

## NEXICOM TERMS OF SERVICE – Version 7.0

1. The Nexicom Group of companies (“Nexicom”) provides a wide range of information, communication and entertainment services (“Services”). These services are provided to you subject to your compliance and agreement with the Terms of Service listed below (“Agreement”). Please read this Agreement carefully. By accessing the Services, you agree to be bound by this Agreement. If you do not wish to be bound by this Agreement, you may not access or use the Service. These Terms of Service may change from time to time, and it is your responsibility to regularly access the Nexicom website at [www.nexicom.net](http://www.nexicom.net) for the latest Terms of Service. Your Service will be bound by the latest Terms of Service on Nexicom’s website.
2. The following terms of service (“Terms”) govern your use of the Services. Any current Nexicom document describing the plans, features, services or products you have selected and any other document incorporated by reference (collectively, the “Materials”) together with these Terms constitute our agreement with you (the “Service Agreement”). If there is any inconsistency between the Materials and these Terms, these Terms will prevail. No sales representative, dealer, agent, officer or employee of Nexicom has the authority to change or modify these Terms, except pursuant to an official revised version of these Terms, and you may not rely on any such change or modification. These Terms cannot be changed by you.

### 3. THROUGHOUT THIS DOCUMENT:

**Us, we, our and Nexicom** means the Nexicom entity named in the Service Agreement

**Service or Services** means any or all of the home. Business Internet services, phone services, television services, security services or other services that you subscribe to under the Service Agreement or receive from or through Nexicom.

**Equipment** means any device, equipment or hardware used to access the Services or used in conjunction with the Services.

4. Your account information may, from time to time, be disclosed to other members of the Nexicom Group organization and to our agents and authorized dealers in order to service your account, respond to your questions and promote additional products and services offered by members of the Nexicom Group organization that may interest you. If you do not wish to receive offers or information from related Nexicom entities, please contact Nexicom at 5 King St E, Millbrook ON, L0A 1G0 or [privacy@nexicom.net](mailto:privacy@nexicom.net).
5. Unless otherwise specified in the Service Agreement, we may change, at any time, any charges, features, content, programming, structure or any other aspects of the Services, as well as any term or provision of the Service Agreement, upon notice to you. If you do not accept a change to the Services, your sole remedy is to terminate the Service Agreement and the Services provided under the Service Agreement, within 30 days of your receipt of our notice of change to the Services (unless we specify a different notice period), by providing us with advance notice of termination. If you do not accept a change to these Terms, your sole remedy is to retain the existing Terms unchanged for the duration of the Commitment Period (as defined below), upon notice to us within 30 days of your receipt of our notice of change in the Terms.

### 6. BY ENTERING INTO THE SERVICE AGREEMENT, YOU:

- 6.1 Agree that you are at least 18 years of age;
- 6.2 Authorize Nexicom to obtain information about your credit history and agree that Nexicom may provide information to others about your credit experience with Nexicom;
- 6.3 Accept all provisions of the Service Agreement, including those set forth in the Materials and these Terms;
- 6.4 Agree to cause all persons who use Services under your account or with your authorization to comply with the Service Agreement;
- 6.5 Acknowledge that the acts or omissions of all persons who use Services under your account or with your authorization will be treated for all purposes as your acts or omissions;
- 6.6 Acknowledge that you have received and had the opportunity to review a copy of the Service Agreement, including the Materials and these Terms;
- 6.7 Confirm that the information you have provided to us is up-to-date and accurate; and
- 6.8 Agree to notify us of any change in your information.

### 7. CHARGES, ACCOUNT AND PAYMENT INFORMATION

- 7.1 Charges will commence on the date of the initial activation of the Services or the Equipment, whichever is earlier (the “Activation Date”);
- 7.2 Unless otherwise agreed to by you and us, we will bill you monthly in advance for recurring charges. The bill will also capture usage-based charges for the prior period. We may bill you, however, for a charge up to six months from the date the charge was incurred;
- 7.3 You are liable for all charges to your account. All prices are subject to tax unless otherwise stated. Charges to your account are due and payable in full from the date of your invoice or statement. If you are paying by mail or through a financial institution, please allow adequate time for your payment to reach us prior to the required payment date;
- 7.4 If payment of an amount due on your account is not **received** by us by the required payment date specified by us, it will be considered a delinquent amount and will be subject to a late payment charge of 1.25% per month, calculated and compounded monthly on the delinquent amount (16.08% per year) from the date of the first invoice on which the delinquent amount appears until the date we receive such amount in full. You agree that we can charge any unpaid and

outstanding amount, including any late payment charges, on your account to your credit card, bank account or any other payment method pre-authorized by you for payment of our charges;

7.5 Administrative charges may be levied for administration or account processing activities in connection with your account, including as a result of the following:

- 7.5.1 Collection efforts due to non-payment or having a balance over your credit limit, including unbilled usage and pending charges, fees and adjustments; returned or rejected payments;
- 7.5.2 The change of any identifier (e.g., phone number); and the restoration of Service. A list of such charges is available on request and is incorporated into these Terms by reference.
- 7.5.3 When roaming off Nexicom<sup>®</sup> facilities (including voice, data and hotspot roaming), you will be responsible for all applicable Nexicom charges and will be subject to the limitations or conditions of service of the service provider of such roaming services.
- 7.5.4 Any questions or discrepancies regarding charges must be reported to us within 90 days of the date of our invoice or other statement. Failure to notify us within this time period will constitute your acceptance of such charges.
- 7.5.5 Unless otherwise set out in the Materials, if you agree to subscribe to one of our plans or Services for a committed period of time (the “Contract Period”), you may be subject to an early cancellation fee (“ECF”) for each Service. ***If you terminate your Service prior to the end of the Contract Period, you will pay us an ECF as specified in the Service Agreement, plus taxes where applicable.***
- 7.5.6 If you are receiving any benefit as a result of your relationship with a third party (e.g., your employer), we may verify such relationship. If you become ineligible to receive such benefit for any reason (e.g., your employment is terminated or your employer becomes ineligible to receive the benefit), we reserve the right to transfer your Service to an alternate Service plan, as determined by us in our sole discretion.
- 7.5.7 Changes to your account (e.g., price plan, features or identifiers) will not take effect until after your next billing date.

## 8. DEPOSIT, CREDIT REQUIREMENTS

- 8.1 We may require a deposit or impose other payment or credit requirements (e.g., interim payments; mandatory pre-payments) at any time and on such terms as determined in our sole discretion. You will receive interest annually on any deposits held by us calculated based on the Canadian Chartered Bank deposit rate for non-chequable savings deposits as published in the most recent Bank of Canada review F1. If your Service is terminated, we will apply any deposits or other payments against the outstanding final balance on your account.
- 8.2 Upon notice to you, we may assign, change or remove a credit limit on your account at any time. Service may be suspended at any time to any and all of your accounts with us if your balance, including unbilled usage and pending charges, fees and adjustments, exceeds this limit. Recurring service charges continue to apply during any suspension of Services.

## 9. 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 we may change or remove any identifier at any time upon notice to you.

## 10. ACCEPTABLE USE

- 10.1 You may not use the Services for anything other than your own personal use. You may not resell the services, receive any charge or benefit for the use of the Services or provide Internet access or any other feature of the Services to any third party. You may not share or transfer your Services without our express consent. From time to time, we may establish policies, rules and limits (together, the “Policies”) concerning use of the Services, Equipment and any products, content, applications or services used in conjunction with the Services or 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.
- 10.2 When using the Services, the Equipment or any products, content, applications or services used in conjunction with the Services or Equipment, you must comply with all applicable laws and our Policies. We may suspend or terminate your Services, the Service Agreement and any other agreement for services you may have with any related Nexicom 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 us or any related Nexicom entity in connection with your breach of the terms of this Section, including costs incurred to enforce your compliance.
- 10.3 We reserve the right to restrict, change, suspend or terminate your Service by any means if your access, use or connection to the Services, Equipment or our facilities is impairing or adversely affecting our operation or the use of our Services or facilities by others.
- 10.4 The Acceptable Use Policy applicable to Internet services is available at <https://nexicom.net/static/doc/Acceptable%20Use.pdf> and is incorporated into these Terms by reference.

## 11. CONTENT

- 11.1 We do not own content that you make available for inclusion on the Services (including the Internet Services). However, with respect to content you make available for inclusion on publicly accessible areas of the Services, you grant us the following world-wide, royalty-free and non-exclusive licenses, as applicable:

the perpetual, irrevocable and fully sub licensable license to use, distribute, reproduce, modify, adapt, publish, translate, communicate by telecommunication, publicly perform and publicly display content (other than photos, graphics, audio or video) you make available throughout the publicly accessible areas of the Services, and to incorporate it into other works in any format or medium now known or later developed with respect to content; and the license to use, distribute, reproduce, modify, adapt, publicly perform, publicly display and communicate by telecommunication content on the Services solely for the purpose for which it was made available. This license exists only for as long as you include content on the Services and terminates when you remove or we remove your content from the Services.

- 11.2 “Publicly accessible” areas of the Services are those areas of the Services that are intended by us to be available to the general public, e.g., online message boards that are open to both registered members and visitors. However, publicly accessible areas of the Services do not include portions of Services that are only accessible by registered members and services intended for private communication, including, but not limited to, mail and instant messenger.
- 11.3 We have the right, but not the obligation, to monitor or investigate any content that is transmitted using the Services or the Equipment. We may also access or preserve content or information to comply with legal process in Canada or foreign jurisdictions, operate the Services, ensure compliance with the Service Agreement or any Policies, or protect ourselves, our customers or the public. We reserve the right to move, remove or refuse to post any content, information or materials, in whole or in part, that we decide are unacceptable, undesirable or in violation of the Service Agreement.

## 12. EQUIPMENT

- 12.1 Except for Equipment that you have fully paid for, all Equipment installed or provided by us remains our property and you agree that:
- 12.1.1 You will take reasonable care with such Equipment;
  - 12.1.2 You may not sell, lease, mortgage, transfer, assign or encumber such Equipment;
  - 12.1.3 You may not re-locate such Equipment without our knowledge and permission;
  - 12.1.4 You will return such Equipment to us at your expense upon termination of the Services to which the Equipment related. If such Equipment is lost, stolen or damaged or sold, leased, mortgaged, transferred, assigned, encumbered or not returned, you agree to pay us the undiscounted retail value of such Equipment, together with any costs incurred by us in seeking possession of such Equipment;
  - 12.1.5 You authorize us and our representatives to enter or have access to your premises as necessary at mutually agreed upon times to install, maintain, inspect, repair or remove the Equipment or to maintain, investigate, protect, modify or improve the operation of our Services or our facilities;
  - 12.1.6 Equipment and related software may have to meet certain minimum requirements and be maintained in certain ways and in certain locations in order to access the Services or for the proper operation of the Services (e.g., 911 services). Such requirements may be changed from time to time at our sole discretion. Unless otherwise specified by us, you are solely responsible for updating or maintaining your Equipment and software as necessary to meet such requirements, and you may not be entitled to customer support from us if you fail to do so; and
  - 12.1.7 You must immediately notify us if your Equipment is lost, stolen or destroyed. Should you then wish to terminate your Services, your obligations under the Service Agreement, including the ECF, will apply.

## 13. SOFTWARE

Any software and accompanying documentation we provide to you remains our property or that of our licensors. You will take reasonable steps to protect such software or documentation from theft, loss or damage. You must review and agree to the applicable end user license agreement before installing or using the software or documentation. Unless otherwise provided in the applicable end user license agreement, all end user license agreements will terminate upon termination of the Service Agreement.

## 14. NETWORK MAINTENANCE

Our normal maintenance windows are on Tuesdays from 2:00am until 6:00am and Fridays from 2:00am until 6:00am. Any network maintenance that needs to be performed outside of these times will be posted on our website <https://nexicom.net/network-notice>

## 15. GENERAL – SERVICE AGREEMENT

- 15.1 The Service Agreement, as amended from time to time, constitutes the entire agreement between you and Nexicom for the Services and supersedes all prior agreements, written or oral, with respect to the same subject matter. The respective obligations of the entities that may be defined as Nexicom in the Service Agreement are several and not joint. If any portion of the Service Agreement is unenforceable, the remaining provisions continue in full force. Our failure to enforce strict performance of any provision of the Service Agreement does not mean we have waived any provision or right. Neither the course of conduct between us nor trade practice modifies any provision of the Service Agreement.
- 15.2 The Service Agreement ensures to the benefit of and is binding on you, your heirs and your legal personal representatives and on your and Nexicom's respective successors and assigns. You may not assign or transfer the Service Agreement without our prior consent. We may assign or transfer the Service Agreement or any of our rights or obligations hereunder without your consent.
- 15.3 The provisions of Sections 12, 13 and 14 survive termination of the Service Agreement.

## 16. SERVICE AGREEMENT

- 16.1 You are solely responsible for the following matters:
- 16.1.1 Any access to the Equipment;
  - 16.1.2 Maintaining the security and privacy of your property and your transmissions using the Services, the Equipment or our facilities or network; and
  - 16.1.3 Protecting against any breaches of security or privacy or other risks involved in installing, using, maintaining or changing the Services or the Equipment.
  - 16.1.4 Unless otherwise specifically set out in the Service Agreement, to the maximum extent permitted by applicable law, neither Nexicom nor any of our affiliates, licensors, suppliers and agents (or their respective employees, officers, directors and representatives) will be liable to you or to any third party for:
    - 16.1.5 any direct, indirect, special, consequential, incidental, economic or punitive damages (including loss of profit or revenue; financial loss; loss of business opportunities; loss, destruction or alteration of data, files or software; breach of privacy or security; personal injury; death or any other foreseeable or unforeseeable loss, however caused) resulting or relating directly or indirectly from or relating to the Offering or any advertisements, promotions or statements relating to any of the foregoing, even if we were negligent or were advised of the possibility of such damages;
    - 16.1.6 the denial, restriction, blocking, disruption or inaccessibility of any Services, including 911 or special needs services, Equipment or identifiers (including telephone numbers);
    - 16.1.7 any lost, stolen, damaged or expired Equipment, identifiers, passwords, codes, benefits, discounts, rebates or credits;
    - 16.1.8 any error, omission or delay in connection with the transfer of telephone numbers to or from another telecommunications service provider or any limitation connected thereto;
    - 16.1.9 any acts or omissions of a telecommunications carrier whose facilities are used to establish connections to points that we do not serve; or
    - 16.1.10 any claims or damages resulting directly or indirectly from any claim that the use, intended use or combination of the Offering or any material transmitted through the Services infringes the intellectual property, industrial, contractual, privacy or other rights of a third party.
- 16.2 ***These limits are in addition to any other limits on Nexicom's liability set out elsewhere in the Service Agreement and apply to any act or omission of ours and our employees, officers, directors, agents and representatives, whether or not the act or omission would otherwise be a cause of action in contract, tort or pursuant to any statute or other doctrine of law.***

## 17 INTELLECTUAL PROPERTY

- 17.1 All trademarks, copyright, brand concepts, names, logos and designs used by us are intellectual property assets, registered or otherwise, of, or used under license by, Nexicom or of one of 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 for any purpose without the express prior written permission of the President of Nexicom.

## 18 CONFIDENTIALITY OF YOUR INFORMATION

- 18.1 Unless you provide express consent, or disclosure is required pursuant to a legal power, all information regarding you kept by us, other than your name, address and listed telephone number, is confidential and may not be disclosed by us to anyone other than:
- 18.1.1 You;
- 18.1.2 A person who, in our reasonable judgment, is seeking the information as your agent;
- 18.1.3 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;
- 18.1.4 A company involved in supplying you 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;
- 18.1.5 An agent retained by us in the collection of your account or to perform other administrative functions for us, provided the information is required for and used only for that purpose;
- 18.1.6 An agent retained by us to evaluate your creditworthiness, provided the information is required for and is to be used only for that purpose;
- 18.1.7 A law enforcement agency whenever we have reasonable grounds to believe that you have knowingly supplied us with false or misleading information or are otherwise involved in unlawful activities; or
- 18.1.8 A public authority or agent of a public authority if, in our reasonable judgment, it appears that there is imminent danger to life or property which could be avoided or minimized by disclosure of the information.
- 18.1.9 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.
- 18.1.10 To satisfy any laws, regulations or other governmental request from any applicable jurisdiction, or as necessary to operate the Service or to protect itself or others.
- 18.2 Nexicom reserves the right at all times to disclose any information as they, in their sole discretion, deem necessary to satisfy any applicable law, regulation, legal process or government request. Nexicom further reserves the right at all times to edit, refuse to post or to remove any information or materials, in whole or in part, in their sole discretion.

## 19 EXPRESS CONSENT TO DISCLOSURE MAY BE OBTAINED AS FOLLOWS:

- 19.1 By written consent;
- 19.2 By electronic confirmation via the Internet;
- 19.3 By oral consent, where an audio recording of the consent is retained by us; or
- 19.4 By consent through other methods, as long as an objective documented record of your consent is created by you or by an independent third party. Personal information collected in connection with the provision of the Services may be stored and processed in or outside Canada and may be subject to the laws of other jurisdictions.

## 20 TERM; SUSPENSION; TERMINATION

- 20.1 The term of the Service Agreement, and any applicable Commitment Period, starts on the Activation Date and shall continue indefinitely until terminated in accordance with the provisions of the Service Agreement or applicable law. **Unless otherwise permitted by applicable law:**
- 20.1.1 You may terminate all or any part of your Services by contacting Nexicom. If you submit your notice to disconnect during business hours, termination will take effect on the date specified. We are unable to backdate terminations. The transfer of your telephone number to another telecommunications service provider constitutes a termination of the applicable Service(s); and an ECF may apply as set out in Section 7.
- 20.1.2 Nexicom may terminate all or any part of your Services upon no less than 30 days advance notice to you at your billing address. Applicable charges continue to apply until the end of the notice period or until the Services are no longer accessible by you, whichever is later. The transfer of your telephone number to another telecommunications service provider constitutes a termination of the applicable Service(s).
- 20.1.3 We may restrict, block, suspend or terminate any or all of your Services, including 911 service, or identifiers in any way, without notice or liability to you, if:
- You are in breach of the Service Agreement, including non-payment of your charges or non-compliance with any Policies;
  - You do not maintain Service usage within the prescribed credit limit;
  - You exceed reasonable usage limits, as determined by us;
  - You have given us false, misleading or outdated information;
  - We reasonably suspect or determine that any of your account, identifiers, Services or Equipment is the subject of fraudulent, unlawful or improper usage or usage that adversely affects our operations or the use of our services or facilities by others;
  - You harass, threaten or abuse us or our employees or agents;
  - You fraudulently or improperly seek to avoid payment to us;
  - Bankruptcy or insolvency proceedings are instituted by or against you;
  - Any account or service on which your Services depend is terminated for any reason; or we reasonably believe that there is an emergency or extreme circumstance that would warrant such action.
- 20.2 *If we restrict, suspend, block or terminate your Services you must pay any amounts owing. We may also suspend, block or terminate, without notice or liability, your Services under any other agreement or account that you may have with us or a related Nexicom entity and any other services, accounts or agreements that are dependent on your services, accounts or agreements with*

us; your access to emergency or special needs services (e.g., 911) may also be restricted, suspended, blocked or terminated; and your rates for services with related Nexicom companies may change in accordance with the terms of those services.

## 21 NO WARRANTIES; LIMITATIONS ON OUR LIABILITY

- 21.1 You acknowledge and understand that the Services or access to the Services, including 911 or special needs services may not function correctly, or at all, in the following circumstances:
- 21.1.1 If your Equipment fails, is not configured correctly or does not meet Nexicom requirements;
  - 21.1.2 In the event of a network outage or extended power failure;
  - 21.1.3 If you tamper with or, in some cases, move the Equipment; or
- 21.2 Following suspension or termination of your Services or account.
- 21.3 Neither Nexicom nor their affiliates, licensors, suppliers and agents (and their respective employees, officers, directors and representatives) are responsible or liable to you for any content, applications or services provided to you or accessible by you through the Services, any charges incurred in connection with such content, applications or services or anything that is or can be done with such content, applications or services even if you are billed for such content, applications or services. All such content, applications or services is accessed or transmitted solely at your own risk.
- 21.4 Nexicom will not be responsible for any damage suffered by you. This includes, but is not limited to, loss of data resulting from delays, non-deliveries, service interruptions, Nexicom's negligence or your errors or omission.

### 21.5 LIMITATION OF DAMAGES:

- 21.5.1 In any event, Nexicom's liability for damages shall be limited, in the aggregate, to your actual direct damages and shall not exceed the amount paid by you to Nexicom in the three months preceding the damage.
- 21.5.2 In no event, will Nexicom be liable to you for the payment of any consequential, indirect or special damage including lost profits.
- 21.5.3 See section 23 for additional limitations specifically pertaining to Internet services.

## 22 FORCE MAJEURE

Provision of the Service(s) by Nexicom may from time to time be delayed by causes beyond its reasonable control.

## 23 GOVERNING LAW

The Service Agreement is governed exclusively by the laws of the province of Ontario and you submit to the jurisdiction of the courts of Ontario.

## 24 ADDITIONAL TERMS APPLICABLE TO INTERNET ACCESS SERVICES

- 24.1 **Home Networking:** You acknowledge and understand that when using home networking, there are certain inherent risks (e.g., other users may gain access to your system or your Services and accounts). Nexicom shall not be liable for any claims or damages relating to home networking, even if the home networking application or service is provided, installed, maintained or supported by Nexicom.
- 24.2 **Use of the Internet:** You agree and acknowledge, that all Services are provided on a best-efforts basis and no guarantees of performance are stated or implied for provided services. It is the nature of the web to be dynamic, and services are based upon earnest attempts to deliver services in the uncertain and constantly changing environment. In no event will Nexicom be liable to you or others for any damages for any cause arising from provided services or outages, documentation, or software, including any lost profits, lost savings, or other incidental or consequential damages, even if Nexicom has been advised of the possibility of such damages, or for any claim by another party. Services are available within the operating range of the coverage and quality of services, including actual speed experienced which may be affected by conditions, customer location, destination on the Internet, traffic on the Internet, interference with frequency spectrum, Line of Site issues, foliage, weather, etc. No minimum level of service is guaranteed. We do not guarantee that there will be no interruptions or delays in services.
- 24.3 **Information on the Internet:** Nexicom exercises no control over the content of the information obtained through the Service. Use of any information obtained via the Service is at your own risk. Nexicom specifically denies any responsibility for the accuracy, quality, completeness, legality, merchantability or fitness for a particular purpose of any information obtained through the Service.
- 24.4 **Malicious Code on the Internet:** Nexicom does not guarantee that any information, software, or other material accessible through the Service is free of viruses, worms, Trojan horses or other harmful components.
- 24.5 **Confidentiality:** Nexicom does not guarantee the privacy of your files or email, or guarantee that your computer system will be secure against unauthorized access by other users of the Internet. You are responsible for supplying your own encryption software and ensuring that it provides adequate protection to you.
- 24.6 **Indemnity:** You shall indemnify and save harmless Nexicom from and against all claims, losses, damages, judgments, costs, expenses, fines, penalties and legal costs and disbursements suffered by Nexicom in connection with:
- 24.6.1 Any action or other proceeding made, sustained, brought, prosecuted or threatened to be brought or prosecuted against Nexicom arising out of any injury to any person or damage to any person or property in respect of the use of the Internet;
  - 24.6.2 By your introduction of a virus, worm, Trojan horse, or other harmful component into the Internet or any equipment of Nexicom, whether advertent or inadvertent; or
  - 24.6.3 Any breach by you of this Agreement.

### 24.7 INTERNET TRAFFIC MANAGEMENT PRACTICES

- 24.7.1 Nexicom uses a variety of traffic management tools to ensure the best possible experience for all Nexicom customers. Nexicom's traffic management will not affect real-time interactive activities such as online gaming, banking, e-mail or VoIP services.
- 24.7.2 Nexicom manages the integrity of the network from attacks, viruses, spam, malware, denial of service attacks and other malicious activities. Currently, by default, residential customers are denied outgoing TCP port 25, and UDP port 1900 connections.
- 24.7.3 Nexicom will take steps to make sure that on the rare occasions where there is congestion, it least affects the most real-time protocols, like Digital Phone and streaming media. Instead, less-real-time applications, like peer-to-peer

file transfers, will be more likely to be affected. From what we have seen, even less-real-time applications will not be much affected. Few users – if any – should see any perceptible change in their experience, and more users will see a positive improvement in the use of real-time applications in congested circumstances. A little bit of management can go a very long way.

**24.7.4** Nexicom will continue to monitor our network and if necessary, use Network Management tools in the future to ensure an excellent customer experience.

## 25 ADDITIONAL TERMS APPLICABLE TO COMPETITIVE LOCAL

### TELEPHONE SERVICES

- 25.1 Choice of Long-Distance Service Provider:** You acknowledge that when you subscribe to Digital phone local telephone service you may only use Nexicom as your direct-dialed long distance provider.
- 25.2 Telephone Listings and Directories:** We 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 directories or services, however, may receive or obtain your telephone numbers and address from a source other than us. 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. We 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.
- 25.3 Connections:** You must supply all facilities and equipment, including all wiring inside your premises, and all telephone terminal equipment necessary to connect your facilities and equipment up to the point where the local telephone company's facilities end and your facilities begin. It is your responsibility to reconnect your facilities and equipment as necessary after termination of the Digital Phone services.

## 26 ADDITIONAL TERMS APPLICABLE TO TELEPHONE SERVICE PROVIDED OVER INTERNET PROTOCOL (VOIP)-DIGITAL PHONE

- 26.1 Service Distinctions:** The Service is not a traditional telecommunications service and we provide it on a best-efforts basis. Important distinctions exist between traditional telecommunications services and the Service offering that we provide. The Service is subject to different regulatory treatment than traditional telecommunications services. This treatment may limit or otherwise affect your rights of redress before regulatory agencies.
- 26.2 Ensuring Correct Functioning:** Nexicom Digital Phone Services may not function correctly, or at all, in the following circumstances:
- 26.2.1** If your Adapter or other Equipment fails or is not configured correctly;
  - 26.2.2** In the event of an internet network outage or extended power failure;
  - 26.2.3** If you tamper with or move your Adapter or other Equipment to a location other than your service address;
  - 26.2.4** Following suspension or termination of your Service Agreement.
- 26.3 No 0+ or Operator Assisted Calling; May Not Support x11/8xx Calling:** The Service does not support 0+ or operator assisted calling (including, without limitation, collect calls, third party billing calls or calling card calls). The Service may not support x11 or 8xx numbers (other than certain specified dialing such as 9-1-1 and 411)

### 26.4 INCOMPATIBILITY WITH OTHER SERVICES:

- 26.4.1 Home Security Systems:** The Service may not be compatible with home security systems. You may be required to maintain a telephone connection through your local exchange carrier in order to use any alarm monitoring functions for any security system installed in your home or business. You are responsible for contacting the alarm monitoring company to test the compatibility of any alarm monitoring or security system with the Service.
- 26.4.2 Certain Broadband and Cable Modem Services:** You acknowledge that some providers of broadband service may provide modems that prevent the transmission of communications using the Service. We do not warrant that the Services will be compatible with all broadband services and expressly disclaim any express or implied warranties or conditions regarding the compatibility of the Service with any particular broadband service.

### 26.5 911 EMERGENCY SERVICES

- 26.5.1 Limitation of Liability:** We will not be liable to you or to any third party for any inability to use the Nexicom Digital Phone Services or to obtain access to 911 emergency services as a result of the limitations described in section 25.2. In order for Digital Phone 911 service to function properly, you must use the Adapter which forms part of the Equipment we have provided you and other Equipment at your service address. We will not be liable to you or to any third party for your failure to comply with this requirement.
- 26.5.2 911 Calling Procedures:** Calls to 911 are routed to a national emergency call centre. The call centre operator will confirm your location information and then transfer your 911 call to the emergency response centre nearest your location. You should be prepared to confirm your address and call-back number with the operator. Do not hang up unless told directly to do so and if disconnected, you should dial 911 again.
- 26.5.3 Registration of Physical Location Required:** You should ensure your location information, when registered with Nexicom, is kept current at all times. In case you are not able to speak during the 911 call, the call taker would dispatch emergency response vehicles to your last registered address. You need to update your 911 information if you move your device to a different location.
- 26.5.4 Service Outages:** The 911 service will not function in the event of a power or broadband outage or if your broadband, ISP or Nexicom service is suspended or disconnected. Following a power failure or disruption, you may need to reset or reconfigure your Device prior to utilizing the Service.
- 26.5.5 Network Congestion:** There may be a greater possibility of network congestion and/or reduced speed in the routing of a 911 call made utilizing the Service as compared to E911 Dialing over traditional public telephone networks.
- 26.5.6 Conveying Limitations to other household residents and guests:** You should inform any household residents, guests and other persons who may be present at the physical location where you utilize the Nexicom service, of the important differences in and limitations of Digital Phone 911 service as compared with E911 service, as set out above.

## 27 ADDITIONAL TERMS APPLICABLE TO TELEVISION SERVICES

- 27.1** *When renting TV equipment and its lost or stolen, you are responsible for all costs associated with us replacing our equipment. Upon cancellation, you must return our Equipment in good condition at your expense. If not returned, you agree to pay us the undiscounted retail value of such equipment, together with any costs incurred by us in seeking possession of such Equipment.*
- 27.2** You may use the Equipment only at the service address identified on your account. All content of TV programming is provided on a “subject to availability” basis and is subject to change. Any refund or credit for interruptions or unavailability is at our discretion.

## 28 ADDITIONAL TERMS APPLICABLE TO WEB HOSTING

- 28.1** All services provided by Nexicom may only be used for lawful purposes. Examples of unacceptable content include, but are not limited to: copyrighted material, material we judge to be threatening or obscene, pornography, dangerous or unsecured scripts. The customer agrees to indemnify and hold harmless Nexicom from any claims resulting from the use of our services. DDoS attacks or any other attacks launched from within our servers or against our servers may result in your account being terminated. Determination is at Nexicom’s sole discretion.
- 28.2** The following content types are not allowed on our servers: cracked/pirated software, illegal mp3s, virus/trojans (nor can you link to it). No pornography, IRC bots, hack programs, hack archives, game servers, adult sites, forums, heavy CPU Usage and Resources Sites and audio, video, and software downloading web sites; audio or video streaming web sites. Any user in violation of this policy will have their site suspended and asked to remove it. Failure to do so will result in account termination.
- 28.3** Examples of unacceptable material and sites:
- \* IRC Scripts/Bots
  - \* Any Heavy CPU Usage and Resources sites
  - \* Auto Surf/PTC/PTS/PPC sites
  - \* Mail Bombers/Spam Scripts
  - \* Proxy Scripts/Anonymizers
  - \* Lottery sites
  - \* Pirated Software
  - \* Image Hosting Scripts
  - \* IP Scanners
  - \* Hate/Racist/Harassment oriented sites
  - \* Hack programs and archives
  - \* Bruteforce Programs/Applications/Scripts
  - \* Pornography
  - \* Game Servers Investment Sites e.g. FOREX, Ponzi, MLM/Pyramid Schemes, etc.
  - \* Adult sites
  - \* Download sites
  - \* User generated content sites
  - \* Social Media sites
- 28.4** We reserve the right to suspend any site that violates our TOS without prior notice. Account termination for TOS violation negates any refund for unused time.
- 28.5** It is your responsibility to ensure all scripts/programs installed under your account are secure and up to date. As well permissions of directories are set properly, regardless of the installation method.
- 28.6** If we find your account to be using an outdated or unsecure script/program you will receive an email notice to update the script/program within a reasonable timeframe. Failure in doing so, will result in the account being suspended. Repeat offenders needing constant reminders to update scripts or programs will have their account suspended and service not renewed.
- 28.7** Users are ultimately responsible for all actions taken under their account.

## 29 ADDITIONAL TERMS APPLICABLE TO CO-LOCATION SERVICES

- 29.1** Customer is fully responsible for insurance coverage on their hardware and/or software installed within Nexicom’s facilities.
- 29.2** Customer is responsible for insurance during transport of equipment.
- 29.3** Customer must provide written verification of insurance coverage for their hardware and/or software installed within Nexicom’s facilities and/or during transport.
- 29.4** Nexicom assumes no responsibility for your equipment.
- 29.5** 1 – 5U, 6 – 10U and Half Rack customers will be charged \$200.00 per hour for access outside business hours to their hardware or to technical support.

## 30 ADDITIONAL TERMS APPLICABLE TO SECURITY SERVICES

- 30.1** **Purchase Orders.** If there is any conflict between these terms and Subscriber’s purchase order, or any other document, these terms shall govern.
- 30.2** **Monitoring Terms & Payment**
- 30.2.1** The monitoring agreement shall be in force and effect the day after installation has been completed, for the initial term stated and shall continue thereafter for successive twelve (12) month terms unless either party notifies the other in writing at least ninety (90) days prior to its expiration.
- 30.2.2** **Taxes.** The Subscriber agrees to pay new or increased assessments, taxes, fees, fines, or other charges imposed in respect of the system by any municipality, government, police department, government agency or public utility.

**30.3 Increase in Monthly Monitoring Fees.** There may be increases annually during the term of this agreement.

**30.4 Installation & Service Calls**

**30.4.1 Installation:** Subscriber authorizes Nexicom to supply and/or install the equipment as specified on the reverse, including connections necessary to transmit the necessary signals from Subscriber's premises. Nexicom assumes no liability for delay in installation of the systems or for interruption of service due to any cause beyond Nexicom control, and will not be required to supply service to subscriber while interruption of service due to any such cause shall continue. Subscriber hereby authorizes Nexicom to do the installation during Nexicom regular business hours 8:00 AM to 5:00 PM Monday through Friday, excluding Saturdays, Sundays and holidays. "After hours" installation is available upon request of Subscriber on an "as available basis" and will be charged at Nexicom then-current prevailing rates. Any installation charge quoted in this Agreement is based upon Nexicom performing the installation with its personnel. If, for any reason the installation or any part thereof must be performed by outside contractors, said installation charge is subject to revision at the discretion of Nexicom.

**30.4.2 Service Calls.** Subscriber authorizes Nexicom personnel and only Nexicom personnel or authorized agents to perform service on this system. Regular Service and Warranty Service hours are Monday to Friday between the hours of 8:00AM 5:00PM. Any and all "after hour" service by Nexicom will be provided at the Subscriber's request, to the Subscriber's address at the then prevailing rates. Nexicom will not be responsible for persons other than Nexicom personnel servicing the system. Unauthorized persons or companies working on this system will cause the customer to become in "default" as defined in section 9 of this agreement.

**30.4.3** Downloading Service performed from our office Service Center to the Subscriber's address by computer will also be considered chargeable. A set fee for this service will be charged for each download.

**30.5 Authorized Personnel.** Subscriber agrees to furnish Nexicom with a list of names and residence telephone numbers of all persons authorized to enter Subscriber's premises during regularly scheduled closed periods. All changes, revisions and modifications to this shall be supplied to Nexicom in writing and will only be accepted when received in writing and placed on file.

**30.6 Nexicom Obligations.** If a burglar or fire or emergency alarm signal registers at the Nexicom (third party) monitoring center, the monitoring centre will endeavor to contact the Subscriber's Premises by telephone to verify that the alarm is not false. Failing to contact the Subscriber promptly or questioning the nature of the response received upon such contact, the monitoring centre shall endeavor to make every reasonable effort to notify the appropriate police, guard service or alarm unit, or fire authorities, as applicable. In the event a supervisory or trouble signal registers at the monitoring center, the monitoring center shall endeavor to contact the Subscriber premises by telephone. In the event of no response at the Premises, the monitoring center shall endeavor to contact the authorized keyholders. The Subscriber understands that if a digital communicator is installed, it uses standard telephone lines as the transmission mode of sending signals and eliminates the need for dedicated telephone facilities and the large cost increases on such facilities. Subscriber also understands that Nexicom and the monitoring centre do not receive signals when the transmission mode is or becomes non-operational and that signals from the digital communicator cannot be received if the transmission mode is cut, disconnected, interfered with or otherwise damaged.

**30.7 Title** to equipment purchased shall remain in Nexicom until such time as Subscriber shall pay for the said equipment in full.

**30.8 Title** to Rental equipment is and shall at all times remain the sole property of Nexicom, and Subscriber agrees to protect the equipment and to indemnify and pay to Nexicom the cost of repair or replacement for any loss or damage to Nexicom equipment.

**30.9 Default or Termination.** In the event Subscriber defaults in the performance of any of the terms and conditions of this contract, including failure to make any payment as agreed, the balance of monies due for the unexpired term of this contract shall become immediately due and payable to Nexicom. In the event of any default by Subscriber, Subscriber authorizes Nexicom to enter Subscriber's premises and remove Nexicom equipment, and Nexicom shall not be responsible for repair or redecoration of any portion of Subscriber's premises upon removal of Nexicom equipment.

**30.10 Warranties**

**30.10.1 Purchase Warranty.** From date of installation, without cost to subscriber, Nexicom shall warranty all parts for a period of one

(1) year. Installation labour is warranted for ninety (90) days during "Regular Business Hours". "After hour" service is available at request of Subscriber. Any warranties separate from this Agreement are null and void unless signed by an authorized representative of Nexicom and are attached to this contract. Any warranties attached will state their own terms and conditions.

**30.10.2 Rental Warranty.** Repairs necessitated by ordinary wear and tear shall be at Nexicom expense.

**30.10.3 Leased Warranty.** Purchased warranty will apply to all Leased equipment.

**30.11** All other repairs, replacements and adjustments to the security equipment that the Subscriber, required because of alterations or repairs to the premises or caused by the willful act of negligence of the Subscriber, its employees or agents, misuse, acts of God, or any other cause beyond the control of Nexicom shall be paid for by the Subscriber at Nexicom then prevailing rates of labour and/or materials under a Service Call.

**30.12 False Alarms and Service Calls.**

**30.12.1** In the event Subscriber shall cause an excessive number of false alarms (more than 3) or service calls through carelessness or malicious or accidental use of the equipment, Nexicom may, in addition to all other legal remedies, be excused from further performance upon giving ten (10) days' notice to Subscriber.

**30.12.2** In the event a fine, penalty or fee shall be assessed against Nexicom as a result of any false alarm originating from Subscriber's premises; Subscriber agrees to reimburse Nexicom for payment of said false alarm fine, penalty or fee.

**30.12.3** In the event Nexicom shall dispatch an agent to a false alarm or a technician to an unnecessary service call originating from Subscriber's premises, where Subscriber intentionally or negligently activates or impairs the operation of the security system and no alarm condition exists, then Subscriber agrees to pay Nexicom the current rate for each such false alarm or service call.

**30.12.4 Local bylaws regarding Alarm Registration.** Subscriber agrees to complete Alarm registration Form which Nexicom will submit to the applicable authorities.

**30.12.5 Liability** It is clearly understood and agreed that Nexicom is not an insurer; that insurance, if any, shall be obtained by Subscriber, and that the amounts payable to Nexicom hereunder are strictly based upon the value of services offered and are unrelated to the value of property located at Subscriber's premises. Nexicom makes no warranty, express or implied that the Equipment it installs or the services it furnishes will avert or prevent occurrences or the consequences which the Equipment and/or services are designed to detect or avert. In the event of injury to, or death of persons, loss, destruction, or damage to property, by any means whatsoever and however caused, any result in damages recoverable by Subscriber from Nexicom, its employees, agents, mandatories or representatives, are hereby limited to and fixed at \$250.00. This amount shall be completed and inclusive and shall be paid and received as liquidated damages and/or in lieu of any type of damages of whatsoever nature and not as a penalty. The provisions of this Paragraph shall apply if loss, damage, or injury irrespective of cause or origin, results directly or indirectly to person or property from performance or nonperformance of Nexicom or the services or any other alleged fault on the part of Nexicom its agents or employees.

**30.13** Subscriber, at its expense shall supply unswitched and unburdened 110V, 60 Cycle AC power where specified by Nexicom and as required for the operation of the equipment being installed. Nexicom will supply a CA38A Alarm Jack.

**30.14** Nexicom shall not be liable for delays in installing or repairing the Equipment or for any interruption of any Service to be provided hereunder due to labour disputes, lack of or reduction of necessary power supply, strikes, lock-outs, floods, riots, fires, explosions, acts of God or any other cause beyond the control of Nexicom, including interruptions in telephone service and type of communications to be employed. In this event, service charges shall be adjusted to reflect any resulting increases or decrease in the telephone communication rate.

**30.15** Subscriber shall carefully and properly set the alarm system at such a time as Subscriber shall close its Premises. Subscriber shall carefully and properly test the alarm system at least once per week and shall immediately report to Nexicom any claimed inadequacy in or failure of the Equipment. Subscriber shall permit Nexicom access to the Premises during Nexicom regular business hours and at all other reasonable time for any reason to Nexicom rights or obligations under this Agreement. Nexicom tests Medical Alert devices daily. If as a result of the daily test it is determined that a problem exists with the Medical Alert device the customer will be notified within seventy-two (72) hours by Nexicom and arrangements will be made to repair or replace the Medical Alert device.

**30.16** Subscriber shall not tamper with, alter, adjust, add to, disturb, damage or remove or otherwise interfere with the installed Equipment nor to permit the same to be done. Subscriber has the obligation to verify all persons attempting to work on or repair the Equipment. During the term of this Agreement, should the Equipment remain the property of Nexicom, Subscriber shall be



responsible for the Equipment. The Equipment shall remain in the same location as installed and any removal or disturbance thereof shall only be carried out by Nexicom and paid for by the Subscriber in accordance with then current prevailing rates of Nexicom in addition to all other charges.

- 30.17 Suspension or Cancellation.** This Agreement may be suspended or cancelled without notice and without liability or penalty in the event that Nexicom Communications Inc. is unable to either secure or retain the connections or privileges necessary for the transmission of signals for any reason whatsoever, or in the event Nexicom's monitoring station, connecting wires or other equipment is so substantially damaged that it is impractical to continue service.
- 30.18** No waiver of any term, provision, condition of obligation of the Agreement whether by conduct or otherwise, in any one or more instances, shall be deemed to be or be construed as a further or continuing waiver of that particular or any other term provision or condition of this Agreement.
- 30.19** In the event that any provision(s) of this Agreement (or portion thereof), shall be deemed invalid or illegal or unenforceable by any court of competent jurisdiction, then such provision or provisions (or portion thereof) shall be deemed not to have been written into this Agreement and at Nexicom discretion the remainder of the terms and provisions thereof shall subsist and remain enforceable.
- 30.20 Police Response.** It is understood that Nexicom shall not be responsible for any loss, expense or damage incurred by the Subscriber arising out of delay or failure or refusal of any police department or other agency to respond to an alarm reported to it by Nexicom (or authorized agents), including the suspension of response due to false alarms. In the event of suspension or cancellation due to police response, the parties agree that this agreement shall continue in full force. Nexicom shall continue to provide its monitoring services and Subscriber shall continue to pay all service charges to Nexicom.

## 31 MISCELLANEOUS

- 31.1 Entire Agreement:** This Agreement constitutes the entire agreement between you and Nexicom. This Agreement supersedes any previous representations, understandings or agreements and shall prevail notwithstanding any variance with the terms and conditions of any order submitted.

### 31.2 ANY NOTICE OF A CLAIM MUST BE GIVEN TO:

Nexicom  
Attn/President  
5 King St. East  
Millbrook, ON  
LOA 1G0

*Any notice shall be deemed to have been given on the date on which it was sent by the party giving the notice.*

*This document is subject to change without notice.*

October 2024, Nexicom  
[www.nexicom.net](http://www.nexicom.net)

1-888-NEXICOM