and endures to the benefit of the Parties and their respective successors and permitted assigns.
 - 18.7. Publicity: ACTIVITEL may list Client's name on ACTIVITEL's marketing materials and website as a customer of ACTIVITEL.
 - 18.8. Severability and Waiver: If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, that provision will be deemed severable from the other provisions which will remain valid and enforceable. The terms of this Agreement may only be waived in writing and signed by both Parties. No failure by either Party to insist upon the other Party's performance of any obligations hereunder will constitute waiver unless in writing.
 - 18.9. Language: This Agreement has been drawn up in English at the request of the parties. Les parties ont convenu que la présente entente soit rédigée en anglais.