

Schedule A

Terms and Conditions

1. **Services** Debian IT shall furnish to the Customer the services selected under "Section 1: Schedule of Services".
2. **Fees** The Customer shall pay the fees for the Services at the rates as specified above, plus applicable taxes (the "Fees"). The payments shall be due and payable by the Customer to Debian IT monthly in advance.
3. **Invoicing** Invoices will be issued monthly. Invoiced amounts are payable at the invoice date and are subject to a late payment charge of one percent (2%) per month calculated from the invoice date, if not paid within thirty (30) days of the invoice date.
4. **Credit Check** The Customer consents to Debian IT, subject to applicable legislation, conducting a credit check on the Customer.
5. **Service Charges** Where special facilities or equipment are necessary, or where Debian IT must incur any unusual expense in order to furnish the Services to the Customer (collectively, the "Special Work"), Debian IT shall provide to the Customer a written quote for the Special Work. If the Customer acknowledges in writing its agreement with the quote, then Debian IT shall provide the Special Work and be entitled to assess the additional charge to the Customer, which shall be payable upon completion of the Special Work.
6. **Term** The Term of this Agreement is as outlined on the Schedule of Services document with the commencement Date being the later of:
 - (i) the Requested Service Commencement Date: OR
 - (ii) the Actual Service Commencement Date (the first day services are rendered, or service installed and ready for use)

The Customer will be deemed to have accepted the service on the Service Commencement Date unless it provides a written notice to the contrary to Debian IT within 5 days after the Service Commencement Date.

This Agreement will be deemed to be renewed for a further 12 months on the same terms and conditions set forth herein if the Customer does not provide Debian IT with written notice 60 days prior to the expiry of the current term.

7. **Termination**
 - (a) If this Agreement is for any reason terminated by the Customer prior to the expiry of the Term, the Customer shall pay to Debian IT a termination fee (the "Termination Fee") equal to the remaining unpaid amount of the Fees for the period from the date of termination to the expiry of the Term. The Customer acknowledges that the Termination Fee is not in substitute or election of any other right or remedy Debian IT may have at law or in equity.
 - (b) Debian IT may, with 30 days notice, terminate all or any of the Services for any breach of this Agreement by the Customer, including but not limited to non-payment by the Customer of the Fees and all other amounts payable by the Customer to Debian IT pursuant to the terms of this Agreement or failure to comply with the Customer's obligations under the terms of this Agreement.
 - (c) Either party shall be entitled to terminate this Agreement immediately with one day's written notice in the event of the other party's insolvency, receivership or voluntary or involuntary bankruptcy or in the event that Debian IT ceases to offer the Services. In the event of default by the Customer, any and all payments required to be made to Debian IT by the Customer shall be due and payable immediately.
 - (d) Termination of this Agreement for any reason shall not relieve the Customer from any liability for amounts owing and accrued prior to the time that such termination becomes effective and any Termination Fee.
 - (e) Debian IT reserves the right to remove any Customer's files stored on Debian IT's equipment or facilities if the Services and this Agreement are terminated.

8. **Customer Obligations**

- (a) The Customer shall:
 - (i) ensure at all times that any of Debian IT's Equipment installed or utilized on the customer's premises (Debian Equipment) and the Customer or third party provided equipment is stored in a manner and in an environment which conforms to the relevant equipment manufacturer's specifications;
 - (ii) be responsible for all loss and/or damage to the Debian Equipment, except where directly caused by the negligence of Debian IT;
 - (iii) provide all necessary infrastructure required for the safe and efficient operation and maintenance of the Debian Equipment and the Customer or third party provided equipment in accordance with Debian IT, Canadian Standards Association and other specifications or regulations as applicable; and as Debian IT may specify, from time to time;
 - (iv) permit Debian IT or its third party providers prompt, safe and unrestricted access to its premises for the purpose of performing its obligations under this Agreement;
 - (v) at all times comply with the terms and conditions of Debian IT's acceptable use policy which policies are incorporated into this Agreement by reference thereto; and be aware of, and comply with, changes to any federal or provincial law which may relate to the Customer's use of the Services.

(b) The Customer shall not:

- (i) obtain, by any means whatsoever, information regarding the personal identification or password of any other person which is a customer of Debian IT or any network to which the Customer may be permitted access;
- (ii) obtain or seek to obtain access to or interfere with any programs or data maintained by Debian IT;
- (iii) develop or use programs which adversely affect or impact other customers, the Services, Debian's network or any computer network;
- (iv) use, transmit, or store anything obscene, offensive or defamatory or which appropriates a personality without legal permission or which in any way violates or infringes copyright, trademark or other intellectual property rights;
- (v) utilize the Services and Debian's Network for any purpose which is contrary to the laws of any government having jurisdiction over Debian IT and/or the Customer; and omit any act or cause or permit any act to be committed or provide any services which will conflict with or affect in any way the provision of the Services by Debian IT.

9. **Debian IT Obligations** Debian IT shall:

- (a) use reasonable efforts to install in a timely fashion any required Debian Equipment and to provide the Services, provided that the location where the Debian Equipment is to be installed and the Services are to be provided are in Debian IT's service area;
- (b) provide the Debian Equipment and arrange for the supply, installation and maintenance of the Debian Equipment at each site specified by the Customer in this Agreement and ensure that the Debian Equipment is installed and maintained according to the manufacturer's specifications and the specifications; and
- (c) implement reasonable security, backup and disaster recovery policies to safeguard the Customer's information and network in conjunction with the Services that the Customer has subscribed for above. Debian IT provides no warranty or guarantee, expressly or written, with respect to the customer's data security and integrity.

10. User Name and Password

- (a) Debian IT will provide the customer with a user name(s) and password(s) and an administrator user name and password which shall be used to gain access to the Services.
- (b) The Customer shall be solely responsible for maintaining the security of the user name(s) and password(s) and the administrator user name and password, and for preventing any unauthorized use.
- (c) The user name and administrator user name shall use the systems and networks in a proper and prudent manner and according to any operating instructions provided by Debian IT.

11. Condition of Web Hosting Data

- (a) In relation to Debian IT's web hosting service (the "WebService"), any information, materials or data (the "Material") supplied to Debian IT must be in a form requiring no additional manipulation or revision on the part of Debian IT in order for Debian IT to supply the WebService to the Customer.
- (b) In the event the Material provided by the Customer to Debian IT requires manipulation or revision by Debian IT, then Debian IT may, at its option and at any time, reject the Material, including any portion of the Material which has been put on Debian IT's servers. Debian IT agrees to notify the Customer immediately of its refusal to place all or any portion of the Material on Debian IT's server and to provide the Customer with the opportunity to amend or modify the Material in order for Debian IT to provide the WebServices. If the Customer fails to modify any portion of the Material, as directed by Debian IT, then within 10 days of such a request, this Agreement in relation to WebServices shall be deemed to be terminated.

12. Connection Speed Connection speed represents the speed of a connection and does not represent a guarantee of available end-to-end bandwidth.

13. Warranty

- (a) Debian IT shall generally provide the Service listed in the Debian IT Service Level Agreement.
- (b) The Customer acknowledges that the Services may be subject to unscheduled and unannounced outages and breakdowns which may not be rectified promptly. Customer acknowledges that Debian IT does not warrant uninterrupted or error-free Services and that Debian IT does not warrant the content, availability, accuracy or any other aspect of any information including, without limitation, all data, files and all other information or content in any form or of any type, accessible or made available to or by Customer or its end users through the use of the Services.
- (c) In the event of the interruption, failure or breakdown in the Services, or of the loss or spoiling of the Customer's programs or data, Debian IT makes no warranty that either will be restored. The Customer assumes full responsibility for ensuring that a sufficient backup its files and data areas is maintained.

14. Service Interruption

- (a) Interruption in this Agreement refers to the inability of the Customer to complete network connections to the services due to a malfunction of Debian IT's Equipment or Debian IT's network and such failure continues after three (3) consecutive polling attempts have been made by Debian IT's network operations center to the Customer's service facilities. For greater certainty, interruption does not include any Debian Equipment or network failure associated with network connections outside of Debian IT's core network, any failure caused by the Customer, any failure caused by power outage or human error or any failure due to termination of the Services by Debian IT in accordance with the terms of this Agreement.

15. Repair

- (a) Debian IT will monitor and maintain the Services on a 24-hour basis every day throughout the Term. Debian IT will maintain staff at its Network Operations Centre every day throughout the Term between the hours of 8:30 a.m. to 5:30 p.m. (MST).
- (b) Debian IT's obligations under this Agreement do not extend to any relocation, maintenance, repair, rearrangement, alteration, modification or adjustment which becomes necessary due to, resulting from or in any way related to, damage, misuse or failure on the part of the Customer.

16. Limitation of Liability

- (a) Under no circumstances will Debian IT or its successors and assigns, be liable to the Customer for any incidental, special or consequential damages, expenses, costs, liability, loss or damage whatsoever, whether arising in negligence, tort, statute, equity, contract, common law or any other cause of action or legal theory. The Customer agrees, acknowledges and confirms that Debian IT's liability arising out of or in connection with this Agreement and the provision of the Services, and the Customer's exclusive remedy, shall be limited to the Fee paid by the Customer and that this limitation is fair and reasonable in the commercial circumstances of this Agreement and that Debian IT would not have entered into this Agreement but for the Customer's agreement to limit Debian IT's liability in the manner, and the extent, provided for herein.
- (b) For greater certainty, Customer agrees that Debian IT and its successors and assigns shall not be liable for any lost profits, anticipated revenue, loss of data, loss of use of any information system, lost business revenue, failure to realize expected savings or any other commercial or economic loss of any kind whatsoever arising out of or in connection with this Agreement or the provision of the Services, even if Debian IT has been advised of the possibility of such loss.
- (c) Debian IT is not liable for protection or privacy of electronic mail or other information transferred through the Services or any other network provider its customers may utilize.
- (d) Debian IT assumes no liability arising from the use of the Services furnished by Debian IT in combination with services, products or equipment provided by Customer or any third parties.
- (e) The Customer shall have sole responsibility for the preparation of its programs and data. Debian IT, its directors, employees, sponsors and agents shall not be responsible for any fault or error in the Customer's programs or any programs accessed through the Services provided by Debian IT.
- (f) This Section 16 shall apply even in the event of a breach of condition, a breach of an essential or fundamental term or a fundamental breach of this Agreement.

17. Indemnity

- (a) The Customer shall indemnify and save Debian IT, its successors and assigns, and their directors, officers, employees and agents harmless from and against all loss, liability or damages of any type and expense, including reasonable legal fees and disbursements, arising from any and all claims by any third party, including end users and distributors (collectively, the "Third Party"), in connection with the use of the Services (and related equipment) by the Customer or any Third Party or in connection with the Customer's failure to comply with its obligations under this Agreement, whether the failure is attributable to the Customer or to some other person using the Customer's account with or without permission of the Customer.
- (b) The Customer shall indemnify Debian IT, its successors and assigns and their directors, officers, employees and agents, against any claim by a Third Party for alleged infringement of any copyright, trademark or any other intellectual property rights which arises as a result of the storage or processing of any of the Customer's programs or data on or through the Services or the Internet.
- (c) The indemnities contained within this Article 17 shall survive termination of this Agreement for the maximum time period permitted by law.

18. Dispute Resolution

In the event of any dispute, controversy, claim or alleged breach respecting this Agreement which cannot be resolved (each a "Dispute"), the Dispute shall be submitted to arbitration. The arbitration shall be held in Alberta and shall be conducted in accordance with the *Arbitration Act* (Alberta), by a single arbitrator appointed by a Justice of the Alberta Court of Queen's Bench. The decision of the arbitrator shall be final and binding upon the parties and the expense of the arbitration shall be paid as the arbitrator determines.

19. Change Request

- (a) If the Customer wishes to order additional services or make a change to the Services:
- (i) the Customer may submit to Debian IT a change request in writing via email, detailing the change in the Services being requested;
 - (ii) Debian IT will respond to the Customer in writing via e-mail within fifteen (15) business days of receipt of the Change Request (the "Estimate"), stating whether the change may be made, and if so, specifying the estimated cost and time required to implement the change and the impact, if any, of the change on the Services; and
 - (iii) the Customer may respond to Debian IT in writing via e-mail within fifteen (15) business days of receipt of the Estimate by either advising Debian IT to proceed with the change based on the estimated cost and time schedule specified in Debian IT's response or by providing written notice that the Customer is withdrawing the Change Request (the "Withdraw"). For greater certainty, if Debian IT does not receive the Customer's Withdrawal 7 days within delivery of the Estimate, then Debian IT shall deem the Change Request to have been withdrawn by the Customer.

20. Debian IT Property and Equipment

- (a) All material and equipment provided by Debian IT and used in the provision of the Services ("Debian Equipment") shall at all times be and remain the exclusive property of Debian IT.
- (b) Nothing in this Agreement contemplates, constitutes or creates a transfer or license of any intellectual property from Debian IT to the Customer.
- (c) Debian IT may in its absolute discretion and without notice to the Customer, at Debian IT's cost, make changes to or replace the Debian Equipment and any other equipment used in connection with the provision of the Services.

21. Independent Contractors

The parties to this Agreement agree that the relationships created by this Agreement is that of independent contractors.

22. Confidential Information

- (a) "Confidential Information" means any data, documentation or other information of a proprietary nature, and which a party ought to know is confidential or proprietary, which is disclosed or made available to the other party in connection with the negotiation, preparation or performance of this Agreement and the design, installation, delivery or implementation of the Services, including without limitation, the network design specifications.
- (b) Each party agrees not to disclose the Confidential Information of the other party without the other party's written consent, except as required by law, and agrees to take such care to protect the confidentiality of the Confidential Information as would be taken by a reasonable party to protect its own confidential information from disclosure. Furthermore, each party shall indemnify and save the other harmless from any losses or damages directly or indirectly caused by the disclosure of Confidential Information by the party or any of its agents, contractors, subcontractors, employees, successors or permitted assigns.
- (c) Both parties rights and obligations under this Section 22 survive any termination of this Agreement for the maximum amount of time permitted by law.

23. General Provisions

- (a) **Amendment:** All amendments to this Agreement shall be in writing duly executed by each party in the same manner and with the same formality as this Agreement.
- (b) **Assignment:** The Customer shall not assign this Agreement without the prior written consent of Debian IT, which consent shall not be unreasonably withheld. Any attempted assignment without such prior written consent shall be void. Debian IT shall be permitted to assign this Agreement without the consent of the Customer.
- (c) **Definitions:** Use of the term "Customer" shall in all cases include the directors, officers, employees and agents of the Customer.
- (d) **Discretion of Debian IT:** Any discretion, option, decision or opinion by Debian IT shall be sufficiently exercised or formed if exercised or formed by or subsequently ratified by Debian IT's system administrator or any other person or persons designated by Debian IT's directors.
- (e) **Entire Agreement:** This Agreement constitutes the entire agreement among Debian IT and Customer with respect to the matters referred to herein, and supersedes all prior negotiations, proposals, agreements, representations, warranties, whether oral or written, with respect to such matters.
- (f) **Enurement:** This Agreement shall be binding upon and enure to the benefit of Debian IT and the Customer and their respective successors and permitted assigns.
- (g) **Governing Law:** This Agreement shall be governed by and interpreted according to the laws of the Province of Alberta and the laws of Canada applicable therein.
- (h) **Interpretation:** In this Agreement, the headings are for convenience of reference only and shall not affect its construction or interpretation.
- (i) **Non-Waiver:** No waiver of any term or provision or of any breach or default shall be valid unless in writing and signed by the party giving such waiver, and no such waiver shall be deemed a waiver of any other terms or provision of any subsequent breach or default of the same or similar nature.
- (j) **Notice:** All notices provided for shall be given in writing and transmitted by personal delivery, prepaid first class registered or certified mail to the addresses identified:

Customer: Address to which Debian IT sends the Customer's invoices;

Debian IT: Suite 103, 820 – 10th Street SW., Calgary, Alberta T2P 2X1
- (k) **Severability:** The invalidity, illegality or unenforceability of any one or more provisions of this Agreement shall not affect or impair any other provisions of this Agreement.
- (l) **Counterparts.** This Agreement may be signed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute but one and the same instrument.
- (m) **Time.** Time shall be of the essence in this Agreement.