

## ONTERA CONNEXTS™ TELEPHONE TERMS OF SERVICE

**1. Agreement.** These terms and conditions ("**Terms of Service**") set out the rights, obligations and limitations of O.N.Tel Inc. carrying on business as Ontera ("**Ontera**" or "**us**" or "**we**" or "**our**") and you, the **Customer**, for wireline products ("**Customer Equipment**") and wireline services Ontera provides to you that are not regulated by the CRTC (collectively "**Services**"). These Terms of Service, together with (i) your Ontera invoice for the Services and all terms listed therein; (ii) all applicable Ontera service rules and policies referenced in these Terms of Service or to which you may be directed when you order or use the Services; and (iii) any specific terms attached at any time or incorporated by reference into these Terms of Service ("**Documents**"), form our agreement with you ("**Agreement**"). The Terms of Service will prevail to the extent of any conflict or inconsistency between the Documents and the Terms of Service. If you have signed or accepted a separate agreement with Ontera related to the Services, then that agreement applies. Neither you nor a Ontera sales or customer service representative, agent, dealer or employee may change this Agreement, and you may not rely on such changes. Customer is solely responsible for the use of the Services by it and other users ("**Users**") and shall: (a) take all necessary measures to ensure that the Services are used in accordance with this Agreement and (b) be liable for all consequences resulting from any breach of this Agreement. Customers and all Users are sometimes called "**you**" in this Agreement.

**2. Charges, Billing & Payment.** You shall pay all applicable monthly service rates, access fees, usage charges, installation fees and/or activation fees, and other amounts, fees and charges, if any, together with all applicable taxes, identified to you when you purchase the Services or as otherwise identified to you by Ontera from time to time ("**Charges**"). Unless otherwise set out on your Ontera invoice, Charges will commence on the date of the initial activation of the Services. Ontera will bill you monthly, and you are liable for and shall pay Ontera when due, on a monthly basis, all invoiced Charges. Allow adequate time (typically 5-7 days if pay by mail or financial institution) for your payment to reach us and for us to process your payment before the required payment date. Ontera may bill you for any Charge up to 12 months from the date that Charge was incurred. If payment is not **received** by Ontera before your next invoice date, or within **30 days** of the date of any final invoice if the services have been terminated, you will be charged interest on the balance owing at a compound interest rate equal to 2% per month (26.82% per year), calculated and compounded monthly from the invoice date ("**Late Payment Charge**"). Ontera may change the Late Payment Charge from time to time. If you question or dispute any Charge, you must do so within **90 days** of the disputed invoice date; otherwise, you will be deemed to accept all Charges. Unless otherwise set out on your invoice, no Charge disputed by you will be considered past due unless Ontera reasonably believes your dispute is to evade or delay payment.

Administrative charges, as set by Ontera from time to time, may be assessed against you for administrative or account activities including collection efforts due to your non-payment or having a balance over your credit limit; returned or rejected payments; change of any personal identifier information; suspension, disconnection or restoral of Services. All administrative fees charged to you will form part of the Charges owed by you to Ontera under this Agreement.

You will ensure that your billing and payment information provided to Ontera (including name, mailing address, residency, address, telephone number, credit card and bank account) remains current at all times. If you provide a credit card, bank account, or other pre-authorized payment method to Ontera to make your monthly payments, you authorize Ontera to charge your credit card or bank account the amount of any outstanding amounts and all Charges due under this Agreement.

**3. Amendments/Changes.** To the extent not prohibited by applicable law, Ontera may change the Services and/or this Agreement, including changing applicable charges, fees or other obligations; or any feature, content, structure or other aspect of any of the Services. Ontera will notify you in advance of any change to this Agreement and material change to your Services by posting a notice on [www.ontera.ca](http://www.ontera.ca), mail, sending notice message on your monthly invoice, or any other notice method likely to come to your attention. If you do not accept such change, your sole remedy is to terminate the Service to which such change applies. If you continue to use the Services after any such change is effective, to the extent not prohibited by applicable law, you expressly agree that you: (i) will be deemed to have accepted the change, with no additional written agreement or express acknowledgement required; (ii) specifically waive all statutory requirements for notice and express acceptance of such change except for those provided in this section; and (iii) will be responsible for the payment of all Services.

**4. Termination of Services and Default.** You may contact Ontera at Ontera Customer Care (see end of Agreement) to terminate any Service. Termination is effective 30 days from the date you contacted Ontera. You will be charged the applicable Charges for that 30 day termination period inclusive of any early termination provisions related to the service term for which you have agreed to acquire Service(s) from Ontera.

Ontera may without liability stop providing you with any or all of the Services and/or terminate this Agreement for any reason upon a minimum of 30 days prior written notice to you.

If you breach any part of this Agreement, Ontera may, as permitted by law and without liability: (a) enter upon your premises and take immediate possession of or require you to promptly return in proper working order and in good condition all Ontera Equipment provided in connection with the Services; (b) accelerate all Charges and other amounts under this Agreement as due and owing as of the date of termination; and (c) terminate all Services and this Agreement by written notice to you and specify a final payment date for all amounts owing by you hereunder not earlier than 10 days (or such other date as is permitted by law) from the date of such notice.

**5. Suspension of Services.** Upon reasonable advance notice to you, Ontera may suspend any Service for a breach of this Agreement. Suspension does not change your obligation to pay for the Services.

**6. Special Payment Terms; Deposits and Alternatives.** In exceptional circumstances, Ontera may require you to pay the Charges on an interim basis, despite your monthly billing cycle, and you shall pay on or before the stipulated due date to avoid termination or suspension of your Services.

Ontera may require deposits from you at any time if you: (a) have no credit history with Ontera and do not provide satisfactory credit information; (b) have an unsatisfactory credit rating with Ontera due to payment practices in the previous 2 years regarding any Ontera Services; or (c) present an abnormal risk of loss. Deposits will earn simple interest based on the Bank of Nova Scotia's monthly savings account rate in effect from time to time, calculated monthly on the last day of your monthly billing period, prorated for any partial month Ontera holds the deposit. When the Services are terminated or the conditions justifying the deposit are gone, Ontera will apply the deposit and any earned interest against the outstanding Charges or other amounts owing by Customer, and thereafter refund to Customer any balance of the deposit, plus interest, if any, earned.

**7. Identifiers.** You do not own any identifier (e.g. telephone, account, calling card or PIN number; e-mail, IP or Web page address; access code, etc.) assigned to you and Ontera may change or remove any identifier at any time upon notice to you.

**8. Obligation to Provide Service.** Ontera reserves the right to deem any of the Services unavailable to any applicant, including without limitation, in the following circumstances: (a) Ontera would have to incur unusual expenses which the applicant will not pay; for example, for securing rights of way or for special construction; (b) the applicant owes amounts to Ontera that are past due other than as a guarantor; or (c) the applicant does not provide a reasonable deposit or alternative required pursuant to the Terms.

Where Ontera does not provide service on application, it will provide the applicant with a written explanation upon request.

Ontera assumes no liability whatsoever for any claims, damages, losses or expenses arising out of or otherwise relating to the unavailability of any of the Services or the decision of Ontera not to provide any of the Services on application.

**9. Connections and Non-Ontera Equipment.** You must supply, install and maintain all facilities, software and equipment not provided by Ontera ("**Non-Ontera Equipment**") including all wiring inside your premises and equipment up to the point where the local telephone company's facilities end and your facilities begin. You are responsible for all disruptions and damage caused by Non-Ontera Equipment, including any effect on other customers' ability to receive Ontera services, and Ontera may take any action which it considers necessary to address that effect, including charging you for any costs that may ensue to remedy such effect.

You are solely responsible for the state of and all access to Customer Equipment, maintenance of security and privacy and all other risks involved in connection with the Customer Equipment.

It is your responsibility to re-connect your facilities and equipment as necessary after termination of Ontera Services.

**10. Ontera Equipment; Ontera Right to Enter Premises.** All Ontera Equipment (meaning any device, equipment or hardware owned or supplied by Ontera and used in connection with the Services) will always remain Ontera's property and you will: (i) take reasonable care of the Ontera Equipment; (ii) not sell, lease, mortgage, transfer, assign or encumber the Ontera Equipment; (iii) not move or re-locate the Ontera Equipment, and (iv) immediately return all Ontera Equipment to us at your cost upon termination of the Services to which the Equipment related. If you fail to

comply with these obligations, you will pay us the undiscounted retail value of the Ontera Equipment, together with any costs incurred by us in seeking possession of the Ontera Equipment. Failure to do so will result in certain charges to you, as identified to you when you received such Ontera Equipment. Ontera will provide maintenance and repairs to Ontera Equipment as required due to normal wear and tear.

Additional charges may apply for maintenance and repair work performed outside of regular working hours. You may also be charged for the cost of repairing or replacing the Ontera Equipment if you have deliberately, negligently or by virtue of lack of reasonable care, caused loss, theft or damage to the Ontera Equipment. In all cases, you are liable for all damage caused to Ontera Equipment and facilities by you or by customer-provided equipment. You must immediately notify Ontera of any loss, theft or damage of or to Ontera Equipment.

Ontera may enter the premises on which the Services are, or are to be, provided, to install, inspect, repair, maintain, or remove the Ontera Equipment, or to maintain, protect, investigate, modify or improve the operation of the Services, or to inspect and perform necessary maintenance in cases of network affecting disruptions involving customer-provided facilities. You will obtain and provide to Ontera consents from all necessary persons, except in emergencies or pursuant to a court order.

**11. Restrictions on Use of Service.** You shall not:

- a) use the Services for anything other than your own personal use and the use of persons having been granted your permission to use the Services. You may not resell the Services, receive any charge or benefit for the use of the Services, or share or transfer the Services;
- b) use the Services or permit them to be used for a purpose or in a manner that is contrary to law, for any illegal purpose, including criminal offences, intellectual property infringement, harassment or interference with network operations; or to make annoying or offensive calls;
- c) use the Services or permit them to be used so as to prevent a fair and proportionate use by others;
- d) re-arrange, disconnect, remove, repair, modify or otherwise interfere with any Services, Ontera Equipment or facilities of other telecommunications carriers and telecommunications, cable television and fixed wireless access service providers used in providing Services;
- e) attempt to receive any Service without paying the applicable fees and charges; and/or
- f) use any of the Services in a manner which bypasses, or attempts to bypass, Ontera's network.

From time to time, we may establish policies, rules and limits (together, the “**Policies**”) concerning use of the Services, Customer Equipment, Non-Ontera Equipment and any products, content, applications or services used in conjunction with the Services, Customer Equipment or Non-Ontera Equipment. Your use of the Services is subject to these Policies. We will provide you with notice of the Policies and of changes to the Policies. Our Acceptable Use Policy, available at [http://www.ontera.ca/en/legal\\_aup.html](http://www.ontera.ca/en/legal_aup.html), is incorporated into these Terms of Service by reference. When using the Services, the Customer Equipment, Non-Ontera Equipment or any products, content, applications or services used in conjunction with the Services, Customer Equipment and/or Non-Ontera Equipment, you must comply with all applicable laws and our Policies. We may suspend or terminate your Services, the Agreement and any other agreement for services you may have with any related Ontera entity, without notice to you, if you engage in one or more of the activities prohibited by our Policies. In addition, you may be charged for any costs incurred by Ontera or any related Ontera entity in connection with your breach of the terms of this Section, including costs incurred to enforce your compliance.

Ontera reserves the right to restrict, change, suspend or terminate your Services by any means if your access, use or connection to the Services, Customer Equipment, non-Ontera Equipment or the facilities of other telecommunications carriers and telecommunications, cable television and fixed wireless access service providers is impairing or adversely affecting Ontera's operation of or the use of Ontera Services or facilities of other telecommunications carriers and telecommunications, cable television and fixed wireless access service providers by others.

**12. Customer Liability for Calls.** You are responsible for all calls originating from, and charged calls accepted at, your telephone(s), regardless of who made or accepted them.

**13. Confidentiality of Customer Records; Personal and Credit Information.** Unless you provide express consent, or disclosure is pursuant to a legal power, or is required in a medical, legal or security emergency or where there appears to be imminent danger to life or property and your consent cannot be sought in a timely manner, all information Ontera keeps about you, other than your name, address and listed telephone number, is confidential and will not be disclosed by Ontera to anyone other than: (a) the customer; (b) a person who, in the reasonable judgment of the Company, is seeking the information as an agent of the customer; (c) another telephone company, provided the information is required for the efficient and cost-effective provision of telephone service and disclosure is made on a confidential basis with the information to be used only for that purpose; (d) a company involved in supplying the customer with telephone or telephone directory related services, provided the information is required for that purpose and disclosure is made on a confidential basis with the information to be used only for that purpose; (e) an agent retained by the Company in the collection of the customer's account, provided the information is required for and is to be used only for that purpose; (f) a public authority or agent of a public authority, for emergency public alerting purposes, if a public authority has determined that there is an imminent or unfolding danger that threatens the life, health or security of an individual and the danger could be avoided or minimized by disclosure of information; or (g) an affiliate involved in supplying the customer with telecommunications and/or broadcasting services, provided the information is required for that purpose and disclosure is made on a confidential basis with the information to be used only for that purpose. Ontera protects your personal information in accordance with the Ontera Privacy Statement (available at [http://www.ontera.ca/en/legal\\_privacy.html](http://www.ontera.ca/en/legal_privacy.html) ). Ontera's liability for disclosure of customer information contrary to this Section 13 is not limited by Section 14.

You will be deemed to have given your express consent where you provide: written consent; oral confirmation verified by an independent third party; electronic confirmation through the use of a toll-free number; electronic confirmation via the Internet; oral consent where Ontera retains an audio recording of the consent; or consent through other methods, as long as an objective documented record of your consent is created by you or an independent third party.

**14. No Warranties, etc.** Ontera makes no warranties, representations, guarantees or conditions of any nature whatsoever, expressed or implied, including any warranty, representation, guarantee or condition of fitness for a particular purpose, merchantability, title or non-infringement, with respect to any of the Ontera Equipment, the Customer Equipment (except as provided below) or the Services, and all warranties, representations, guarantees and conditions, expressed and implied, are, to the extent permitted by applicable law, hereby excluded. Customer Equipment is subject to the terms and conditions of any manufacturers' warranty or extended warranty plan you may have obtained on the purchase of the Customer Equipment. None of the Services are guaranteed to be error-free or uninterrupted and Ontera shall not be liable to you or any other person for any damages, whether direct, indirect, special, consequential, exemplary, incidental, or any kind or for any reason whatsoever, arising out of any Service.

**15. Service Interruption.** Ontera may interrupt Your services at any time for any duration without notice or liability to inspect, install, replace, repair or perform maintenance on the Equipment or facilities or for any required technical reasons.

**16. Limitation of Ontera Liability.** ONTERA'S AND ITS PROVIDERS' LIABILITY FOR NEGLIGENCE, BREACH OF CONTRACT, TORT OR OTHER CAUSES OF ACTION, INCLUDING FUNDAMENTAL BREACH, TO THE EXTENT PERMITTED BY APPLICABLE LAW IS LIMITED TO PAYMENT, UPON REQUEST, FOR ACTUAL AND DIRECT DAMAGES OF A MAXIMUM AMOUNT OF THE GREATER OF \$20 AND AN AMOUNT EQUAL TO THE SERVICE FEES PAYABLE DURING ANY SERVICE OUTAGE. OTHER THAN THE FOREGOING PAYMENT AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES SHALL ONTERA (OR ITS PROVIDERS) BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY DAMAGES, INCLUDING DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, ECONOMIC, EXEMPLARY OR PUNITIVE DAMAGES INCLUDING LOSS OF DATA, LOSS OF INCOME, LOSS OF PROFIT OR FAILURE TO REALIZE EXPECTED SAVINGS ARISING DIRECTLY OR INDIRECTLY FROM ONTERA'S (OR ITS PROVIDERS') NEGLIGENCE OR BREACH OF CONTRACT (INCLUDING FUNDAMENTAL BREACH OR OTHERWISE).

Without limiting the generality of the foregoing, Ontera is not liable for:

(a) any actor omission of a telecommunications carrier whose facilities are used in establishing connections to points which Ontera does not directly serve; (b) defamation or copyright infringement arising from material transmitted or received over Ontera's facilities; or (c) infringement of patents arising from combining or using customer-provided facilities with Ontera's facilities. The limitations of liability set out above do not apply to damages resulting from physical injuries, death or damage to your premises or other property wholly caused by Ontera's negligence.

**17. General.** Ontera is a federally-regulated undertaking and as such this Agreement, including all matters relating to its validity, construction, performance and enforcement, shall be governed by applicable federal laws and regulations of Canada and only those laws and regulations of the province in which your designated billing address is located, that are applicable to it. This Agreement is subject to amendment, modification or termination if required by such laws or regulations. If any provision in this Agreement is declared to be invalid or in conflict with any such law or regulation, that provision may be deleted or modified, without affecting the validity of its other provisions. This Agreement including the Documents, as amended, constitute the entire agreement between you and Ontera and supersedes all prior agreements, written or oral, with respect to the same subject matter. Except as expressly stated herein, this Agreement cannot be modified or amended by waiver, course of dealing or otherwise. Ontera may transfer or assign all or part of this Agreement including any rights in accounts receivable at any time without prior notice or consent without Ontera's prior written consent.

This Agreement has been drawn up in the English language at the express request of the parties. La présente convention a été rédigée en anglais à la demande expresse des parties. Your use of the Service represents evidence that you accept and agree with the terms and conditions of this Agreement. Ontera is not responsible for failing to meet obligations due to causes beyond its reasonable control, including all force majeure events. The word "**including**" means including without limitation.

**18. Intellectual Property.** All trademarks, copyrights, brand concepts, names, logos and designs used by us are intellectual property assets, registered or unregistered, off or used under license by, Ontera or its affiliates. All are recognized as valuable assets of their respective owners and may not be displayed or used by you in any manner for commercial purposes or copied in any manner whatsoever for any purpose.

**19. Directories.** Ontera will make your name, address and telephone numbers available to publishers of paper and electronic telephone directories and to providers of operator services, in accordance with legal or regulatory requirements. However, subject to the 911 service provider exception described below, you may opt to have your name, address and telephone number listing information omitted from these directories or services by requesting, and paying for, an unlisted telephone number. These publishers of paper and electronic directories and providers of operator services, however, may receive or obtain your telephone numbers and address from a source other than Ontera. Furthermore, your name, address and telephone numbers will be accessible by 911 service providers, even if you have requested, and paid for, an unlisted telephone number(s). Ontera will not be liable to you or to any third party for any error, inclusion or omission with respect to any telephone listings or directories.

**20. Choice of Long Distance Provider.** You may choose your long distance service provider from those providers that have entered into connection arrangements with Ontera. If you choose to receive local but not long distance services from us, Ontera may provide long distance services to you prior to your activation by your chosen long distance company to ensure continued availability of long distance services to you.

**21. 911 Emergency Services.** In addition to Ontera's liability set out above, the following limitations apply to the provision of 911 emergency services on Ontera Services.

In order for 911 service to function properly, you must use the adaptor which forms part of the Customer Equipment Ontera has provided you with (the "Adaptor") and other Customer Equipment at your service address. Ontera will not be liable to you or to any third party for your failure to comply with this requirement.

In respect of the provision of 911 emergency services available through Ontera Services, Ontera is not liable for:

- a) libel, slander, defamation or the infringement of copyright arising from material or messages transmitted over Ontera Service from your property or premises or recorded by Customer Equipment or Non-Ontera Equipment;
- b) damages arising out of your act, default, neglect or omission in the use or operation of Customer Equipment and/or Non-Ontera Equipment;
- c) damages arising out of the transmission of material or messages over Ontera's Service on your behalf which is in any way unlawful; or
- d) any act, omission, or negligence of other companies or telecommunications carriers and telecommunications, cable television and fixed wireless access service providers when their facilities are used in establishing connections to or from your facilities and Customer and/or Non-Ontera Equipment.

Except in cases where negligence on Ontera's part results in physical injury, death or damage to your property or premises, Ontera's liability for negligence related to the provision of 911 emergency services on a mandatory basis is limited to a maximum amount of the greater of \$20 and an amount equal to the services fees payable during the service outage. However, Ontera's liability is not limited by this Section in cases of deliberate fault, gross negligence or anticompetitive conduct on Ontera's part or in cases of breach of contract where the breach results from Ontera's gross negligence.

**911 Emergency Support for Internet Phone Service. PLEASE READ THE INFORMATION BELOW ABOUT 911 EMERGENCY SERVICE CAREFULLY.**

By using or paying for the Services, you acknowledge and agree to all of the information below regarding the limitations of using the Service for dialing 911. You acknowledge and understand that the Service does offer a limited 911 type service and that such 911 type dialing differs in important respects from traditional 911 service, as described below. You agree to advise all individuals of these limitations who may have access to place calls over the Service from the location at which you have installed it, including users you authorize to use the Service:

a) 911 emergency dialing is only available on Customer Equipment (Gateway) provided by Ontera for use with the Service.

b) Your 911 call may be routed to a different dispatcher than that used for traditional 911 dialing. The dispatcher will be located at either the Public Safety Answering Point (PSAP) or will be a local emergency service representative designated for the address you listed at the time you subscribed for the Service.

b) The Service's 911 service will not function if the Gateway fails or is not configured correctly or if your Service is not functioning for any reason, including, but not limited to, in the event of a power outage, broadband service outage, or suspension or disconnection of your Service because of billing issues. If there is a power outage, you may be required to reset or reconfigure the Gateway prior to being able to use the Service, including for 911 purposes.

c) 911 dialing will not function correctly if you move your Gateway to a location other than that provided to Ontera at the time you activated the Service. In such event, in order to have 911 calling routed correctly, you must update your service address at least two days prior to moving by calling 1-888-566-8372.

d) The PSAP or local emergency service dispatcher receiving your 911 call through the Service may not be able to capture and/or retain automatic number of location information. This means that the dispatcher may not know the phone number or physical location of the person who is making the 911 call. Therefore, if you dial 911 using the Service, you must immediately inform the dispatcher of your location (or the location of the emergency, if different). You must ensure not to disconnect the line, as the dispatcher may not have a phone number to use to call you back. You must not hang up until you are told to do so by the dispatcher. If you are inadvertently disconnected you must call back immediately. If you are unable to speak and describe your location, the emergency dispatcher may not be able to locate you. If you dial 911 and hang up the receiver, your call will be disconnected.

e) For technical reasons associated with the possibility of network congestion, with the Service, there is a possibility that your 911 call will produce a busy signal or will take longer to answer, as compared to traditional 911 calls.

f) At the time of subscription or notice of moving for the Service, if you do not correctly identify the actual location of where your Gateway will be located, 911 communications may be misdirected to an incorrect 911 local emergency service provider.

g) You acknowledge and understand that Ontera will not be liable for any service outage and/or inability to dial 911 using your Service or to access emergency service personnel due to the 911 dialing characteristics and limitations listed herein. You agree to defend, indemnify and hold harmless Ontera, its officers, directors, employees, affiliates, agents and any other service provider who furnishes services to you in connection with the Service, from any and all claims, losses, damages, fines, penalties and costs (including solicitor's fees) by, or on behalf of, you or any third party or user of the Service relating to the failure or outage of the Service, including those related to 911 dialing.

**TO CONTACT US:**

By Telephone – Ontera Customer Care: 1-888-5-ONTERA