

EXHIBIT B of NYIIX Specific Terms and Conditions

This Exhibit B of NYIIX Specific Terms and Conditions (the “Exhibit B”) is entered into, via any Service Order that references this Exhibit B, by and between the customer identified in the relevant Service Order (“Customer”) and Telehouse International Corporation of America (“Telehouse”).

1. INTERPRETATION

1.1 In this Exhibit B, the following expressions shall have the following meanings:

“Equipment”	means hardware or software or a combination of those, which are necessary in order to receive the NYIIX Services.
“Exchange Users”	means the participants who utilize the NYIIX.
“IP”	means Internet Protocol.
“NYIIX”	means Telehouse facilities used solely for the interconnection and exchange of IP traffic among the participants who utilize the NYIIX.
“NYIIX Commencement Date”	means the date on which the NYIIX Service begins.
“NYIIX Connection Fee”	means the cost charged to Customer, in order to extend a NYIIX Demarcation Point to a different point, as agreed to in writing by the Parties via a Service Order.
“NYIIX Cross Connects”	means in-house cables running from Customer’s Equipment to the NYIIX Demarcation Point.
“NYIIX Demarcation Point”	means the boundary up to which Telehouse is responsible for providing NYIIX Services.
“NYIIX Initial Term”	means the initial term of any NYIIX Service.
“NYIIX Route Server Service(s)”	means the exchanging of Internet routes among the Exchange Users, within the NYIIX, as provided via the NYIIX Route Servers.
“NYIIX Route Server(s)”	means Telehouse facilities solely for exchanging Internet routes among the Exchange Users, within the NYIIX.
“NYIIX Services”	means the Telehouse services which allow for the mutual interconnection and exchange of IP traffic between Exchange Users.
“Service Interruption(s)”	is defined in Clause 10.1 below.

1.2 All other capitalized terms shall have the meanings given to them in the relevant Agreement, including but not limited to the MSA, Exhibits, and Service Orders.

2. RECITALS

2.1 This Exhibit B of additional and specific NYIIX Terms and Conditions is annexed to the NYIIX Master Services Agreement of General Terms and Conditions (jointly referred to hereinafter as the “Agreement”).

3. LICENSE

3.1 Telehouse grants to Customer a non-exclusive license to use the NYIIX solely to receive the NYIIX Services.

3.2 Subject to Customer obtaining a license under Clause 3.1, Telehouse grants to Customer a non-exclusive license to use the NYIIX Route Server(s) solely to receive NYIIX Route Server Services. Customer must be a licensee of the aforementioned NYIIX facilities in order to be granted a license for the NYIIX Route Server.

3.3 Customer warrants and covenants that it will not use, nor permit the use of the NYIIX and/or the NYIIX Route Servers for any other purpose whatsoever.

4. SERVICES

4.1 Telehouse shall, via the NYIIX, provide the NYIIX Services.

4.1.1 Customer acknowledges that Telehouse shall be under no obligation to monitor its network and system and shall not be responsible for content transferred.

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- 4.1.2 Customer agrees to establish bilateral peering arrangements with each Exchange User with whom Customer intends to connect via the NYIIX and further agrees that Telehouse shall have no obligations with respect to such arrangements.
- 4.1.3 Customer may, in Customer's discretion, block any NYIIX traffic to Customer's system. In the case of such blocking, Customer shall notify the blocked Exchange User(s) as soon as reasonably practical.
- 4.1.4 Customer acknowledges and agrees that its traffic may be blocked by any Exchange User, at such Exchange User's discretion.
- 4.1.5 Customer acknowledges that Telehouse may, from time to time, monitor and/or analyze traffic in general, Ethernet headers and/or IP headers but not the data contents, on the NYIIX for its own internal and/or troubleshooting purposes (but shall have no obligation to do so). Customer consents to Telehouse's disclosure of generalized NYIIX statistics to the public, provided, however that Telehouse shall not disclose the identifiable details of any individual Exchange User's traffic to the public unless required to do so pursuant to court order or other legal requirement.
- 4.1.6 Customer acknowledges and agrees that it is Customer's responsibility to order and install NYIIX Cross Connects from Customer's Equipment to the NYIIX Demarcation Point at Customer's cost to receive the NYIIX Services unless otherwise specified in the Service Order. The aforementioned cost is separate from and in addition to any NYIIX Connection Fee that Telehouse may impose to extend the NYIIX Demarcation Point.
- 4.1.7 Customer acknowledges and agrees that it is Customer's responsibility to order and uninstall NYIIX Cross Connects from Customer's Equipment to the NYIIX Demarcation Point at Customer's cost within thirty (30) days after Customer terminates the NYIIX Services, unless otherwise specified in the Service Order. Customer further acknowledges and agrees that a breach of this Clause 4.1.7 shall result in a \$500.00 penalty per NYIIX Cross Connect payable to Telehouse.
- 4.2 As an optional service, Telehouse shall, via the NYIIX Route Server, provide the NYIIX Route Server Services.
 - 4.2.1 Customer agrees to establish multilateral peering arrangements with NYIIX Route Servers.
 - 4.2.2 Customer may, in Customer's discretion, block any routes from NYIIX Route Servers to Customer's system or suppress any Customer's routes to NYIIX Route Servers.
 - 4.2.3 Customer acknowledges and agrees that its routes may be blocked by any NYIIX Route Servers if the routes are illegitimate.
 - 4.2.4 Customer acknowledges that Telehouse may, from time to time, monitor and/or analyze routes on the NYIIX Route Servers for its own internal purposes (but shall have no obligation to do so).
 - 4.2.5 Customer consents to Telehouse's disclosure of generalized NYIIX Route Servers statistics to the public, provided, however that Telehouse shall not disclose the identifiable details of any individual Exchange User's traffic to the public unless required to do so pursuant to court order or other legal requirement.
- 5. **CUSTOMER PARTICIPATION**
 - 5.1 The Customer shall provide routing capacity and hardware systems at its own end of the link at its sole cost and expense, including set up and ongoing costs.
 - 5.2 Customer shall cooperate with Telehouse to ensure an efficient use of the NYIIX and the NYIIX Route Servers.
 - 5.3 Customer shall comply with all laws applicable to its use of the NYIIX and the NYIIX Route Servers.
 - 5.4 Customer shall comply with all technical requirements set forth by Telehouse in the applicable documentation for NYIIX Requirements and NYIIX Route Servers, found at <https://www.nyix.net/technical/requirements/> and <https://www.nyix.net/technical/route-servers/>, respectively, and which may be updated periodically. Customer's failure to comply with such requirements may be considered a breach or default of the Agreement.
- 6. **SUPPORT WORK**
 - 6.1 At Customer's request, Telehouse will respond to reports of NYIIX Service and NYIIX Route Server Service Interruptions and will use commercially reasonable efforts in resolving all NYIIX Service and NYIIX Route Server Service issues.

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7. SERVICE CHANGES

- 7.1 Telehouse may substitute or modify its facilities as necessary to maintain or improve the technical parameters of the NYIIX Services and NYIIX Route Server Service, as determined by Telehouse in its sole and absolute discretion.

8. TERM

- 8.1 The NYIIX “**Initial Term**” shall be as set forth on the applicable NYIIX Service Order. The NYIIX Initial Term begins on the NYIIX “**Commencement Date**”, and continues until the expiration of the NYIIX Initial Term period as described in the NYIIX Service Order. If Customer elects to terminate upon the expiration of the NYIIX Initial Term, Customer must provide Telehouse with at least ninety (90) days advanced written notice, otherwise the term will be automatically renewed for one (1) year. After the NYIIX Initial Term, either Party may terminate the applicable NYIIX Service Order with ninety (90) days advanced written notice to the other Party. If Customer’s use of the NYIIX interferes with any other Exchange User’s use of the NYIIX, Telehouse may unilaterally immediately terminate or suspend any NYIIX Service Order, and Customer hereby agrees to indemnify and hold harmless Telehouse for said actions.

9. FEES

- 9.1 Customer shall pay Telehouse the “**NYIIX Service Fees**” specified on the NYIIX Service Order for the NYIIX Services provided hereunder by Telehouse. Customer’s obligation to pay monthly recurring charges shall begin on the date that is the later of: (i) the date set forth in the applicable NYIIX Service Order as the Fee Commencement Date, or (ii) the first date when Telehouse notifies Customer that the NYIIX Services have been delivered, as set forth in the applicable NYIIX Service Order (the “**Fee Commencement Date**”). If Customer causes an undue delay to Telehouse’s delivery of the NYIIX Services, then the Fee Commencement Date shall instead be the earlier of items (i) and (ii) above.
- 9.2 Notwithstanding anything contained herein and/or in any NYIIX Service Order to the contrary, during any term of any NYIIX Service Order, but no more than once in a twelve (12) month period, Telehouse shall reserve the absolute right to increase the herein referenced NYIIX Service Fees upon giving Customer at least thirty (30) days’ prior written notice, in the event of any change in any applicable law, regulation, rule, order and/or any other change that in anyway increases Telehouse’s operating costs, overhead costs and/or any costs associated with the delivery of the Services referenced herein, including but not limited to increases in third-party vendor rates, electrical rates, utilities, taxes and surcharges that are in anyway associated with the Services delivered hereunder to Customer. Such an increase shall be automatically incorporated into this Agreement.
- 9.3 Customer understands that receipt of pre-paid monthly recurring charges (MRC), all non-recurring charges (NRC), and all other one-time installation fees, including applicable sales taxes, are required prior to Customer being permitted connectivity to the NYIIX and/or the NYIIX Route Servers. In the event the NYIIX Fee Commencement Date does not occur on the first of the month, the NYIIX Service Fees shall be prorated for such month.

10. CREDITS FOR INTERRUPTION OF SERVICE; TERMINATION OPTION FOR CHRONIC PROBLEMS

- 10.1 In the event of an interruption of the NYIIX Services and/or the NYIIX Route Server Services in excess of one (1) hour in any twenty four (24) hour period for reasons within Telehouse’s reasonable control and subject to the limitations set forth below (any such event, a “**Service Interruption(s)**”), Telehouse will, upon Customer’s written request, credit Customer’s account in an amount equal to the monthly NYIIX Service Fees payable under the applicable NYIIX Service Order prorated by the number of twenty four (24) hour periods in which the NYIIX Services and/or NYIIX Route Server Services are so interrupted in excess of one (1) hour. To receive any applicable credit, Customer must notify Telehouse in writing within fifteen (15) business days of the date Customer becomes eligible therefore. A Service Interruption will be deemed to have occurred only if the NYIIX Service and/or the NYIIX Route Server Services becomes unusable to Customer, as a result of failure of Telehouse’s facilities, equipment, or the error of its agents and where such interruption is not the result of: (i) the negligence or acts of the Customer or its agents; (ii) the failure or malfunction of equipment or systems not provided by Telehouse; (iii) circumstances or causes beyond the control of Telehouse (including Force Majeure); or (iv) if the NYIIX Service and/or the NYIIX Route Server Service Interruption was caused by a scheduled service maintenance, alteration, or implementation.
- 10.2 If in any single calendar month, Customer would be entitled to receive credits hereunder for Service Interruptions in excess of a seventy-two (72) hour period resulting from one (1) or more Service Interruptions during such calendar month, then Customer may terminate the applicable NYIIX Service Order within five (5) days following the end of such calendar month, which termination will be effective no earlier than thirty (30) days after receipt of such notice by Telehouse.
- 10.3 NOTWITHSTANDING ANY CONTRARY PROVISION OF THE AGREEMENT (INCLUDING ANY NYIIX SERVICE ORDER), THE FOREGOING STATES CUSTOMER’S SOLE REMEDY, AND TELEHOUSE’S SOLE LIABILITY, FOR ANY NYIIX SERVICE AND/OR ANY NYIIX ROUTE SERVER SERVICE INTERRUPTION UNDER ANY NYIIX SERVICE ORDER AND THE AGREEMENT.

11. SURVIVAL

- 11.1 The provisions of Clauses 8, 9 and any other provision that by its nature should survive shall survive the expiration or earlier termination of the NYIIX Master Services Agreement of General Terms and Conditions or any NYIIX Service Order.