

## **Terms and Conditions**

These Terms and Conditions (the “Terms”) are incorporated into, and constitute an essential part of, the Agent Agreement (the “Agreement”) between Agent and N2NET (“N2NET”). Unless otherwise defined herein, capitalized terms used herein shall have the meanings ascribed to them in the Agreement.

### **1. Duties and Responsibilities of Agent.**

1.1 **Engagement.** Agent acknowledges that Agent’s relationship with N2NET is that of an independent contractor. The appointment of Agent as N2NET’s independent sales representative shall be non-exclusive, and Agent retains the right to market the products and services of telecommunications service providers either directly or through agents or master agents other than N2NET. Only an authorized officer of N2NET shall have the authority and power to enter into an agreement for Services with a customer.

1.2 **Lead Registration.** All Leads (as hereafter defined) will be registered into N2NET’s sales management system as a Registered Lead (as hereafter defined) and protected for an initial duration of thirty (30) days. If an N2NET representative or agent has a verified appointment regarding N2NET voice services, lead protection will extend for up to one year. A “Lead” shall mean and refer to an individual, corporation, partnership, Limited Liability Company or other entity. A “Registered Lead” shall mean and refer to an entity as to which all of the following shall be true: (a) such entity has not at any time (either before or after the date of the Agreement) been a customer of N2NET, (b) such entity is not a person with which N2NET has at any time (either before or after the date of the Agreement) discussed the possibility of such entity’s obtaining services from N2NET, and (c) such entity has been submitted by the Agent to N2NET.

1.3 **Limited Agency.** Agent is hereby granted a limited agency to act on behalf of N2NET for the sole purpose of selling Services consistent with the duties described in the Agreement. Only an authorized officer of N2NET shall have the authority and power to enter into an agreement for Services with a customer.

1.4 **Duties.** Agent shall use its best efforts to promote the distribution and sale of Services, which efforts shall include without limitation making initial contact with prospective customers, securing authorized signatures on N2NET’s authorized forms and securing other necessary data (such as credit information, letter of agency, customer bills, etc.). Agent, and each of its employees, sub-agents, contractors and others working on behalf of Agent shall be governed in all dealings with prospective and current customers by a standard of fair dealing, including compliance with all applicable laws, ordinances and regulations. Agent may only solicit and take orders for the purchase of Services at the prices and on such terms and conditions specified by N2NET. No quote, estimate, proposal or order given or taken by Agent shall be binding until accepted by the applicable Provider in accordance with the Provider’s policies and procedures. Orders for the Services received by Agent shall be immediately forwarded to N2NET. Agent shall use forms and documents provided to it by N2NET for such orders. N2NET reserves the right in its sole discretion to reject, in whole or

in part, any quote, estimate, proposal or order given or taken by Agent. Agent shall make no representations, guarantees or warranties with respect to the Services that are inconsistent with the written descriptions, guarantees, warranties and representations provided and issued by N2NET. Agent may **NOT** represent himself/itself as a reseller of the Services. Agent shall promptly provide N2NET with all information which N2NET may request from time to time in connection with Agent's obligations under this Agreement.

1.5 Agent may, but shall not be required to, become a customer of N2NET with respect to its needs for Services. In such event, during the term of this Agreement and thereafter (regardless of the reason, if any, for termination of this Agreement), Agent shall pay all N2NET invoices for Services in accordance with their respective terms. In its sole discretion, N2NET may at any time suspend the payment of all commissions due to Agent until Agent has paid in full any past due invoice(s) for Services. Agent shall not receive commission on services they purchase. Commissions may not be used as payment. Services agent receives may not be resold.

1.6 Agent shall provide N2NET with periodic (no less than quarterly) forecasts of projected sales, revenue and targeted accounts, and shall make itself available for periodic meetings with its N2NET Channel Manager at reasonable times upon N2NET's request to discuss Agent's sales efforts and other issues relating to this Agreement.

#### **1.5 Covenants.**

- a. Agent shall use its best efforts to solicit and promote the sale of the Services.
- b. Agent shall use its best efforts to ensure customer satisfaction, including but not limited to assisting N2NET with responding to customer problems in a timely manner.
- c. Agent shall use its best efforts to assist N2NET in the collection of amounts owed by customers for Services sold on credit.
- d. Agent shall not advertise the Services by mail, electronic mail, classified advertisements, newspaper, television, radio, business shows, Internet, or any other means without the prior express written consent of N2NET which may be withheld in N2NET's sole discretion.
- e. Agent shall, at all times, make informed and accurate representations concerning the Services in connection with Agent's solicitation and sales activities. Any misrepresentation, determined in the sole discretion of N2NET, concerning the Services or N2NET may be treated by N2NET as an Event of Default. Agent accepts full and complete responsibility for any such misrepresentation and shall defend, indemnify and hold harmless N2NET from and against all judgments, liabilities, losses and costs (including, without limitation, reasonable attorneys' fees and expenses) in connection with any such misrepresentation.

- f. Agent shall not alter or amend the Services provided to a customer. If Agent alters or amends the Services provided to a customer, such alteration or amendment shall constitute an Event of Default.
- g. Agent shall acknowledge and strictly adhere to Section 6, N2NET's Customer Proprietary Network Information Policy. Agent shall acknowledge and strictly adhere to Section 7, N2NET's Policies and Procedures Regarding Slamming and Cramming Prevention.
- h. While Agent may offer other products and services from other third party suppliers, in no event shall Agent directly compete with N2NET or hold itself out as a telecommunications provider, supplier, CLEC or the like.

**1.6 Performance Quotas.** N2NET may in its sole discretion establish and maintain performance requirements, quotas, incentives, areas of responsibility, standards, policies and procedures that Agent must comply with upon N2NET notifying Agent in writing of same. Failure to so comply shall constitute an Event of Default.

**1.7 Sub-Agents.** Agent may utilize sub-agents to market the Services, provided however that Agent must take full responsibility to ensure that its sub-agents are aware of and comply with all of Agent's obligations hereunder.

**1.8 Customers.** Agent hereby acknowledges and agrees that all customers accepted by N2NET under the Agreement shall be and shall remain customers of N2NET for Services and not of Agent. Agent shall not terminate, attempt to terminate, or otherwise interfere in any way with N2NET's relationship with any such customer without the prior written consent of N2NET. If Agent violates this prohibition during the term of the Agreement, N2NET may terminate the Agreement and any obligation of N2NET to pay commissions to Agent shall immediately and irrevocably terminate.

**1.9 Intellectual Property/Approval of Advertising.** Agent agrees that N2NET is the exclusive owner of all trademarks and trade names relating to the Services. Agent may use such trademarks and trade names only for the purpose of advertising and promoting the Services consistent with the terms and conditions hereof, and Agent shall acquire no proprietary or other rights with respect to such trade names, trademarks or other intellectual property. All advertising used by Agent for the Services is subject to N2NET's prior written approval, which may be withheld in N2NET's sole discretion.

**1.10 Responsibility for Taxes.** Agent shall pay all federal, state and local income taxes attributable to commissions paid by N2NET hereunder. Agent shall not have any withholding taxes, Social Security or other deductions made from its compensation under the Agreement.

**1.11 Warranties.** Agent shall not make any representations as to Service warranties to any customer or potential customer other than the warranty published by N2NET.

1.12 **Compliance with Laws.** Agent shall comply with all applicable laws and regulations, including but not limited to: (i) state laws relating to industrial accidents, worker's compensation, unemployment, FICA and all local, state and federal income taxes; and (ii) all rules and regulations of the Federal Communications Commission relating to Customer Proprietary Network Information. Breach of this provision shall be considered an Event of Default.

2. **Additional Duties and Responsibilities of N2NET.** N2NET agrees to inform Agent on a timely basis of any changes in specifications, prices, or marketing standards and requirements pertaining to the Services. N2NET also shall provide Agent with such sales materials, proposals, specification sheets, service applications and other information as Agent may from time to time require.

3. **Non-Solicitation and Confidentiality.**

3.1 **Non-Solicitation Obligations.** Agent agrees that during the Term hereof and for an additional period of time equal to the greater of (i) the length of time Agent is entitled to receive commissions pursuant to the Agreement or (ii) eighteen (18) months following any termination of the Agreement, it shall not, directly or indirectly, (a) solicit, induce or attempt to induce any person, business or other entity, which is a customer of N2NET or has been a customer of N2NET during the two (2) year period immediately preceding termination of the Agreement to withdraw, curtail or cease doing business with N2NET; (b) interfere in any way with the relationship between N2NET and any of its employees by soliciting, inducing or attempting to induce any N2NET employee of N2NET to leave N2NET or to hire any such employee (whether as an employee, consultant, agent or otherwise); or (c) induce or attempt to induce any agent, partner, carrier, supplier, licensee, licensor, franchisee, or other business relation of N2NET to withdraw, curtail or cease doing business with N2NET.

3.2 **Confidentiality Obligations of Agent.** Agent acknowledges and agrees that, during its association with N2NET, N2NET may make available to Agent information that N2NET considers to be confidential and/or proprietary, including, but not limited to: present and prospective customer data, agreements, technical data, software, plans, sales and training materials, operating procedures, business methods, business forms, marketing plans and data, agreements and policies, information regarding pending projects and proposals, compensation data, and information about business relationships with and/or ownership interests in or affiliations with other entities ("Confidential Information"). Confidential Information also includes any information that N2NET obtains from its customers or any other person or entity and which N2NET treats as proprietary or designates as confidential, whether or not owned or developed by N2NET. This Confidential Information may be in written or oral form, and may exist in the form of physical items, on computer disks or hard drives, on computer or audio or video tape, and may be typed, computer generated, or mechanically transcribed in some other fashion, or handwritten, or in any other form.

Agent further acknowledges and agrees that Agent may acquire and learn Confidential Information in the course of Agent's association with, and while performing duties for, N2NET; and that any disclosure, dissemination, or use in competition with N2NET by Agent of such Confidential Information would cause serious and irreparable harm to N2NET.

Therefore, Agent agrees that both during the Term of and at all times after the Agreement terminates, regardless of the reason for such termination, Agent will hold all Confidential Information in the strictest confidence and will not divulge, disclose, use, publish, sell or distribute to any person, partnership, association, corporation or entity any Confidential Information, including but not limited to information regarding N2NET's customers, except as necessary to perform Agent's duties for N2NET or as described below or otherwise authorized by N2NET in writing. Agent further agrees to ensure that any Confidential Information Agent receives shall at all times remain solely in the possession of or under the control of Agent.

N2NET agrees that the foregoing shall not apply with respect to any information after two (2) years following the disclosure thereof or to any information that (i) is or becomes (through no improper action or inaction by Agent) generally available to the public, or (ii) was in its possession or known by it without restriction prior to receipt from N2NET or (iii) was rightfully disclosed to it by a third party without restriction, or (iv) was independently developed without use of any Proprietary Information of N2NET. Agent may make disclosures required by law or court order provided Agent uses diligent and reasonable efforts to limit disclosure and to obtain confidential treatment or a protective order and has notified N2NET so that it may choose to participate in the proceeding.

**3.3 Return of N2NET Property.** Upon the termination of the Agreement for any reason, Agent shall immediately turn over to N2NET all customer lists and information, sales records, documents, machinery, samples and other items and property belonging to N2NET, and Agent shall certify to N2NET that Agent has complied with this requirement. Any books, tapes, disks, records, documents, programs, and other materials made or compiled by Agent pursuant to the Agreement or made available to Agent during the course of the Agreement, and any copies thereof, whether or not they contain Confidential Information, are and shall be the property of N2NET and shall be returned to N2NET immediately upon the termination of the Agreement. Agent will not make or retain copies of any such property or Confidential Information.

**3.4 Injunctive Relief.** This provision shall apply to the interpretation and enforcement of all of Agent's responsibilities as set forth in the Agreement, including but not limited to Agent's duty of non-solicitation and confidentiality: (i) since other remedies cannot fully compensate N2NET for a violation of Agent's responsibilities set forth in the Agreement, N2NET shall be entitled, in addition to any other remedies or relief available to it, to injunctive relief to prevent a violation or halt a continuing violation of the covenants set forth in the Agreement; and (ii) if N2NET must commence litigation to enforce its rights under the Agreement, it may also recover its reasonable attorney's fees from Agent in connection with such litigation, provided however that N2NET shall be entitled to such fees only to the extent that it prevails in any such litigation.

With the exception of the injunctive relief described above in this Section 3.4, any and all disputes between N2NET and Agent shall be subject to binding arbitration as described in Section 5 below.

**3.5 Forfeiture of Commissions in Event of Violation.** Agent further agrees that, in the event of a willful violation by Agent of any of the prohibitions set forth in the Agreement, N2NET may immediately and irrevocably terminate the payment of any and all commissions that may be payable to Agent hereunder, regardless of whether N2NET seeks or obtains injunctive relief pursuant to Section 3.4, above.

**4. Indemnification; Limitation of Liability.**

4.1 Agent shall indemnify and hold harmless N2NET, its officers, employees and customers from and against any and all claims, losses, liabilities, demands, suits, judgments, damages, expenses of any nature, or sums of money awarded to any party and accruing against N2NET that directly or indirectly arise out of or as a result of any act and/or omission of Agent, its employees, representatives or sub-agents while engaged in, or in connection with, the discharge or performance of the services to be done or performed by Agent hereunder, including but not limited to: (a) a breach of the Agreement by Agent; (b) Agent's taxes, liabilities, costs or expenses of its business; (c) any negligent, reckless or willful act or omission of Agent, its employees, agents, servants, or contractors; or (d) any advertisement or promotional material distributed, broadcast, or in any way disseminated by Agent, or on behalf of Agent, unless such material has been produced or approved in writing by N2NET. Agent shall also hold N2NET harmless from any and all claims and/or liens for labor, services or materials furnished to N2NET in connection with the performance of Agent's obligations under this Agreement.

4.2 Agent understands that Agent's appointment herein may subject to the rules and regulations of the Federal Communications Commission (FCC) and the various regulatory authorities of each state, and Agent hereby agrees to be fully responsible for all of Agent's employees, agents and representatives and to abide by all laws, rules, regulations, administrative decisions and pronouncements of the FCC and all such regulatory authorities.

4.3 Agent understands that it is responsible for any orders submitted to N2NET, as well as for the correctness of the information that is contained in the orders. Any disputes regarding the validity of an order that results in the imposition of monetary consequences on N2NET shall be reimbursed to N2NET by Agent fully and immediately. N2NET may obtain such reimbursement through a deduction in any Commissions owed by N2NET to Agent. In the event the amount of the Commissions owed is insufficient to fully reimburse N2NET pursuant to this paragraph, Agent agrees to fully and immediately pay N2NET the remainder.

4.4 N2NET will have no liability to Agent for Commissions that might have been earned under this Agreement but for the inability or failure of N2NET to provide Services to any person or legal entity solicited by Agent or in the event of discontinuation or modification of such Services. Agent or any party acting for or on behalf of Agent may not allege that Agent has a claim to any commission, compensation, profits, or damages whatsoever with respect to any Services: (i) when N2NET has rejected the Customer for any reason, (ii) when said Services may be cancelled by a Customer, whether or not due to a default by N2NET, (iii) for which the account becomes uncollectible, or (iv) when the Services are provided in full satisfaction of any warranty or other contract breach, tort or other.

- 4.5 In connection with the services to be rendered under this Agreement, Agent shall not engage in any pyramid scheme or multilevel marketing plan which violates any state or federal laws. Specifically, in connection with the marketing activities to be carried out under this Agreement, Agent shall not engage in any plan or operation wherein a person acquires the opportunity to receive a pecuniary benefit which is based upon the inducement of additional persons by that person, and/or others, regardless of number, to participate in such plan or operation, and is not contingent on the volume of N2NET's services sold to the public.
- 4.6 Agent agrees not to violate any FCC or state rules. Agent agrees to fully and immediately reimburse N2NET and the employees, officers, directors, partners, shareholders, successors, assigns and independent contractors of N2NET, for all claims, damages, liabilities or expense of any description (including but not limited to reasonable attorneys fees and costs) arising out the violation by Agent or any of Agent's employees, agents or representatives of any applicable FCC and/or state rules. Agent further agrees that Agent will not settle without consulting with N2NET and obtaining N2NET's prior written consent. Agent must also allow N2NET to participate in its own defense at Agent's expense.
- 4.7 Agent shall be solely and singularly responsible for payment of any compensation owed to Agent's employees, sub-agents or representatives. Nothing contained herein shall be construed to create any obligation by N2NET whatsoever to pay compensation of any kind to any of Agent's employees, sub-agents or representatives. Agent warrants and represents that it shall fully and faithfully pay compensation owed to its employees, sub-agents and representatives in accordance with its own internal policies and procedures. Agent shall indemnify and hold harmless N2NET from and against any and all claims by any of Agent's employees, sub-agents or representatives for payment of such compensation.
- 4.8 NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY STATED OR IMPLIED HEREIN, N2NET SHALL NOT BE LIABLE TO AGENT WITH RESPECT TO THE AGREEMENT EXCEPT FOR THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF N2NET. N2NET WILL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO THE LOSS OF COMMISSIONS THAT MIGHT HAVE BEEN EARNED, THAT ARISE OUT OF OR RELATE TO THIS AGREEMENT.

## **5. Binding Arbitration.**

- 5.1 **Conduct of Arbitration.** Any dispute not settled through mediation will be settled by binding expedited arbitration in accordance with the commercial Arbitration Rules of the American Arbitration Association (the "AAA Arbitration Rules") in effect from time to time. Where no remedy for a particular breach is specified in the Agreement, the arbitrator, subject to any limitations set forth in the applicable agreement, will have the power to fashion an appropriate remedy consistent with the spirit and intent of the Agreement. Any disputing party may serve the other disputing party or parties with a written demand to commence binding arbitration ("Arbitration Demand"). The arbitrator will be selected by mutual agreement of the disputing parties. If the disputing parties are unable to agree upon an arbitrator within twenty (20) days after the date on which the Arbitration Demand is served, then the Arbitrator will be selected in accordance with the AAA Arbitration Rules.

**5.2 Place; Effect of Arbitration.** The arbitration will be held in Cleveland, Ohio and shall be governed by the laws of the State of Ohio, and judgment upon the award rendered by the arbitrator may be entered by any court having jurisdiction thereof. The disputing parties will cooperate fully to ensure the entry of the arbitrator's award by a court of competent jurisdiction. Once the arbitrator's award has been entered by a court of competent jurisdiction, the arbitrator's award will have res judicata and collateral estoppel effect, and the disputing parties will not seek or assert the right in any manner whatsoever to challenge the validity of the arbitration or relitigate issues adjudicated by the arbitrator.

**5.3 Length of Arbitration.** The parties agree to use all reasonable efforts to complete any such arbitration within twelve (12) months from the date it is first commenced.

**6. N2NET's Customer Proprietary Network Information Policy.**

N2NET protects customer privacy and follows a zero-tolerance policy regarding the improper use of a customer's proprietary network information ("CPNI) as defined by law and FCC rules, discussed below. Any employee who accesses or uses CPNI to sell or market services in a manner contrary to law or regulatory requirements is subject to disciplinary action up to and including termination. N2NET's policy also prohibits its Agents from unauthorized use of CPNI.

Title 47 of the United States Code, Section 222(c)(1) provides:

Privacy Requirements for Telecommunications Carriers. Except as required by law or with the approval of the customer, a telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service shall only use, disclose, or permit access to individually identifiable customer proprietary network information in its provision (A) the telecommunications service from which such information is derived, or (B) services necessary to, or used in, the provision of such telecommunications service, including the publishing of directories.

Agent understands that, in implementing this provision, the FCC promulgated a series of rules that generally precludes the use of a customer's CPNI derived from the provision of service in one category of service (such as local exchange service) in upselling or marketing to that customer a service from a different service category (such as internet access or security services). By signing the Agreement, Agent agrees that it has read and understands N2NET's policy outlined above, and hereby agrees to strictly abide by N2NET's zero-tolerance policy prohibiting the improper use of CPNI.

**7. N2NET's Policies and Procedures Regarding Slamming and Cramming Prevention.**

Agent specifically acknowledges, agrees, represents and warrants that Agent will not engage in the practice known as "SLAMMING" (the changing of a customer's underlying telecommunications provider without the written consent of such customer) or "CRAMMING" (the addition of unauthorized charges to a customer's telecommunications bill). If Agent



engages in slamming or cramming, N2NET may (i) terminate the Agreement, (ii) Agent shall become liable for any and all costs associated with the act(s) of slamming and cramming (including but not limited to any fines levied by any regulatory agency), and (iii) any obligation of N2NET to pay commissions to Agent shall immediately and irrevocably terminate. All Agents and their distributors selling long distance or local services on behalf of N2NET MUST carefully read the contents of this Section 7 outlining N2NET's policies and procedures regarding slamming and cramming prevention. This Section 7 explains N2NET's policies and procedures for the sale of long distance and local services. The purpose of this section is to explain what can cause the unauthorized switching of a customer, the addition of unauthorized charges, the importance of preventing such switching and unauthorized additions, and the seriousness of the matter to N2NET.

#### **7.1 Common Causes of Slamming and Cramming.**

- a. Incorrect telephone number on submitted application/letter of agency ("LOA") - means that an incorrect telephone number is switched without customer's written consent. Furthermore, the customer who did want a N2NET-provided long distance or local service did not get switched to the service they requested.
- b. The submitted application/LOA is illegible and directly causes the person that keys the order into the system to enter the wrong name and/or phone number.
- c. The person who "authorized" switching carriers or adding additional charges really didn't have the authority to make the switch or addition.
- d. A simple misunderstanding when one Agent doesn't tell the other Agent or account payable personnel about selecting a new carrier. Please ask your customers to inform the appropriate persons within the company about the changing of carriers.
- e. Signing a company up just to "get the sale" or reach a qualification or commission level.
- f. Signing a company up, without the customer's knowledge, as a result of spending a lot of time with a company decision maker and assuming that the person would be satisfied with a N2NET-provided service.

#### **7.2 Effects of Slamming and Cramming.**

- a. It is illegal and will not be tolerated by N2NET.
- b. Creates a bad image and adversely affects N2NET's reputation.
- c. Takes time to investigate and correct.
- d. If we can get information verified, it will save on:
  - i. Order rejects;

- ii. Returned Mail; and
  - iii. Time to process valid and accurate orders.
- e. Frustrating experience for the company that was slammed.
  - f. Usually, in the case of a long distance slam, the local phone company levies a charge to make the initial switch to N2NET and then charges to switch the affected customer back to the original long distance company. N2NET, and then the appropriate sales Agent, are billed for these costs. This leads to serious consequences for the Agent, including termination of the sales agent relationship with N2NET.

7.3 N2NET AS WELL AS FEDERAL, STATE AND LOCAL REGULATORY AGENCIES VIEW “SLAMMING” AND “CRAMMING” AS A VERY SERIOUS PROBLEM. THE FCC CAN IMPOSE SIGNIFICANT FINES ON A PER VIOLATION BASIS.

**7.4 How An Agent Can Protect Against Slamming and Cramming.**

- a. Agent is strongly encouraged to verify information against each new customer’s actual telephone bill for each LOA.
- b. The person signing the LOA should be a person with authority to act on behalf of the company. It is essential that the person signing the LOA have authority to change carriers. The receptionists, secretaries and assistants typically do not have the authority to change carriers for the company. If the person signing the LOA is different from the person with actual authority to do so, Agent should attempt to contact the other person. While this policy might be viewed as jeopardizing some sales orders, it should give Agent a chance to retain sales by demonstrating Agent’s concern and professionalism.
- c. Review the LOA for accuracy and legibility, especially the telephone numbers.
- d. Never sign someone else’s name on the LOA or other document.
- e. Don’t force a sale that is not there.

**8. Miscellaneous.**

8.1 **Notices.** Notices shall be deemed given to a party if delivered in writing in person, via certified mail, return receipt requested, or via a recognized national overnight delivery company (i.e. Federal Express) with next day delivery designated to (a) for Agent: the address set forth in the Agreement, and (b) for N2NET:

N2NET  
 Attn: \_\_\_\_\_  
 815 Superior Ave. Suite 425  
 Cleveland, Ohio 44114

- 8.2 **No Waiver.** The failure of a party to the Agreement to insist upon strict adherence to any of the terms of the Agreement on any occasion will not be considered a waiver, nor shall it deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of the Agreement. Any waiver must be in writing.
- 8.3 **Governing Law.** The Agreement, the rights of the parties in, under and to the Agreement and any dispute or action relating to the Agreement (whether in contract, tort or otherwise) will be governed by, construed and enforced in accordance with the laws of Ohio.
- 8.4 **Binding Effect.** The Agreement will inure to be the benefit of and will be binding upon the parties their respective successors, permitted transferees and assigns.
- 8.5 **Assignment and Benefits of Agreement.** N2NET may, in its sole discretion, assign, transfer or encumber this Agreement in whole or in part without obtaining prior written consent from Agent. Agent shall be required to notify N2NET at least thirty (30) days prior to such any proposed assignment of this Agreement by Agent to any third party, and any such proposed assignment shall be subject to N2NET's express written approval, which may be withheld in N2NET's sole discretion.
- 8.6 **Independent Contractor.** Each of N2NET and Agent certifies that neither party has any authority to act for or bind the other party except as expressly provided for in the Agreement. Agent hereby acknowledges that Agent (which, for the purposes of the Agreement, is gender neutral) is an independent contractor pursuant to the laws of the State of Ohio and is not an employee of N2NET. Nothing herein (including but not limited to use of the capitalized term "Agent") shall be construed to create any relationship between N2NET and Agent in the nature of profit-sharing, partnership, joint venture, employment or any other relationship that might impose liability upon N2NET for: (a) Agent's past, present or future debts, liabilities, obligations, acts or omissions; or (b) unemployment, workers compensation or any other employment-related benefits.
- 8.7 **Severability.** To the extent that any provision of the Agreement or the application thereof is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement, or the application of such a provision under other circumstances, will be unaffected and will continue in full force and effect unless the invalid or unenforceable provision is of such essential importance for the Agreement that it is to be reasonably assumed that the parties would not have concluded the Agreement without the invalid or unenforceable provision.
- 8.8 **Solicitation of Services.** N2NET reserves the right to offer all Services provided by N2NET to the customers introduced by Agent pursuant to the Agreement.
- 8.9 **Force Majeure.** N2NET shall not be responsible or liable for failure to perform its obligations hereunder attributable to any cause or contingency beyond its reasonable control including, without limitation, acts of God; act or omission of civil or military authority; fire; flood, epidemic, earthquake, terrorism, labor dispute (e.g., lockout, strike, work stoppage or slowdown); provider problems or policies, war, riot, unusually severe weather, accidents,

compliance with any regulation or directive of any national, state or local government or any agency or department thereof; or any other cause which by the exercise of reasonable diligence N2NET is unable to overcome.