

This CPE Access Key Amendment (“Amendment”) amends the [Network Services Agreement] (“Agreement”) between New Edge Networks, an EarthLink Business company, (“New Edge”) and the Customer. Hereinafter, New Edge and Customer may be referred to individually as a “Party” and, collectively, as the “Parties.”

1. Use and Administration. Each CPE Access Key (“Key”) allows read-only access control to a particular New Edge managed CPE when used in combination with a unique username and password assigned by New Edge. Read-only access permits Customer to run the following limited set of commands for troubleshooting purposes:

- Show Interface
- Clear Counters (LAN Interfaces)
- Telnet
- Traceroute
- Ping (including extended Ping)
- Show Log
- Show processor
- Show IP Route

The Administrator identified by the Customer at the time of order placement will have exclusive authority to order Keys and to assign such Keys for use within Customer’s organization, and is responsible for the physical security of such Keys. From time to time New Edge may use protocols and challenges of its choosing to verify the Administrator’s identity and the Administrator shall cooperate in all respects with such efforts. To change Administrators, Customer must execute a new CPE Access Key Amendment and order a new Administrator Key. Customer is solely responsible for access to and use of its Keys by its employees, agents and all third party users of its Keys.

2. Ordering Keys and Invoicing. Customer can order Keys using a New Edge Service Order or the MyEdge portal, if available to Customer. New Edge will invoice Customer, and Customer shall be responsible for, the Keys at the prices set forth in the applicable Service Order in accordance with the billing and payment terms of the Agreement. Key prices are exclusive of applicable taxes, fees and surcharges, including any sales tax or value added tax. Lost Keys cannot be replaced except by ordering a new Key. New Edge will replace a defective Key for \$20.00 if Customer notifies New Edge in writing of the defect within ninety (90) days of receiving the faulty Key; New Edge reserves the right to verify any defective Key claim.

3. License. Keys will be deemed to be the property of Customer upon shipment by New Edge. New Edge hereby grants Customer a revocable, non-exclusive and non-transferable license to use ordered Keys in accordance with the terms and conditions of this Amendment. Customer may not distribute, license, sell, rent, or otherwise provide to third parties any Key, copy thereof, or application or product incorporating any portion of a Key.

4. Security. Customer is responsible for its network security and the physical security of New Edge managed CPEs located at Customer facilities. Although Keys may enhance Customer’s ability to impede unauthorized network and data access, Customer understands and acknowledges that no Key will ensure its network or data security or prevent security incidents, and that New Edge is not responsible for any unauthorized access to Customer’s network, data or facilities, including New Edge CPEs located at such facilities.

5. Rights and Indemnification. All ideas, algorithms and code contained in Keys constitute trade secrets and shall be subject to the confidentiality protections in the Agreement, and title to all intellectual property rights in and to Keys will at all times remain with New Edge’s licensor. Customer agrees not to reverse engineer, disassemble, decompile, or attempt to derive the source code for, any Key. Customer shall comply with all applicable laws in its use of Keys, including, without limitation, applicable export and import controls. Customer is responsible for determining the applicable law and obtaining any necessary approvals or permits. Customer shall indemnify, defend and hold harmless New Edge, its directors, officers, employees and representatives from and against any third party claim, demand, cause of action, damages, loss, liability suit, proceeding, judgment, or cost (including attorney fees), based on its use of Keys.

6. WARRANTY DISCLAIMER. EXCEPT AS EXPRESSLY PROVIDED HEREIN, KEYS ARE PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND CUSTOMER

ASSUMES ALL RESPONSIBILITY AND RISK OF ITS USE OF THE KEYS. WITHOUT LIMITING THE FOREGOING, NEW EDGE DOES NOT WARRANT THAT KEYS ARE FREE OF DEFECTS, VIRUSES OR OTHER HARMFUL MECHANISMS, OR THAT ALL PROGRAMMING ERRORS CAN BE FOUND OR CORRECTED. NEW EDGE DISCLAIMS ANY LIABILITY FOR THE ACCURACY, ERRORS, OMISSIONS, COMPLETENESS OR USEFULNESS OF ANY SOFTWARE, METHOD, PRODUCT, SUPPORT OR PROCESS PROVIDED HEREUNDER. NEW EDGE IS NOT RESPONSIBLE OR LIABLE FOR ANY LOSS OR DAMAGES THAT RESULT FROM CUSTOMER'S USE OF THE KEYS.

7. Limitation of Liability. ANY LIABILITY ON THE PART OF NEW EDGE ARISING OUT OF THIS AMENDMENT, FOR ANY CAUSE OF ACTION, REGARDLESS OF ITS FORM (INCLUDING BREACH OF CONTRACT, STRICT LIABILITY, TORT, INCLUDING NEGLIGENCE, OR ANY OTHER LEGAL OR EQUITABLE THEORY), WILL BE LIMITED TO CUSTOMER'S DIRECT DAMAGES UP TO THE AMOUNT PAID BY CUSTOMER UNDER THIS AMENDMENT DURING THE NINETY DAY PERIOD IMMEDIATELY PRECEDING THE TIME SUCH CAUSE OF ACTION ARISES. IN NO EVENT WILL NEW EDGE BE LIABLE FOR DAMAGES IN RESPECT OF INCIDENTAL, ORDINARY, PUNITIVE, EXEMPLARY, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING, BUT NOT LIMITED TO, BUSINESS INTERRUPTION, LOST REVENUE OR PROFITS, OR ANY OTHER ECONOMIC OR DATA LOSS, LOST OPPORTUNITY OR THIRD PARTY CLAIM.

8. Term and Termination. The term of this Amendment will commence on its Effective Date and continue until terminated for convenience by either Party with sixty (60) days written notice to the other Party, or unless terminated earlier by written agreement between the Parties. If either Party materially breaches a term or condition of this Amendment and fails to cure such breach within ten (10) business days of receiving written notice thereof, the other Party may immediately terminate this Amendment. This Amendment will terminate automatically if Customer becomes insolvent, makes an assignment for the benefit of creditors or a bankruptcy proceeding is commenced by or against it. Upon termination, all rights granted to Customer hereunder shall automatically revert to New Edge.

9. Miscellaneous. This Amendment supersedes all negotiations and agreements, oral or written, of the Parties relating to its subject matter, and upon execution will be integrated into the Agreement, the terms and conditions of which Agreement will remain unchanged except as modified in this Amendment. If a term of the Agreement conflicts with this Amendment, the Amendment shall control. Neither this Amendment, nor any right granted hereunder by New Edge is assignable, transferable or sub-licensable and any attempt to do so will be void. The Parties agree that a material breach of this Amendment adversely affecting the rights of New Edge would cause irreparable injury for which monetary damages would not be an adequate remedy and that New Edge shall be entitled to seek equitable relief, in addition to any other available remedies, without any requirement to prove damages or obtain a bond.