

**Merger Agreement for Northeast Central Broadband  
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**MERGER AGREEMENT**

**FOR**

**NORTHEAST CENTRAL BROADBAND**

**A MERGER BY AND BETWEEN**

**NEK COMMUNITY BROADBAND**

**AND**

**CVFIBER**

**THIS MERGER AGREEMENT** (this “Agreement”) is made effective as of the 1st day of June, 2024 (the “Effective Date”) by and between **NEK COMMUNITY BROADBAND**, a Vermont Communications Union District (“NEK”) and **CVFIBER**, a Vermont Communications Union District (“CVF”). NEK and CVF, as each currently exists prior to the transaction contemplated herein, may be individually referred to as a “Party” and collectively referred to as the “Parties.”

**RECITALS**

WHEREAS, NEK and CVF are Communications Union Districts (“CUDs”) under Title 30, Chapter 82 of the Vermont Statutes and were formed to deliver communications services and operate communications plant;

WHEREAS, NEK and CVF have determined that, together, the CUDs create a stronger single entity that can better compete for grants, access the revenue bond market faster, increase operational efficiencies in a way that will further benefit the citizens of Vermont, particularly of those within the 71 municipals of the proposed merged CUD, by increasing access and affordability;

WHEREAS, NEK has more federal grants from several different federal agencies, current applications for federal grants and loans, and ongoing contract negotiations for additional fiber and funding options, resulting in a need to maintain NEK’s legal identifications, the CUDs wish to create a merged identity of Northeast Central Broadband using an Assumed Business Name Registration with the State of Vermont (such actions as may be necessary to effect such a transaction referred to as the “Merger”);

WHEREAS, the missions of NEK and CVF are compatible and it is in their respective best interests and the best interests of their members’ municipalities to merge;

WHEREAS, the Parties intend to structure the Merger in a manner that is consistent with the requirements of 30 V.S.A. § 3082a (“Section 3082a”); and

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WHEREAS, the Parties intend to set forth the process under which the Merger will be conducted, their representations, warranties and covenants necessary to complete the merger, and their agreement as to post-merger structure set forth in the Preliminary Merger Plan (“PMP”) attached as Exhibit A and the Final Merger Plan (“FMP”), each of which is subject to approval by the Governing Boards of each NEK and CVF;

NOW, THEREFORE, in consideration of the mutual covenants and undertakings contained herein, subject to and on the terms and conditions herein set forth, and intending to be bound hereby, the parties agree as follows:

### **ARTICLE I MERGER**

1.1. Purpose of the Merger. The purpose of the Merger is to combine the organizations and memberships of NEK and CVF and the services offered, and functions performed by each into a single, comprehensive and cost-efficient organization that is better able to serve the interests of the citizens of Vermont in their districts.

1.2. The Merger; Merged CUD. On the terms and subject to the conditions set forth in this Agreement, on the Merger Date (as defined in Section 2.2), (a) CVF shall merge with and into NEK, (b) the separate corporate existence of CVF will cease, and (c) NEK will continue its existence as the surviving CUD of the Merger (as it shall exist following the Merger, the “Merged CUD”). There will be two “Brand Areas,” as depicted in Exhibit B, each representing the territory of one original CUD, NEK will have a dba as NEK Broadband and the former CVF will have a dba as CVFiber. It is the intent of the parties that there will be three dbas stemming from the merged CUD: Northeast Central Broadband, CVFiber, and NEK Broadband.

1.3. Merger Process. To effectuate the foregoing, the Parties have established a joint committee to implement the process provided in Section 3082a. Specifically, they shall:

- (a) obtain approval of their respective Governing Boards of the PMP;
- (b) distribute copies of the PMP to the legislative bodies of their respective member municipalities not less than 45 days before holding a public hearing on the PMP;
- (c) distribute, post, and publish in local newspaper and other paid media notice of the public hearing no later than three days before the public hearing;
- (d) hold a public hearing on the PMP and distribute notice of the PMP to each known creditor of their respective districts no less than 30 days before the vote on the FMP referenced below in Section 1.3(f);
- (e) prepare the FMP;
- (f) obtain approval of their respective Governing Boards of the FMP; and

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(g) take such other actions as may be necessary to close the Merger and provide notice to the Vermont Secretary of State and others entitled to notice thereof.

1.4. Ratification. Approval by the Governing Boards of the PMP shall be accompanied by a ratification by the Governing Boards of this Agreement.

1.5. Legal Effect of Merger. On and after the Merger Date and by reason of the Merger, the effect of the Merger shall be as provided in Section 3082a, including but not limited to the following:

(a) CVF shall merge with and into NEK and the separate existence of CVF shall cease, with the NEK continuing as the Merged CUD doing business under the name specified in Section 1.6, below;

(b) all assets of whatever kind, owned, claimed, or held by each district shall become vested in and become assets owned by the Merged CUD without any further act, deed, or instrument being necessary, and specifically (i) such assets include without limitation CVF Tangible Property, as defined in Section 4.2, which is set forth in Schedule 5.14 and the CVF Intellectual Property, as defined in Section 4.2, and (ii) contract rights possessed by the Parties shall be vested in the Merged CUD without reversion or impairment; and

(c) the Merged CUD shall assume and be obligated to pay or otherwise perform each and every lawful obligation, debt, claim, bonded indebtedness, and other liability of NEK and CVF without any further act, deed, or instrument being necessary, and specifically shall include the obligations under the CVF Material Contracts set forth in Schedule 5.10 .

1.6. Name. From and after the Merger Date, the doing business as “DBA” name of the Merged CUD shall be “Northeast Central Broadband”, which shall be noticed by the Merged CUD to the Vermont Secretary of State. Due to the magnitude of grants and loans the legal name of the Merged CUD shall be NEK Community Broadband.

1.7. Bylaws. Effective as of the Merger Date, the Bylaws of the Merged CUD (the “Bylaws”) shall be amended and restated substantially as provided in Attachment 1 to the PMP at Exhibit A hereto.

1.8. Completion and Documentation of Merger. NEK and CVF agree to execute, secure, deliver, record and file such assignments, transfers of title, assumption agreements, consents, authorizations, notices and other documents as shall be appropriate or necessary to implement and give full effect to the Merger or as otherwise required by this Agreement or applicable law, which shall include, without limitation, the documents listed at Exhibit C and the consents listed at Schedules 5.3 and 6.3.

1.9. Merger Implementation.

1.9.1. *NEK ARPA Construction Funds*. NEK Broadband will not submit a grant amendment to VCBB to combine the NEK Broadband ARPA Construction Grant and the CVFiber Construction Grant that could result in an expenditure of

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NEK Broadband construction funds in CVFiber territory without approval from either (a) the NEK Governing Board if before the FMP or (b) the combined Governing Board if after the FMP.

- 1.9.2. *CVFiber ARPA Funds.* NEK Broadband will be involved in the decision of the number and location of miles CVFiber will construct in 2024. Any use of funds beyond such construction and existing ongoing operational expenses will be approved by NEK Broadband.
- 1.9.3. *Merged Budget.* A budget for Northeast Central Broadband will be presented for approval at the Final Merger Proposal of the Merged CUD with one week notice prior to the vote of approval.
- 1.9.4. *Operational Integration.* The financial and operational plans for integration will be prepared and presented as part of the FMP vote of approval.
- 1.9.5. *Personnel Integration.* The CUDs will start to implement the proposed organizational structure for Northeast Central Broadband immediately following an affirmative Preliminary Merger Proposal Vote on June 1st as a way to integrate the staff and culture, explore efficiencies, roles, and responsibilities within the proposed organizational structure. All employees will continue to be paid from their existing organizations until the affirmative Final Merger Proposal Vote scheduled for August 15th. Revised position descriptions, salary offers, and benefit packages will be provided to all NEK Broadband and CVFiber employees by July 7th for incorporation into the Final Merger Proposal.
- 1.9.6. *Executive Committee.* A group of four CVF and four NEK Executive Committee members shall work on developing a pathway towards a more efficient and effective Executive Committee than the current proposed 16 member structure that will consist of the NEK and CVF Executive Committees combined. The proposed structure or pathway to the structure shall be finalized by July 7th for presentation at the public hearing and inclusion in the FMP.

### **ARTICLE II DATE OF MERGER; EFFECTIVE TIME OF MERGER**

2.1 Date of the Merger. Unless this Agreement shall have been terminated and the transactions herein contemplated shall have been abandoned pursuant to Article X herein, and provided all conditions have been satisfied or waived (where appropriate) by the appropriate Party, the Parties will cause the Merger to be consummated (the “Closing”) on the later of (a) the business day following the date on which all conditions precedent required herein to Closing are satisfied or waived, or (b) such other date as the Parties may mutually agree (such date upon which Closing occurs, the “Closing Date”). The Closing shall be conducted through digital signature, or in such other manner as the Parties may agree.

2.2 Effective Time of Merger. The Merger shall be effective as of 12:01 a.m. Eastern Time on the calendar day immediately following the Closing Date, or such other date and time as are established by the Parties (the day of such effectiveness being the “Merger Date”).

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**ARTICLE III  
MEMBERSHIP AND MANAGEMENT OF THE MERGED CUD**

3.1. Generally. The Merged CUD will comprise a combined 71 municipal members in six counties. The Merged CUD will continue to operate in each of CVF's and NEK's service territories under the respective original brands. The Merged CUD will operate according to the principles outlined in the PMP and then as superseded in the FMP, and in accordance with the Bylaws adopted for the Merged CUD. It is intended that the Merged CUD will operate substantially as if it had been originally formed as a single CUD.

3.2. Member Rights in Merged CUD. All CVF members as of the Merger Date shall become voting members of the Merged CUD. NEK members as of the Merger Date shall remain members of the Merged CUD, and retain the same membership interests with identical designation, preferences, limitations, and rights after the Merger Date. On the Merger Date, the CVF voting members shall have all of the same designations, preferences, limitations, rights and obligations as current NEK voting members, respectively, without exception.

3.3. Representatives. On the Merger Date, each primary and additional alternates for each member town listed at Exhibit D, or whomever represents each member town immediately prior to the Merger Date, shall be added to the Governing Board of the Merged CUD, and the appointed individuals and alternates listed at Exhibit D, or whomever represents each member town immediately prior to the Merger Date, shall remain until their respective successors have been elected and qualified in accordance with the Bylaws.

3.4. Officers. On the Merger Date, the officers of the Merged CUD shall be elected and confirmed at the organizational meeting after approval of the FMP. Until these officers shall have been elected and qualified at the first organizational meeting of the Merged CUD in accordance with the Bylaws, the following officers shall serve:

Chair:	Paul Fixx - NEK
Vice Chair:	Siobhan Perricone - CV
Clerk:	Jeremy Matt - CV
Treasurer:	Denise Sullivan - NEK

3.5. Executive Committee. The initial Executive Committee of the Merged CUD shall consist of the individuals listed at Exhibit D representing the nine member NEK Executive Committee and the seven member Executive Committee.

3.6. Other Committees and Working Groups. Exhibit D lists the individuals that will serve on the Finance Committee of the Merged CUD. In addition, the Merged CUD shall establish a Digital Equity Working Group and Communications Working Group. The Governing Board and/or Executive Committee of the Merged CUD may create other committees and working groups as provided in the Bylaws.

3.7. Post Merger Actions. The Merged CUD will undertake the following steps to ensure that the Merger is completed in accordance with Section 3082a:

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- (a) provide notice to the Vermont Secretary of State of the Merger and the member participation of the Merged CUD;
- (b) provide notice of the Merger to such other entities as may be required by law, including without limitation the Vermont Community Broadband Board under 30 V.S.A. § 8086(c)(5) and the Vermont Public Utility Commission under 30 V.S.A. § 311 ;
- (c) hold the first organizational meeting within 90 days of approval of the FMP; and
- (d) take such actions and submit filings with the Vermont Secretary of State as may be necessary to change the name of the Merged CUD.

**ARTICLE IV  
CUD FUNDS AND ASSETS**

4.1. Funds.

A. The Parties agree that part of the property vested into the Merged CUD on the Merger Date shall be CVF's cash on hand, cash in bank, money management or other accounts, readily marketable securities, security deposits, certificate of deposit and other cash-equivalent liquid assets, securities, equities, or debt instruments, including, without limitation, any remaining funds to be received by CVF from any construction grants

B. The Parties agree that part of the property vested into the Merged CUD on the Merger Date shall be NEKs, cash on hand, cash in bank, money management or other accounts, readily marketable securities, security deposits, certificate of deposit and other cash-equivalent liquid assets, securities, equities, or debt instruments, including, without limitation, any remaining funds to be received by NEK from any construction grants

4.2. Assets.

- A. CVF Assets. The Parties agree that part of the property vested into the Merged CUD on the Merger Date shall be (a) all material items of tangible personal property owned or leased by CVF including material equipment, furniture, and computers (the "CVF Tangible Property") listed at Schedule 4.2A, (b) all assets developed or deployed by CVF as communications plant (including without limitation all real property and leasehold interests), (c) all inventory intended for construction of communications plant and (d) any assets issued to employees or contractors for construction of communications plant and not yet installed.
- B. NEK Assets. The Parties agree that part of the property vested into the Merged CUD on the Merger Date shall be (a) all material items of tangible personal property owned or leased by NEK including material equipment, furniture, and computers (the "NEK Tangible Property") listed at Schedule 4.2B, (b) all assets developed or deployed by NEK as communications plant (including without limitation all real property and leasehold interests), (c) all inventory intended for construction of communications plant and (d) any assets issued to employees or contractors for construction of communications plant and not yet installed.

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**ARTICLE V  
REPRESENTATIONS AND WARRANTIES OF CVF**

As assurance to NEK of CVF's good standing, operational status, and ability to meet its obligations under this Agreement, CVF hereby represents and warrants the following with respect to CVF.

5.1. Organization. CVF is duly organized, validly existing and in good standing under the laws of the State of Vermont and has all requisite power and authority to own its properties and to carry on its activities as now being conducted. CVF has made available to NEK true, correct and complete copies of CVF's organizational documents (the "CVF Organizational Documents"), each as amended and in effect as of the date hereof. The CVF Organizational Documents are in full force and effect and CVF is not in violation of any provision of the CVF Organizational Documents.

5.2. Authorization; Enforceability. CVF has full power and authority to execute, deliver and perform this Agreement and all agreements and transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by CVF and constitutes a legal, valid and binding obligation of CVF, enforceable against CVF in accordance with its terms.

5.3. No Conflicts. The execution, delivery and performance of this Agreement (i) is not in violation of any provision of the CVF Organizational Documents; (ii) does not require the consent, notice or other action by any third party except as provided in Schedule 5.3; (iii) does not violate any law applicable to CVF; and (iv) does not violate or conflict with any contract or permit to which CVF is a party or by which any of CVF's properties or assets are bound; and (v) is enforceable against CVF in accordance with its terms.

5.4. Subsidiaries and Affiliates. CVF has no subsidiaries or affiliates.

5.5. Employment Matters. CVF is in compliance with all laws relating to the employment of labor and employment in all material respects, including all such laws relating to eligibility to legally be employed, wages and hours, benefits, fair employment practices (including discrimination, harassment, and retaliation), civil rights, veterans' rights, immigration, collective bargaining, plant closing and mass layoffs, safety and health, workers' compensation, disability rights or benefits, leaves of absence, equal pay, proper classification of employees as exempt and non-exempt and as employees and independent contractors, and the collection and payment of withholding or social security taxes and any similar tax. CVF has not received any written communication during the twelve (12) months immediately preceding the date of this Agreement of the intent of any governmental authority responsible for the enforcement of labor or employment laws to conduct an investigation or audit of it or its operations.

5.6. Annual Reports. CVF has regularly generated and made publicly available its annual financial reports and audited financials. All such reports are true, correct and complete in all material respects. To CVF's knowledge, no investigation, examination or audit of any report of CVF by any applicable governmental authority is currently in progress.

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5.7. **Insurance.** CVF is, and at all times during the past two (2) years has been, insured with reputable insurers against all risks normally insured against by companies engaged in similar businesses. CVF's insurance policies are in full force and effect on the date of this Agreement, all premiums due on such insurance policies have been timely paid and CVF is not otherwise in default under any insurance policy. There are no material claims by CVF pending under any insurance policy as to which coverage has been denied by the underwriters of such policies. CVF has made available to NEK true, complete and accurate copies of all such insurance policies. To CVF's knowledge, there are currently no claims pending against CVF under any insurance policies covering the property, business or employees of CVF. CVF does not maintain any self-insurance or co-insurance programs.

5.8. **Litigation.** There is no litigation, action, suit, proceeding, administrative proceeding, inquiries, audit or governmental investigation pending or, to the knowledge of CVF, threatened against CVF, its activities or any of its assets, at law or in equity or before any federal, state, municipal, local or other governmental authority, or before any arbitrator. CVF is not subject to any judgment, order, writ or decree of any court or other governmental authority.

5.9. **Compliance with Laws and Regulations.** CVF has conducted its operations and activities in compliance in all material respects with (a) all applicable laws, rules, regulations and codes, and (b) all applicable orders, rules, writs, judgments, injunctions, decrees and ordinances. CVF has not received any notification of any asserted present or past failure by it to comply in any material respect with such laws, rules or regulations, or such orders, writs, judgments, injunctions, decrees or ordinances.

5.10. **Contracts.**

(a) CVF has disclosed to NEK and listed at Schedule 5.10 all material agreements, contracts, leases or subleases (whether of real or personal property), commitments or arrangements of CVF in effect on the Effective Date (other than those terminable without monetary or other obligation, penalty or premium upon notice of thirty (30) days or less) (the "Contracts"), and such Contracts are valid and in full force and effect with no material default by CVF thereunder, and, to CVF's knowledge, any other party to a Contract.

(b) CVF has delivered or made available to NEK a true, correct, complete and accurate copy of each material agreement, contract, lease or sublease (whether of real or personal property), commitment or arrangement material to the ongoing conduct of CVF's business and each contract which, if terminated, would have a material adverse effect on CVF's ability to continue operating its business (each, a "Material Contract," and collectively the "Material Contracts"), including any amendments or modifications thereto. Material Contracts include, without limitation, all contracts or agreements (i) with CVF officers, directors, or employees, (ii) the performance of which involves payment by or to CVF of consideration in excess of \$25,000 over the term of such contract which cannot be canceled by notice of sixty (60) days or fewer; (iii) related to the license or sublicense of Intellectual Property as defined at Section 5.15; (iv) leases of real property; (v) creating a lien against any CVF real or personal property; or (vi) with any government entity.



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(c) Each Material Contract is in full force and effect and is a legal, valid, binding and enforceable obligation of CVF and, each Material Contract will continue to be legal, valid and in full force and effect on such existing terms after the Merger Date. CVF has performed in all material respects all obligations required under each of the Material Contracts, is not in breach of, or material default under, any Material Contract, and is not aware of any event that would reasonably be expected to result in a breach or material default by any person or entity under any Material Contract. To CVF's knowledge, no counterparty to any Material Contract is planning to terminate, not renew or otherwise cease to perform such counterparty's obligations under any Material Contract.

5.11. No Undisclosed Liabilities. CVF has no material debts, liabilities, commitments, or obligations of any nature, absolute, accrued, contingent or otherwise, relating to its activities, other than those that are fully reflected or reserved against on the financial statements referenced in Section 5.12 below. There are no liens filed on any of CVF's real or personal property.

5.12. Financial Statements. CVF has provided to NEK copies of its balance sheets and financial statements (the "CVF Financial Statements"). The CVF Financial Statements (a) have been prepared in accordance with GAAP applied on a consistent basis throughout the periods involved, (b) are in accord with the books and records of CVF, which books and records are true, correct and complete in all material respects, and (c) fully and fairly present, in all material respects, the financial condition of CVF as of the date indicated and the results of operations of CVF for the period indicated.

5.13. Accounts Receivable and Payable.

(a) To CVF's knowledge, all payments for services provided prior to May 1, 2024 (the "Accounts Receivable") are valid and enforceable claims, are subject to no set-off or counterclaim, and, except to the extent reserved against for uncollectible or doubtful accounts, are collectible in the normal course. CVF does not have any Accounts Receivable or loans receivable from any person affiliated with it or any of its directors, officers, managers, employees or members, excluding any current dues from internet service being provided by CVF.

(b) All of CVF's accounts payable and notes payable as of May 1, 2024 arose in bona fide arm's length transactions in the ordinary course of business and no such account payable or note payable is delinquent in its payment. CVF has paid its accounts payable in the ordinary course of business and in a manner which is consistent with past practices. CVF does not have any accounts payable or loans payable to any person affiliated with it or any of its Representatives, officers, managers, employees or members.

5.14. Tangible Property. Schedule 4.2 contains a full and accurate list of all CVF Tangible Property.

5.15. Intellectual Property.

(a) "CVF Intellectual Property" is defined as all intellectual property rights and related

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priority rights owned, licensed or otherwise held by CVF and protected, created or arising under the laws of the United States or any other jurisdiction or under any international convention, including all (a) patents and patent applications, (b) trademarks, service marks, trade names, trade dress, brand names, slogans, logos, corporate names and other source or business identifiers and any registrations, applications, renewals and extensions of any of the foregoing and all goodwill associated with any of the foregoing, (c) Internet domain names and uniform resource locators, (d) copyrights, copyrightable works, mask works, works of authorship and moral rights, “look and feel,” and any registrations, applications, renewals, extensions and reversions of any of the foregoing, (e) trade secrets, know-how and confidential and proprietary information, technical information, software (including source code, executable code, systems, tools, data, libraries, databases, firmware, interfaces, and related documentation), algorithms, procedures, methods, techniques, ideas, drawings, blueprints, architectures, layouts, research and development, databases and data collections, specifications, processes, inventions (whether patentable or not and whether reduced to practice or not) and improvements, (f) all other intellectual property rights to the extent entitled to legal protection as such, and (g) all copies and tangible embodiments of the assets detailed in (a) through (f) of this paragraph (in whatever form or medium), but expressly excluding any non-exclusive licenses to off-the-shelf software.

(b) CVF is the sole and exclusive owner of all right, title and interest in and to all CVF Intellectual Property, free and clear of all liens. During the past three (3) years, no person or entity has asserted any claim of ownership or other claim adverse to CVF relating to creation or invention of any CVF Intellectual Property. The CVF Intellectual Property constitutes all of the intellectual property rights used or held for use by CVF in the conduct of its business. CVF has valid and continuing rights (based on ownership or pursuant to licenses) to use, sell, license and otherwise exploit, as the case may be, all CVF Intellectual Property, free and clear of all liens. The consummation of the Merger will not result in any obligation to pay amounts or consideration with respect to the CVF Intellectual Property other than ongoing fees, royalties or payments which CVF would otherwise have been required to pay.

(c) During the past three (3) years, all necessary fees and filings with respect to all CVF Intellectual Property have been timely submitted to maintain such CVF Intellectual Property in full force and effect. During the past three (3) years, no issuance or registration obtained and no application filed by CVF for any CVF Intellectual Property has been canceled, abandoned, allowed to lapse or not renewed, except where CVF has, in its reasonable business judgment, decided to cancel, abandon, allow to lapse or not renew such issuance, registration or application. No opposition, cancellation, reissue, reexamination, arbitration, mediation, domain name dispute resolution, or other similar proceeding is pending or during the past three (3) years has been threatened in which any CVF Intellectual Property is being contested or challenged. All registrations for CVF Intellectual Property are valid, subsisting and enforceable.

(d) The operation of CVF’s business, and CVF’s use of CVF Intellectual Property, does not or will not infringe, misappropriate, dilute or violate, any intellectual property rights of any person or entity. No claim for infringement, misappropriation or other violation, and

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no claim challenging the ownership, use, validity or enforceability of any CVF Intellectual Property, is pending in any court during the past three (3) years or has been threatened against CVF. To CVF's knowledge, no third party infringes, misappropriates, dilutes, or violates, or has during the past three (3) years in the past infringed, misappropriated, diluted, or violated any CVF Intellectual Property.

5.16. Information Technology: Data Protection.

(a) CVF owns, leases or licenses all information technology assets necessary to conduct its business in all material respects in the manner in which it currently conducts its business ("IT Assets"). IT Assets used by or on behalf of CVF (i) are free from material defects, viruses, worms, Trojan horses or similar flaws or other harmful devices, programs or code, (ii) during the past three (3) years have not been subjected to any material "denial of service" or other such attack and (iii) have commercially reasonable back-up, data recovery procedures, or other preventative measures that prevent against the loss of any data necessary for the operation of such entity's business. To CVF's knowledge, during the past three (3) years, there have been no material unauthorized access, intrusions or breaches of the security of any IT Assets operated or controlled by or on behalf of CVF or its vendors.

(b) CVF is in compliance in all material respects with all applicable law with respect to personal information, privacy rights of third parties, contractual obligations and privacy policies pertaining to privacy and personal information, and the collection, use, storage, registration and transfer thereof (collectively, "Privacy Commitments"). The execution, delivery and performance of this Agreement and the consummation of the Merger comply with all applicable Privacy Commitments and will not result in any violation or breach thereof. During the past three (3) years, CVF has not received notice from any third party indicating or alleging that CVF is not or has not been in compliance with any Privacy Commitments.

**ARTICLE VI  
REPRESENTATIONS AND WARRANTIES OF NEK**

As assurance to CVF of NEK's good standing, operational status, and ability to meet its obligations under this Agreement, NEK hereby represents and warrants the following with respect to NEK.

6.1. Organization. NEK is duly organized, validly existing and in good standing under the laws of the State of Vermont and has all requisite power and authority to own its properties and to carry on its activities as now being conducted. NEK has made available to CVF true, correct and complete copies of NEK's organizational documents (the "NEK Organizational Documents"), each as amended and in effect as of the date hereof. The NEK Organizational Documents are in full force and effect and NEK is not in violation of any provision of the NEK Organizational Documents.

6.2. Authorization. Enforceability. NEK has full power and authority to execute, deliver and perform this Agreement and all agreements and transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by NEK and constitutes a legal, valid and binding

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obligation of NEK, enforceable against NEK in accordance with its terms.

6.3. No Conflicts. The execution, delivery and performance of this Agreement (i) is not in violation of any provision of the NEK Organizational Documents; (ii) does not require the consent, notice or other action by any third party except as provided in Schedule 6.3; (iii) does not violate any law applicable to NEK; (iv) does not violate or conflict with any contract or permit to which NEK is a party or by which any of NEK's properties or assets are bound; and (v) is enforceable against NEK in accordance with its terms.

6.4. Subsidiaries and Affiliates. NEK has no subsidiaries or affiliates.

6.5. Employment Matters. NEK is in compliance with all laws relating to the employment of labor and employment in all material respects, including all such laws relating to eligibility to legally be employed, wages and hours, benefits, fair employment practices (including discrimination, harassment, and retaliation), civil rights, veterans' rights, immigration, collective bargaining, plant closing and mass layoffs, safety and health, workers' compensation, disability rights or benefits, leaves of absence, equal pay, proper classification of employees as exempt and non-exempt and as employees and independent contractors, and the collection and payment of withholding or social security taxes and any similar tax. NEK has not received any written communication during the twelve (12) months immediately preceding the date of this Agreement of the intent of any governmental authority responsible for the enforcement of labor or employment laws to conduct an investigation or audit of it or its operations.

6.6. Annual Reports. NEK has regularly generated and made publicly available its annual financial reports and audited financials. All such reports are true, correct and complete in all material respects. To NEK's knowledge, no examination or audit of any report of NEK by any applicable governmental authority is currently in progress.

6.7. Insurance. NEK is, and at all times during the past three (3) years has been, insured with reputable insurers against all risks normally insured against by companies engaged in similar businesses. NEK's insurance policies are in full force and effect on the date of this Agreement, all premiums due on such Insurance Policies have been paid and NEK is not otherwise in default under any insurance policy. There are no material claims by NEK pending under any insurance policy as to which coverage has been denied by the underwriters of such policies. NEK has made available to CVF true, complete and accurate copies of all such insurance policies. To NEK's knowledge, there are currently no claims pending against NEK under any insurance policies covering the property, business or employees of NEK. NEK does not maintain any self-insurance or co-insurance programs.

6.8. Litigation. There is no litigation, action, suit, proceeding, administrative proceeding, inquiries, audit or governmental investigation pending or, to the knowledge of NEK, threatened against NEK, its activities or any of its assets, at law or in equity or before any federal, state, municipal, local or other governmental authority, or before any arbitrator. NEK is not subject to any judgment, order, writ or decree of any court or other governmental authority.

6.9. Compliance with Laws and Regulations. NEK has conducted its operations and activities in

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compliance in all material respects with (a) all applicable laws, rules, regulations and codes, and (b) all applicable orders, rules, writs, judgments, injunctions, decrees and ordinances. NEK has not received any notification of any asserted present or past failure by it to comply in any material respect with such laws, rules or regulations, or such orders, writs, judgments, injunctions, decrees or ordinances.

### **6.10. Contracts.**

(a) NEK has disclosed to CVF and listed at Schedule 6.10 all material agreements, contracts, leases or subleases (whether of real or personal property), commitments or arrangements of NEK in effect on the Effective Date (other than those terminable without monetary or other obligation, penalty or premium upon notice of thirty (30) days or less) (the “Contracts”), and such Contracts are valid and in full force and effect with no material default by NEK thereunder, and, to NEK’s knowledge, any other party to a Contract.

(b) NEK has delivered or made available to CVF a true, correct, complete and accurate copy of each material agreement, contract, lease or sublease (whether of real or personal property), commitment or arrangement material to the ongoing conduct of NEK’s business and each contract which, if terminated, would have a material adverse effect on NEK’s ability to continue operating its business (each, a “Material Contract,” and collectively the “Material Contracts”), including any amendments or modifications thereto. Material Contracts include, without limitation, all contracts or agreements (i) with NEK officers, directors, or employees, (ii) the performance of which involves payment by or to NEK of consideration in excess of \$25,000 over the term of such contract which cannot be canceled by notice of sixty (60) days or fewer; (iii) related to the license or sublicense of Intellectual Property as defined at Section 6.15; (iv) leases of real property; (v) creating a lien against any NEK real or personal property; and (vi) with any government entity.

(c) Each Material Contract is in full force and effect and is a legal, valid, binding and enforceable obligation of NEK and, each Material Contract will continue to be legal, valid and in full force and effect on such existing terms after the Merger Date. NEK has performed in all material respects all obligations required under each of the Material Contracts, is not in breach of, or material default under, any Material Contract, and is not aware of any event that would reasonably be expected to result in a breach or material default by any person or entity under any Material Contract. To NEK’s knowledge, no counterparty to any Material Contract is planning to terminate, not renew or otherwise cease to perform such counterparty’s obligations under any Material Contract.

6.11. **No Undisclosed Liabilities.** NEK has no material debts, liabilities, commitments, or obligations of any nature, absolute, accrued, contingent or otherwise, relating to its activities, other than those previously disclosed to CVF or which are fully reflected or reserved against on the financial statements referenced in Section 6.106.12 below. There are no liens filed on any of NEK’s real or personal property except other than those previously disclosed to CVF.

6.12. **Financial Statements.** NEK has provided to CVF copies of its balance sheets and financial statements (the “NEK Financial Statements”). The NEK Financial Statements (a) have been prepared in accordance with GAAP applied on a consistent basis throughout the periods involved, (b) are in accord with the books and records of NEK, which books and records are true, correct and complete in all material respects, and (c) fully and fairly present, in all material respects, the financial condition of NEK as of the date indicated and the results of operations of NEK for the period indicated.

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**6.13. Accounts Receivable and Payable.**

(a) To NEK's knowledge, all payments for services provided prior to May 1, 2024 (the "Accounts Receivable") are valid and enforceable claims, are subject to no set-off or counterclaim, and, except to the extent reserved against for uncollectible or doubtful accounts, are collectible in the normal course. NEK does not have any Accounts Receivable or loans receivable from any person affiliated with it or any of its directors, officers, managers, employees or members.

(b) All of NEK's accounts payable and notes payable as of May 1, 2024 arose in bona fide arm's length transactions in the ordinary course of business and no such account payable or note payable is delinquent in its payment. NEK has paid its accounts payable in the ordinary course of business and in a manner which is consistent with past practices. NEK does not have any accounts payable or loans payable to any person affiliated with it or any of its Representatives, officers, managers, employees or members.

**6.14. Intellectual Property.**

(a) "NEK Intellectual Property" is defined as all intellectual property rights and related priority rights owned, licensed or otherwise held by NEK and protected, created or arising under the laws of the United States or any other jurisdiction or under any international convention, including all (a) patents and patent applications, (b) trademarks, service marks, trade names, trade dress, brand names, slogans, logos, corporate names and other source or business identifiers and any registrations, applications, renewals and extensions of any of the foregoing and all goodwill associated with any of the foregoing, (c) Internet domain names and uniform resource locators, (d) copyrights, copyrightable works, mask works, works of authorship and moral rights, "look and feel," and any registrations, applications, renewals, extensions and reversions of any of the foregoing, (e) trade secrets, know-how and confidential and proprietary information, technical information, software (including source code, executable code, systems, tools, data, libraries, databases, firmware, interfaces, and related documentation), algorithms, procedures, methods, techniques, ideas, drawings, blueprints, architectures, layouts, research and development, databases and data collections, specifications, processes, inventions (whether patentable or not and whether reduced to practice or not) and improvements, (f) all other intellectual property rights to the extent entitled to legal protection as such, and (g) all copies and tangible embodiments of the assets detailed in (a) through (f) of this paragraph (in whatever form or medium), but expressly excluding any non-exclusive licenses to off-the-shelf software.

(b) NEK is the sole and exclusive owner of all right, title and interest in and to all NEK Intellectual Property, free and clear of all liens. During the past three (3) years, no person or entity has asserted any claim of ownership or other claim adverse to NEK relating to creation or invention of any NEK Intellectual Property. The NEK Intellectual Property constitutes all of the intellectual property rights used or held for use by NEK in the conduct of its business. NEK has valid and continuing rights (based on ownership or pursuant to licenses) to use, sell, license and otherwise exploit, as the case may be, all NEK Intellectual Property, free and clear of all liens. The consummation of the Merger will not result in any obligation to pay amounts or consideration with respect to the NEK Intellectual Property other than ongoing fees, royalties or payments which NEK would otherwise have been required to pay.

(c) During the past three (3) years, all necessary fees and filings with respect to all NEK Intellectual Property have been timely submitted to maintain such NEK Intellectual Property in full force and effect. During the past three (3) years, no issuance or registration obtained and no

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application filed by NEK for any NEK Intellectual Property has been cancelled, abandoned, allowed to lapse or not renewed, except where NEK has, in its reasonable business judgment, decided to cancel, abandon, allow to lapse or not renew such issuance, registration or application. No opposition, cancellation, reissue, reexamination, arbitration, mediation, domain name dispute resolution, or other similar proceeding is pending or during the past three (3) years has been threatened in which any NEK Intellectual Property is being contested or challenged. All registrations for NEK Intellectual Property are valid, subsisting and enforceable.

(d) The operation of NEK's business, and NEK's use of NEK Intellectual Property, does not or will not infringe, misappropriate, dilute or violate, any intellectual property rights of any person or entity. No claim for infringement, misappropriation or other violation, and no claim challenging the ownership, use, validity or enforceability of any NEK Intellectual Property, is pending in any court during the past three (3) years or has been threatened against NEK. To NEK's knowledge, no third party infringes, misappropriates, dilutes, or violates, or has during the past three (3) years in the past infringed, misappropriated, diluted, or violated any NEK Intellectual Property.

### **6.15. Information Technology; Data Protection.**

(a) NEK owns, leases or licenses all information technology assets necessary to conduct its business in all material respects in the manner in which it currently conducts its business ("IT Assets"). IT Assets used by or on behalf of NEK (i) are free from material defects, viruses, worms, Trojan horses or similar flaws or other harmful devices, programs or code, (ii) during the past three (3) years have not been subjected to any material "denial of service" or other such attack and (iii) have commercially reasonable back-up, data recovery procedures, or other preventative measures that prevent against the loss of any data necessary for the operation of such entity's business. To NEK's knowledge, during the past three (3) years, there have been no material unauthorized access, intrusions or breaches of the security of any IT Assets operated or controlled by or on behalf of NEK or its vendors.

(b) NEK is in compliance in all material respects with all applicable law with respect to personal information, privacy rights of third parties, contractual obligations and privacy policies pertaining to privacy and personal information, and the collection, use, storage, registration and transfer thereof (collectively, "Privacy Commitments"). The execution, delivery and performance of this Agreement and the consummation of the Merger comply with all applicable Privacy Commitments and will not result in any violation or breach thereof. During the past three (3) years, NEK has not received notice from any third party indicating or alleging that NEK is not or has not been in compliance with any Privacy Commitments.

## **ARTICLE VII COVENANTS**

7.1. **Ongoing Representations and Warranties and Notification.** The Parties shall take such actions as may be necessary or advisable to ensure the ongoing accuracy of the representations and warranties provided by each of them at Articles V and VI. Each Party shall promptly notify the other Party to this Agreement of (a) the occurrence or non-occurrence of any event likely to cause any representation or warranty of such Party contained in this Agreement to be untrue or inaccurate at or prior to the Merger Date, and (b) any failure of such Party to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it hereunder.

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7.2. Efforts to Close. Each of NEK and CVF shall use commercially reasonable best efforts to take, or cause to be taken, all action and to do, or cause to be done, all things reasonably necessary, proper or advisable to consummate and make effective as promptly as practicable the transactions contemplated by this Agreement (including the satisfaction, but not waiver, of the closing conditions set forth in Article VIII). The foregoing shall include, without limitation, their reasonable best efforts to obtain the ratification of this Agreement and approval of the PMP and FMP by their respective Governing Boards.

7.3. Conduct of Activities CVF. During the period from the Effective Date hereof until the Merger Date, except as otherwise provided in or required by this Agreement, the Parties will operate and conduct their respective activities in the ordinary course of business consistent with past practices; provided, however, that CVF shall not, without written consent of NEK, do any of the following:

- (a) spend, transfer, dispose of, alienate, pledge, mortgage, subject to a lien or obligate any of the CUD Tangible Property or NEK Intellectual Property or CVF Intellectual Property;
- (b) acquire any subsidiary or affiliated entity;
- (c) incur, create, assume, guaranty or otherwise become liable or obligated with respect to any debt, or endorse the obligations of any person or entity;
- (d) enter into any transactions with any director, officer or employee of CVF, other than to perform agreements existing as of the Effective Date;
- (e) increase the compensation of or provide any bonus to any officer, or employee of CVF, other than severance or retention payments due to employees under arrangements existing on the Effective Date;
- (f) hire or appoint any officer or employee;
- (g) cancel, compromise, waive, or release any material right or claim, or forgive, cancel or compromise any non-de minimis debt or claim;
- (h) amend or modify any CVF Organizational Document;
- (i) agree to acquire any real property unless it is in the normal course of constructing the respective networks;
- (j) make any loan or advance to (except for advances to employees for reasonable business expenses in the ordinary course of business consistent with past practice), or any investment in, any person or entity;
- (k) commence, settle or compromise, or agree to settle or compromise any legal



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proceedings pending or threatened against the CUD, except for any such settlement or compromise which was not (and could not reasonably be expected to be) material to the business, operations or financial condition of the CUD;

- (l) merge with any other entity, or enter into or agree to enter into any partnership, joint venture, profit sharing, strategic cooperative relationship, fiscal sponsorship or similar arrangement;
- (m) terminate, amend, extend, waive, modify or take any actions that would cause termination, cancellation, modification or amendment of any Material Contract, excluding any expiration or non-renewal of any such Material Contract in accordance with its terms, or waive release or assign any rights under any Material Contract;
- (n) enter into any agreement, contract or other arrangement which would have constituted a Material Contract if it had been entered into prior to the Effective Date;
- (o) fail to maintain adequate insurance consistent with past and commercially reasonable practice; or
- (p) take, commit, or agree to take any of the actions described in clauses (a) through (o) above.

7.4. Conduct of Activities NEK. During the period from the Effective Date hereof until the Merger Date, except as otherwise provided in or required by this Agreement, the Parties will operate and conduct their respective activities in the ordinary course of business consistent with past practices; provided, however, that NEK shall not, without written consent of CVF, do any of the following:

- (a) acquire any subsidiary or affiliated entity;
- (b) cancel, compromise, waive, or release any material right or claim, or forgive, cancel or compromise any non-de minimis debt or claim;
- (c) amend or modify any NEK CUD Organizational Document;
- (d) agree to acquire any real property unless it is in the normal course of constructing the respective networks;
- (e) make any loan or advance to (except for advances to employees for reasonable business expenses in the ordinary course of business consistent with past practice), or any investment in, any person or entity;
- (f) commence, settle or compromise, or agree to settle or compromise any legal proceedings pending or threatened against NEK the CUD, except for any such settlement or compromise which was not (and could not reasonably be expected to be) material to the business, operations or financial condition of NEK the CUD;

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- (g) merge with any other entity, or enter into or agree to enter into any partnership, joint venture, profit sharing, strategic cooperative relationship, fiscal sponsorship or similar arrangement;
- (h) fail to maintain adequate insurance consistent with past and commercially reasonable practice; or
- (i) take, commit, or agree to take any of the actions described in clauses (a) through (h) above.

7.5. Preservation of Books and Records. Prior to the Merger Date, the CUDs shall preserve and maintain its books and records in all material respects in the same manner and with the same care that its books and records have been maintained prior to the execution of this Agreement.

7.6. Cooperation; Consents. Between the Effective Date and the Merger Date, each Party shall use commercially reasonable best efforts to (a) cause the conditions to the other Party's obligation to effect the Merger set forth in Article VIII to be satisfied, and (b) obtain all consents, waivers and approvals required to effect the Merger and vest in the Merged CUD all rights and benefits of each Party. The foregoing shall include, without limitation, consents necessary if any, from the Vermont Community Broadband Board and the Vermont Public Utility Commission.

7.7. Required Notices; Public Announcements. The Parties shall mutually agree upon the form of notices sent, posted or published by them as required under Section 3082a, and shall also mutually agree upon a joint press release to be issued on or after the Merger Date regarding the Merger. The Parties shall provide notice to each other of any communication with the press about the Merger or the other Party, and shall otherwise use their reasonable best efforts to coordinate any public statements by either of the Parties or their representatives.

7.8. Further Assurances. From time to time after the Merger Date, at the request of one Party, without further consideration, each of the Parties shall execute and deliver to such requesting Party, or shall cause to be executed and delivered to such requesting Party, such additional instruments or documents, and shall take or cause to be taken such other action, as such requesting Party may reasonably request in order to consummate more effectively the transactions contemplated hereby.

7.9. Access to Information. Each Party shall afford the other Party and its representatives access to, upon reasonable notice during business hours, all of its assets, properties, books and records, and all other information concerning such Party as the other Party may reasonably request; provided, however, that such Party may restrict or otherwise prohibit access to such documents or information to the extent that (a) any applicable law requires such Party to restrict or otherwise prohibit access to such documents or information, (b) access to such documents or information would give rise to a material risk of waiving any attorney-client privilege, work product doctrine or other privilege applicable to such documents or information, or (c) access to a contract to which such Party is a party or otherwise bound would give a third party a right to terminate or accelerate the rights under such Contract.

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7.10. Third Party Contracts. The Parties shall mutually agree on a plan to give all notice to and obtain all necessary consents, waivers and approvals of any third parties to any Material Contract as are listed at Schedules 5.10 and 6.10, and as may be required thereunder in connection with the Merger in order for such Material Contract to remain in full force and effect following the Merger. Such consents, waivers and approvals shall be in a form reasonably acceptable to each Party. No Party shall be obligated to make any fees or payments required to obtain such filings, notices or consents.

7.11. Confidentiality. Subject to the requirements of applicable law, all non-public information regarding the Parties and their business, operations and properties that is disclosed in connection with the negotiation, preparation or performance of this Agreement shall be confidential and shall not be disclosed to any other person or entity, except that such information may be disclosed to such Party's lenders, partners, counsel, accountants and other representatives assisting such Party with the transactions contemplated hereby and as required by law.

**ARTICLE VIII  
CONDITIONS TO CLOSING**

8.1. Closing Conditions. Each of the Parties' obligation to effect the Merger are subject to the satisfaction, or waiver in writing by the other Party (if waivable), of each of the following conditions prior to the Closing:

- (a) The Governing Boards of NEK and CVF, shall have approved the PMP, ratified this Agreement, and approved the FMP.
- (b) The Parties shall have provided each other with duly adopted resolutions of their Governing Boards approving the PMP and FMP pursuant to the votes required by Section 3082a.
- (c) The Parties shall have otherwise fulfilled all requirements of Section 3082a necessary to complete the Merger.
- (d) All of the representations and warranties of each Party contained in this Agreement shall be true and correct in all material respects.
- (e) Each Party shall have performed and complied with all of the obligations, covenants and conditions required to be performed or complied with by it in all material respects.
- (f) There shall have been no material adverse change in the activities, operations or condition, financial or otherwise, of each Party from the Effective Date to the Merger Date, and no event shall have occurred or circumstance exist that may, or could reasonably be expected to, result in such a material adverse change, without written consent from the other Party.
- (g) All conditions and requirements set out in this Agreement shall have been satisfied

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or waived.

**ARTICLE IX  
SURVIVAL AND REMEDIES**

9.1. Survival and Remedies.

(a) Except as otherwise provided in this Article, the representations and warranties in this Agreement shall survive for a period of twelve (12) months from the Closing Date, whereupon they shall expire and be of no further force or effect.

(b) The provisions regarding post-Merger structure set forth in Article III are ongoing obligations of the Merged CUD and shall survive, and thus a claim may be brought in respect of a breach thereof by former municipal members of each Party, until the next annual organizational meeting of the Merged CUD.

**ARTICLE X  
TERMINATION**

10.1. Termination and Abandonment. This Agreement may be terminated and the Merger abandoned at any time prior to the Merger Date:

- (a) by mutual written consent authorized by the Parties' Governing Boards;
- (b) by NEK if (i) CVF has breached any of its representations, warranties, obligations, covenants or agreements such that the conditions to Closing set forth in Article VIII would not be satisfied, NEK has provided written notice of such breach to CVF, and such breach has not been cured within fifteen (15) days after such notice is delivered to CVF, or (ii) the Merger Date shall not have occurred on or before October 1, 2024; or
- (c) by CVF if (i) NEK has breached any of its representations, warranties, obligations, covenants or agreements such that the conditions to Closing set forth in Article VIII would not be satisfied, CVF has provided written notice of such breach to NEK, and such breach has not been cured within fifteen (15) days after such notice is delivered to NEK, or (ii) the Merger Date shall not have occurred on or before October 1, 2024; or
- (j) Either the PMP or FMP are not approved by the respective Governing Boards.

10.2. Effect of Termination. In the event of termination and abandonment of the Merger by either Party pursuant to the terms hereof, written notice thereof shall forthwith be given to the non-terminating Party and the agreements and transactions contemplated hereby shall be terminated and become void and have no effect, and there shall be no liability hereunder on the part of any Party, except that this Section, related definitions, and Article XI shall each survive such termination. Nothing in this Section shall relieve or release any Party to this Agreement from any liabilities arising out of its knowing and intentional breach of, or fraud in connection with, any provision of this Agreement. Parties acknowledge and agree that nothing in this Section shall be

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deemed to affect their right to specific performance under Section 11.9.

10.3. After any termination of this Agreement pursuant to this Article, each Party shall keep confidential all information provided by the other Party pursuant to this Agreement that the other Party has identified as confidential and which is not in the public domain. This obligation of confidentiality will commence upon the Effective Date and continue indefinitely. Additionally, termination of this Agreement shall not affect the Parties' obligations under any separate non-disclosure or confidentiality agreements between them.

**ARTICLE XI  
MISCELLANEOUS**

11.1. Expenses. All costs, fees and expenses incurred in connection with this Agreement and the transactions contemplated hereby, whether or not consummated, shall be paid by the Party incurring such cost or expense; provided, however, that following the Closing, the Merged CUD shall pay such costs and expenses incurred by both Parties and as to CVF (including those for services rendered after the Merger Date in connection with actions incidental to the transactions contemplated by this Agreement by any firm or attorney that acted as counsel to CVF before the Merger Date), whether or not invoiced or payable as of the Closing, to the extent such fees, costs and expenses have not been paid by CVF prior to the Closing.

11.2. Severability. If any provision, including any phrase, sentence, clause, section or subsection, of this Agreement is determined by a court of competent jurisdiction to be invalid, inoperative or unenforceable for any reason, such circumstances shall not have the effect of rendering such provision in question invalid, inoperative or unenforceable in any other case or circumstance, or of rendering any other provision herein contained invalid, inoperative or unenforceable to any extent whatsoever. Upon any such determination, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

11.3. Amendment, Waivers, etc. Subject to compliance with applicable law, this Agreement may be amended by the Parties by action taken or authorized by their respective boards of directors. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the Parties. No modification or discharge of this Agreement, and no waiver hereunder, shall be valid or binding unless set forth in writing and duly executed by the Party against whom enforcement of the modification, discharge or waiver is sought. Any such waiver shall constitute a waiver only with respect to the specific matter described in such writing and shall in no way impair the rights of the Party granting such waiver in any other respect or at any other time. Neither the waiver by either of the Parties hereto of a breach of or a default under any of the provisions of this Agreement, nor the failure by either of the Parties, on one or more occasions, to enforce any of the provisions of this Agreement or to exercise any right or privilege hereunder, shall be construed as a waiver of any other breach or default of a similar nature, or as a waiver of any of such provisions, rights or privileges hereunder. The rights and remedies herein provided are cumulative and none is exclusive of any other, or of any rights or remedies that any Party may otherwise have at law or in equity.

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11.4. Notices. All notices, requests and other communications to either Party hereunder shall be in writing (including electronic mail transmission) and shall be given:

(a) If to NEK: NEK Community Broadband  
Attn: Christa Shute, Executive Director  
P.O. Box 4012  
St. Johnsbury, VT 05819  
director@nekbroadband.org

With a copy to: Lerman Senter, PLLC  
Attn: Jeff Carlisle and Steve Coran  
2001 L Street NW, Suite 400  
Washington, DC 20036  
scoran@lermansenter.com  
jcarlisle@lermansenter.com

(b) If to CVF: CVFiber  
Attn: Jennille Smith, Executive Director  
29 Main Street, Suite 4  
Montpelier, VT 05602  
jsmith@cvfiber.net

With a copy to: PIPER EGGLESTON & CRAMER PC  
Attn: Elijah Emerson  
30 Main St., Suite 500  
P.O. Box 1489  
Burlington, VT 05402  
eemerson@primmer.com

Copies of the communications to counsel shall not constitute notice to a Party. All notices regarding this Agreement or the Merger must be labeled as a “NOTICE REGARDING THE NEK/CVF MERGER AGREEMENT” to constitute effective notice. Notice shall be delivered to such other address or electronic mail address as such Party may hereafter specify for the purpose of notice to the other Party. All such notices, requests and other communications shall be deemed received (i) when delivered in person, (ii) when delivered after posting in the United States mail having been sent registered or certified mail return receipt requested, postage prepaid, (iii) when delivered by FedEx or other nationally recognized overnight delivery service, or (iv) when delivered by email, in each case, on the date of receipt by the recipient thereof if received prior to 5:00 p.m. on a Business Day in the place of receipt. Otherwise, any such notice, request or communication shall be deemed to have been received on the next succeeding Business Day in the place of receipt.

11.5. Applicable Law. THIS AGREEMENT SHALL BE GOVERNED IN ALL RESPECTS, INCLUDING AS TO VALIDITY, INTERPRETATION AND EFFECT, BY THE LAWS OF THE STATE OF VERMONT, WITHOUT GIVING EFFECT TO ITS PRINCIPLES

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OR RULES OF CONFLICT OF LAWS, TO THE EXTENT SUCH PRINCIPLES OR RULES ARE NOT MANDATORILY APPLICABLE BY STATUTE AND WOULD PERMIT OR REQUIRE THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION. Each Party hereby irrevocably submits to the jurisdiction of the courts of the State of Vermont and the federal courts of the United States of America located in the State of Vermont solely in respect of the interpretation and enforcement of the provisions of this Agreement or the agreements delivered in connection herewith or the transactions contemplated hereby or thereby or for recognition or enforcement of any judgment relating hereto or thereto. Each Party hereby waives, and agrees not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof or in respect of any such transaction, that it is not subject to such jurisdiction, or that such action, suit or proceeding may not be brought or is not maintainable in such courts or that the venue thereof may not be appropriate or that this Agreement may not be enforced in or by such courts.

11.6. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, successors and permitted assigns; provided that this Agreement shall not be assignable or otherwise transferable by either Party without the prior written consent of the other Party. Any assignment or transfer in violation of the preceding sentence shall be void.

11.7. Entire Agreement. This Agreement (together with the Exhibits and the other documents delivered pursuant hereto) constitutes the entire agreement and supersedes all prior agreements, understandings and representations, both written and oral, between the Parties with respect to the subject matter hereof.

11.8. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, and all of which together constitute one and the same instrument. Any facsimile or emailed signature attached hereto will be deemed to be an original and will have the same force and effect as an original signature.

11.9. Specific Performance. The Parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the Parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement or to enforce specifically the performance of the terms and provisions hereof. The Parties hereby waive, in any action for specific performance, the defense of adequacy of a remedy at law and the posting of any bond or other security in connection therewith.

11.10. Assignment. This Agreement may not be assigned, in whole or in part, by either Party without the prior written consent of the other Party.

11.11. Headings. Headings of the articles and sections in this Agreement are for reference purposes only and shall not be deemed to have any substantive effect.

**[SIGNATURES FOLLOW ON NEXT PAGE]**

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**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be duly executed by their respective representatives thereunto duly authorized, to be effective as of the Effective Date.

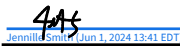
**NEK COMMUNITY BROADBAND**



---

Christa Shute  
Executive Director

**CVFIBER**



---

Jennille Smith  
Executive Director



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**EXHIBIT A**

**PRELIMINARY MERGER PLAN**

**FOR**

**NORTHEAST CENTRAL BROADBAND**

**A MERGER OF**

**NEK COMMUNITY BROADBAND**

**AND**

**CVFIBER**

**PURSUANT TO 30 V.S.A. § 3082a**

The following is a Preliminary Merger Plan (the “Plan”) for NEK Community Broadband (“NEK”), a Vermont Communications Union District (“CUD”), and CVFiber (“CVF”), a Vermont CUD, which are merging together pursuant to Section 3082a of Title 30 of the Vermont Statutes.

This Plan is presented to the Governing Boards of NEK and CVF for approval by a three-quarters vote of a quorum of each Governing Board in accordance with Section 3082a(b)(2). Should the Governing Boards so approve this Plan, then further notices, a public hearing and a vote on a Final Merger Plan will take place over the next few months according to the process described below. After the Final Merger Plan is approved, the Merged CUD will (1) notify the Vermont Secretary of State, and (2) within 90 days of such approval, hold an initial organizational meeting (the “Organizational Meeting”).

Under this plan, and in compliance with the process set forth below, NEK and CVF will merge into one corporate entity, and NEK will be the surviving entity. NEK will continue operating as a Vermont Communications Union District under a new set of Bylaws, a draft of which is attached, and after the merger will do business as “Northeast Central Broadband” through an Assumed Business Name Registration with the State of Vermont. For the purposes of this plan, the merged entity will be referred to as the “Merged CUD.”

The Merged CUD will operate under two separate brands (“Brand Areas”) within the existing NEK and CVF service areas.

To date, the preparatory work to develop the Plan has been as follows:

- (1) Meetings among staff and Executive Committee members of both CUDs to discuss the possibility of and due diligence for a merger of NEK and CVF, including work by five different working groups to review governance, finances, operations,

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construction and communications.

- (2) Development of a process to merge NEK and CVF in accordance with Vermont law, including the Governing Board votes and public hearing detailed below.
- (3) Development of operating principles and the structure of the Merged CUD to best represent all members of NEK and CVF and address the entire range of their differing needs.
- (4) Due diligence by each of NEK and CVF to enable each organization to understand the finances, operations, assets and liabilities of the other, and best plan for their successful future in serving the needs of their combined service area.
- (5) Signing of a Merger Agreement between NEK and CVF to establish (a) the process for the merger, (b) their respective representations, warranties and covenants, (c) the immediate post-merger structure of the Merged CUD, and (d) the content of this Plan. By approving this Plan, the Governing Boards shall also ratify the Merger Agreement.
- (6) Outreach and planning necessary to call a meeting of each of the Governing Boards of NEK and CVF to vote on whether to approve the Plan.

**A. OPERATING PRINCIPLES OF THE MERGED CUD**

The Merged CUD shall conduct its operations in accordance with Vermont law governing the operations of CUDs, and in accordance with the following shared principles:

- (1) The Merged CUD shall be focused on ensuring that high-speed internet is available to every unserved broadband serviceable location in the merged district and public service to its constituent communities on an equitable and affordable basis. By doing so, the Merged CUD will ensure the economic and social prosperity of the counties where it operates.
- (2) The Merged CUD will be a locally managed, employee led, and community driven organization, in which every municipal member of the Merged CUD will have an equal voice in the priorities and decisions of the CUD.
- (3) Honesty, transparency and accountability will be a part of all of the Merged CUDs interactions with its customers and communities.
- (4) The Merged CUD will continue to have a grassroots efforts focus, emphasizing local input to strategy and decision making.
- (5) The Merged CUD's operational focus will be to provide reliable, superior service throughout its service areas and to proactively evolve to anticipate and meet future

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needs, while balancing affordability, sustainability and fiscal responsibility.

- (7) Digital Equity will be an important mission of the Merged CUD.

### **B. STRUCTURE**

#### *Governing Board*

The Merged CUD will combine the 51 municipal members of NEK and the 20 municipal members of CVF into a single group of 71 municipal members, all of whom will be represented on the Governing Board as specified in the Bylaws.

The Governing Board will have ultimate authority for directing the operations of the Merged CUD, although day-to-day operations will be directed by the Executive Committee and Executive Director. However, only the Governing Board will have the authority to do the following:

- (1) amend the articles of incorporation and the Bylaws;
- (2) set the budget;
- (3) make any amendments to the budget exceeding the major purchase limits approved in the procurement policy;
- (4) hire and fire the Executive Director of the District; and
- (5) make major structural decisions, such as decisions that change the way the organization is going to operate, major branding changes, major pricing changes, major staffing changes, incur major unbudgeted debt exceeding the major purchase limits approved in the procurement policy, or vendor partnerships that would take on substantial work on behalf of the CUD.

As required by Section 3082a, the Governing Board shall have the Organizational Meeting within 90 days after the Governing Boards of NEK and CVF approve the Final Merger Proposal. After that, the Governing Board shall meet four times per year: for example, once in May for an annual meeting; once in October for preliminary approval of the budget; once in November for approval of the budget and once in February for a review of the previous year's accomplishments and the plans for the following year.

In addition, sub-sections of the Governing Board may meet to discuss items specific to each Brand Area and efforts to support their communities. For example, sub-sections may meet to discuss how to support town activities prior to Town Meeting Day in March and Election Day in September.

#### *Executive Committee*

The Executive Committee of the Merged CUD will work with the Executive Director to manage the day-to-day operation of the Merged CUD in accordance with the Bylaws and an attached Executive Committee Charter. The initial merged Executive Committee will consist of the nine

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member NEK Executive Committee and seven member CVF Executive Committee, with the members as they exist immediately pre-merger.

The NEK Treasurer will serve as ex-officio member. The Executive Director and Treasurer of the Merged CUD shall attend meetings of the Executive Committee as non-voting members.

The specific individuals to sit on the Executive Committee shall be confirmed by the Governing Board of the Merged CUD at the Organizational Meeting. Afterwards, the composition of the Executive Committee shall be determined at each annual meeting.

The Executive Committee shall meet at least one time per month depending on the needs of the Merged CUD. The Executive Committee shall strive for consensus of all members by ensuring that all members have ample time to voice their opinions and any concerns.

### *Finance Committee*

The Finance Committee shall be composed of 5-8 members of the Executive Committee, Governing Board, and/or residents of member towns with desired skill sets. The Executive Director and the Treasurer of the Merged CUD shall be members of the Finance Committee as non-voting members. The initial Finance Committee will consist of the four member NEK Finance Committee and the four member CVF Finance Committee. At least one representative from each Brand Area shall be on the Finance Committee. The Finance Committee is responsible for review of the financials on a monthly basis and approval of the financials on a quarterly basis for recommendation to the Executive Committee. The Finance Committee will meet no less frequently than once per month. The Finance Committee shall strive for consensus of all members by ensuring that all members have ample time to voice their opinions and any concerns. The initial Finance Committee shall be composed of the members of each CUDs Finance Committee.

### *Other Committees and Working Groups*

The Governing Board or Executive Committee of the Merged CUD may authorize additional committees or working groups to address specific issues or policies as needed. The Merged CUD will have the following initial working groups:

- (1) Communication Working Group: Focusing on facilitating and constantly improving communications among the Merged CUD and its users, municipal members, the counties, other governmental entities, and other stakeholders.
- (2) Digital Equity Working Groups as needed: Focusing on ensuring that access to communications services provided by the Merged CUD are provided as broadly and equitably as possible and to maximize accessibility for all users.

## **C. MERGER PROCESS**

Should the Governing Boards of NEK and CVF approve this Preliminary Plan by three-quarters vote of a quorum of the Governing Board of each of the merging districts, the following steps will then take place within the next few months, concluding with the merger of NEK and CVF:

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- (1) NEK and CVF will distribute copies of the Plan to the legislative bodies of their respective member municipalities not less than 45 days before holding a public hearing on the Plan.
- (2) NEK and CVF will arrange for notice of the public hearing by distributing such notice to their member municipalities, publicly posting such notice, and publishing notice in local newspapers and other paid media. These notices will be made no later than three days before the public hearing.
- (3) NEK and CVF will each hold a public hearing on the Plan.
- (4) NEK and CVF will schedule a Governing Board vote on the Final Merger Plan no less than 30 days after the public hearing.
- (5) NEK and CVF will distribute notice of the Final Merger Plan to each known creditor of their respective districts no less than 30 days before the vote.
- (6) NEK and CVF will appoint a joint committee to prepare the Final Merger Plan.
- (7) NEK and CVF's Governing Boards will vote on whether to approve the Final Merger Plan.

If the Governing Boards of NEK and CVF approve the Final Merger Plan by a vote of two-thirds of a quorum, the Final Merger Plan shall take effect immediately. At that point, NEK and CVF shall merge into a single Merged CUD. The Merged CUD shall have an Assumed Business Name Registration with the State of Vermont as "Northeast Central Broadband".

Section 3082a requires that the Organizational meeting be held within 90 days after the Final Merger Plan takes effect and that the Governing Board send notice of the merger to the Vermont Secretary of State. The Merger Agreement specifies the composition of the Governing Board, Executive Committee, and Finance Committee to be confirmed at the Organizational Meeting.

After the Organizational Meeting, the composition of the Governing Board, Executive Committee, Finance Committee and other committees shall be determined by the Bylaws of the Merged CUD.

**D. EFFECT OF THE MERGER**

After a vote of approval of the Final Merger Plan CVF will cease to be an independent entity, merging into NEK to create the Merged CUD. The Merged CUD shall possess all the rights, privileges, immunities, powers and purposes of each of CVF and NEK and 30 V.S.A. Chapter 82.

Each municipal member of NEK and CVF shall automatically and without further action become a member of the Merged CUD after the merger and shall retain all rights of its membership in a Communications Union District and under the Bylaws, including having a seat on the Governing

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Board as mentioned above.

The Merged CUD shall succeed to all assets, rights, liabilities, and contracts of NEK and CVF, and shall satisfy or assume all of their obligations. Specifically:

- (1) All assets of whatever kind, owned, claimed, or held by each district shall become vested in and become assets owned by the Merged CUD without any further act, deed, or instrument being necessary. Contract rights possessed by NEK and CVF (and all attendant obligations) shall vest in the Merged CUD without reversion or impairment.
- (2) The Merged CUD shall assume and be obligated to pay or otherwise perform each and every lawful obligation, debt, claim, bonded indebtedness, and other liability of NEK and CVF without any further act, deed, or instrument being necessary.
- (3) The Bylaws attached to the Final Merger Plan shall go into effect as the Bylaws of the Merged CUD.

The following consents and notices are anticipated to be required as a result of the merger, which shall be pursued either before approval of the Final Merger Plan or afterwards, as appropriate:

- (1) Consents by counterparties of CVF contracts and grantors of grants received by CVF, if required to allow for the merger.
- (2) As CVF holds a Certificate of Public Good from the Vermont Public Utility Commission as a non-dominant provider of communications services, post-merger notice within two weeks of approval of the Final Merger Plan.

No other consents from governmental or private entities are anticipated, but it is possible such consents may be discovered after approval of this Plan. If so, such consents shall be obtained before the Governing Boards are asked to approve the Final Merger Plan.

### **E. MERGER AGREEMENT**

The Merger Agreement in no way obligates either of the Governing Boards or any of their member municipalities to make any specific decision regarding the merger. Rather, it provides a way for NEK, CVF, their Governing Boards, their municipal members, and all other stakeholders to understand their rights and obligations. Specifically, the Merger Agreement provides for the following regarding the effect and process of the merger:

- (1) Agreement by NEK and CVF regarding their respective rights and obligations during the merger process and regarding the effect of the merger as outlined above.

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- (2) Representations and warranties by each of CVF and NEK regarding their current status. These representations and warranties allow each of the parties to understand the assets, liabilities and obligations that will pass to the Merged CUD, and provide a baseline set of assumptions about the status of each party that is a necessary precondition to the merger.
- (3) Covenants by each of them as to how they will (a) cooperate with one another to complete the merger, if approved by the Governing Boards and (b) preserve their operations until the merger is completed.

The Merger Agreement also provides that, after the merger, understanding the post-merger structure outlined above shall be an ongoing obligation of the Merged CUD and, until the first annual organizational meeting of the Merged CUD, may be enforced by any municipal member.

The Merger Agreement may be terminated (1) at any time by mutual written consent authorized by the Governing Boards, (2) by either party if the other party has breached any of the representations, warranties, obligations, covenants or agreements of the Merger Agreement and the breach is not cured within fifteen (15) days after notice, or (3) by either party if the merger has not been completed by October 1, 2024.

### **F. CONTACTS**

Municipal members and other stakeholders will have questions during the process, and during the time this Plan is developed by a joint committee of NEK and CVF into a Final Merger Plan. Members and stakeholders are encouraged to speak amongst themselves, contact NEK and CVF, and provide feedback and ask questions. Please direct all input and questions to the following contacts for NEK and CVF:

CVF:            preliminarymerger@cvfiber.net  
NEK:            preliminarymerger@nekbroadband.org

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**ATTACHMENT 1 TO THE PRELIMINARY MERGER PLAN OF  
NEK COMMUNITY BROADBAND**

**AND**

**CVFIBER**

**Revised Bylaws**



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**GOVERNING BOARD BYLAWS**

**SECTION 1. PURPOSE**

Whereas, NEK Community Broadband dba Northeast Central Broadband (the “District”) has satisfied the requirements of said Act to qualify as a Communications Union District (“CUD”), and whereas, in accordance with 30 V.S.A. § 3082a, CVFiber has been lawfully merged into the District, therefore the District Governing Board (the “Board” or “Governing Board”) shall exist for the purpose of carrying out the roles and responsibilities described in said Act or any subsequent amendments.

**SECTION 2. TERMS AND NAME.** The District has submitted an Assumed Business Name Registration with the State of Vermont to do business as Northeast Central Broadband. As used herein, the term Town shall be understood to mean any member Town or City, and the term Select Board shall similarly imply either a Select Board or City Council, as appropriate. The term Brand Area shall refer to the areas originally covered by each of the District’s two brands as depicted at Appendix A to these Bylaws.

**SECTION 3. ORGANIZATION.** The District Governing Board consists of the delegates as appointed by the Select Board of each District member Town. The Select Board of each member Town shall appoint a primary delegate and one or more alternate delegates. Each such duly appointed delegate becomes a member of the Governing Board by presenting a letter of appointment from his or her Town’s Select Board effective upon notification of the appointment being received by the Clerk and accepted by the Board. Each such duly appointed delegate is required to sign a confidentiality agreement and to disclose any known potential conflicts.

**SECTION 4. REGULAR MEETINGS.** The Governing Board shall hold its annual organizational meeting on the second Thursday in May. In addition, the Board will establish a schedule of four regular meetings per year of the Board. The election of Executive Committee members and Officers shall occur at the annual organizational meeting.

**SECTION 5. SPECIAL MEETINGS.** Special Meetings of the Board may be called at any time by the Chair, or shall be called by the Clerk upon written request of members of the Board representing the lesser of either (a) a majority of the member Towns or (b) twenty (20) Towns. Except in case of emergency, each member of the Board shall be given at least 24 hours’ notice of any special meeting in accordance with the Vermont Open Meeting Law.

**SECTION 6. QUORUM.** For the purpose of transacting business, the presence of delegates representing more than 50 percent of the votes then eligible to be cast, shall constitute a quorum.

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**SECTION 7. RULES OF PROCEDURE.** Except as otherwise provided by law, or as may be agreed upon by the Board, Robert's Rules of Order shall govern at all meetings.

**SECTION 8. VOTING.** Each member Town shall be entitled to cast one vote by a delegate present. Except as otherwise provided herein, or in the Enabling Legislation, a majority of the votes cast shall be required to approve any action.

**SECTION 9. TERMS OF OFFICE.**

Governing Board: The member Town delegates who make up the Board shall each be appointed by their Select Boards to serve for one year, from one annual meeting to the next, or until their successor is duly appointed.

Executive Committee: Executive Committee members shall be elected for staggered terms of 3, 2, and 1 years respectively. Executive Committee members shall be eligible to be reelected to successive terms without limit.

Officers: The Chair and Vice Chair shall be elected to such officer position for 1-year terms and are eligible to be reelected to successive officer terms without limit.

**SECTION 10. ELECTION OF EXECUTIVE COMMITTEE AND OFFICERS.** The Board annually shall elect from among its members a Chair, Vice-Chair, and, as needed, at-large members of the Executive Committee. The Chair and Vice Chair shall be from different Brand Areas unless one or the other Brand Area does not put forth a candidate. The Board may also elect other Executive Committee members, as it deems appropriate, for the conduct of its business.

**SECTION 11. CHAIR.** The Chair shall preside at all meetings of the Board and Executive Committee. The Chair shall also perform the entire duties incident to the position and office.

**SECTION 12. VICE CHAIR.** During the temporary absence or inability of the Chair to perform their duties, the Vice Chair shall perform such duties. If the vacancy becomes permanent due to death, disability, resignation or removal, the Vice Chair shall serve as acting Chair until the vacancy is otherwise filled by the Governing Board or until the next annual meeting, and a new acting Vice Chair shall be selected by the Executive Committee to fulfill the duties of the Vice-Chair role on a temporary basis until confirmed at the next Governing Board meeting.

**SECTION 13. CLERK.** The Clerk shall be elected annually by the Governing Board and may be a voting member of the Executive Committee. The Clerk may, or may not, be a member of the Governing Board. The Clerk shall execute all duties assigned to the Clerk by the Enabling Legislation. They shall have custody of the public records of the District and shall record all votes and proceedings of the District, including meetings of the District and meetings of the Governing Board. The Clerk shall also prepare and warn all meetings of the Governing Board in accordance

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with Vermont law and shall cause the annual report approved by the Governing Board to be distributed to the legislative bodies of the member municipalities. The Clerk shall also perform all the duties and functions incident to the office of a Clerk or clerk of a body corporate.

**SECTION 14. TREASURER.** The Treasurer shall be appointed annually and as needed by the Executive Committee and shall be an ex-officio, non-voting member of the Executive Committee and Finance Committee. The Treasurer may not be a member of the Governing Board. The Treasurer shall have the custody of the funds of the District and shall be the disbursing officer of the District. When authorized by the Governing Board, the Treasurer shall sign, make or endorse in the name of the District all checks and orders for the payment of monies as may be required to carry out the business of the District, as well as any and all valid contracts to which the District is a party, and pay out and disburse the same.

**SECTION 15. EXECUTIVE COMMITTEE COMPOSITION.** The Governing Board shall elect from its membership an Executive Committee consisting of up to 16 representatives and no less than 9 representatives. The original Executive Committee shall be comprised of the full Executive Committees of each of the Brand Areas. The Executive Committee shall assign from within its ranks two members of the Finance Committee, one from each Brand Area. The Executive Committee may assign from within its ranks two Brand Area ambassadors, one from each Brand Area. The Executive Committee may assign from within its ranks two Digital Equity Champions. Each county with more than one member shall be represented on the Executive Committee by at least one member from the county. In addition, the Treasurer and Executive Director are ex-officio, non-voting members.

At all meetings of the Executive Committee, a majority of the full number of voting members of such Committee shall constitute a quorum. All completed actions by the Executive Committee shall be reported for discussion to the Governing Board at its next meeting succeeding such action. At that meeting, the Governing Board shall affirm receipt and confirm no revision or alteration to such report, or append comments. The actions shall be subject to revisions or alterations by the Governing Board, provided that no acts or rights of third parties shall be affected by any such revision or alteration.

The Executive Committee shall strive for consensus of all members by ensuring that all members have ample time to voice their opinions and any concerns.

**SECTION 16. GOVERNING BOARD AND EXECUTIVE COMMITTEE POWER AND AUTHORITY.** During the intervals between the meetings of the Governing Board, the Executive Committee shall possess and may exercise all the power and authority of the Governing Board (including, without limitation, all the power and authority of the Governing Board in the management, control and direction of the financial affairs of the District) except with respect to those matters reserved to the Governing Board, in such manner as the Executive Committee shall deem best for the interests of the District, in all cases in which specific directions shall not have been given by the Governing Board.

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The matters reserved to the Governing Board include the power to (1) amend the Articles of Incorporation and these Bylaws; (2) set the budget; (3) make any amendments to the budget exceeding the major purchase limits approved in the procurement policy; (4) hire and fire the Executive Director of the District; (5) incur major unbudgeted debt exceeding the major purchase limits approved in the procurement policy; and (6) make major structural decisions, such as decisions that change the way the organization is going to operate, major branding changes, major pricing changes, major staffing changes, or vendor partnerships that would take on substantial work on behalf of the CUD.

**SECTION 17. VACANCY.** If the absence or inability of any of the Executive Committee members to perform their duties or exercise his or her powers becomes permanent due to death, disability, resignation or removal, the Board shall elect replacement(s) from among its membership. Executive Committee vacancies shall be filled as soon as practical after proper notice, by election at the next regular or special meeting of the Governing Board.

**SECTION 18. RECORDS.** The conduct of all meetings and public access thereto, and the maintaining of all records, books and accounts of the District shall be governed by the laws of this State relating to open meetings and accessibility of public records. Governing Board members, having an absolute right to access to any District record, shall not be subject to any fee that might otherwise be levied under open meeting regulations. Similarly, any materials deemed to be non-public, with the exception of personnel records, shall be made available to any Governing Board member upon request at no charge.

**SECTION 19. AUDIT.** The Governing Board shall cause an audit of all District accounts to be performed annually by an independent professional accounting firm or a certified public accountant.

**SECTION 20. OTHER COMMITTEES** As provided in the Enabling Legislation, the Governing Board may choose to establish other committees at its discretion for the purpose of advising the Governing Board and Executive Committee. Membership in such committees is not limited to Board members. The Finance Committee shall consist of 5-8 members and be responsible for the audit and review of the District financial statements.

**SECTION 21. REIMBURSEMENT OF OFFICERS.** Any Officer or Member of the Executive Committee shall be reimbursed for documented out-of-pocket expenses incurred in the discharge of their duties hereunder, as may be authorized by policies established by the Governing Board.

**SECTION 22. REMOVAL OF OFFICERS.** Any member of the Executive Committee may be removed by a two-thirds vote of the Governing Board (rounded up to the nearest whole number) whenever, in its judgment, the best interest of the District will be served thereby.

**SECTION 23. CONDUCT OF MEETINGS.** To the fullest extent permitted by law, the

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Governing Board and all committees shall be allowed to meet, transact business, provide notice and communicate by electronic and telephonic means.

**SECTION 24. INSURANCE AND INDEMNIFICATION.** To the fullest extent afforded by law, including procuring and maintaining insurance through commercial carriers or municipal risk retention groups with limits in such amounts as the Governing Board shall deem sufficient to cover foreseeable risk, the District shall indemnify and defend its Governing Board and its officers from claims allegedly arising out of actions and omissions arising in such capacity.

**SECTION 25. CONFLICTS OF INTEREST.** The Governing Board shall adopt a conflicts of interest policy, which shall be binding upon Governing Board members and all District Officers.

**SECTION 26. AMENDMENT.** Amendments to these Bylaws must be proposed and warned by written notice to all members before or at a regularly scheduled meeting of the Board, and to become effective, must then be adopted by two-thirds of members present and eligible to vote at the next regularly scheduled Board meeting no less than three weeks later.

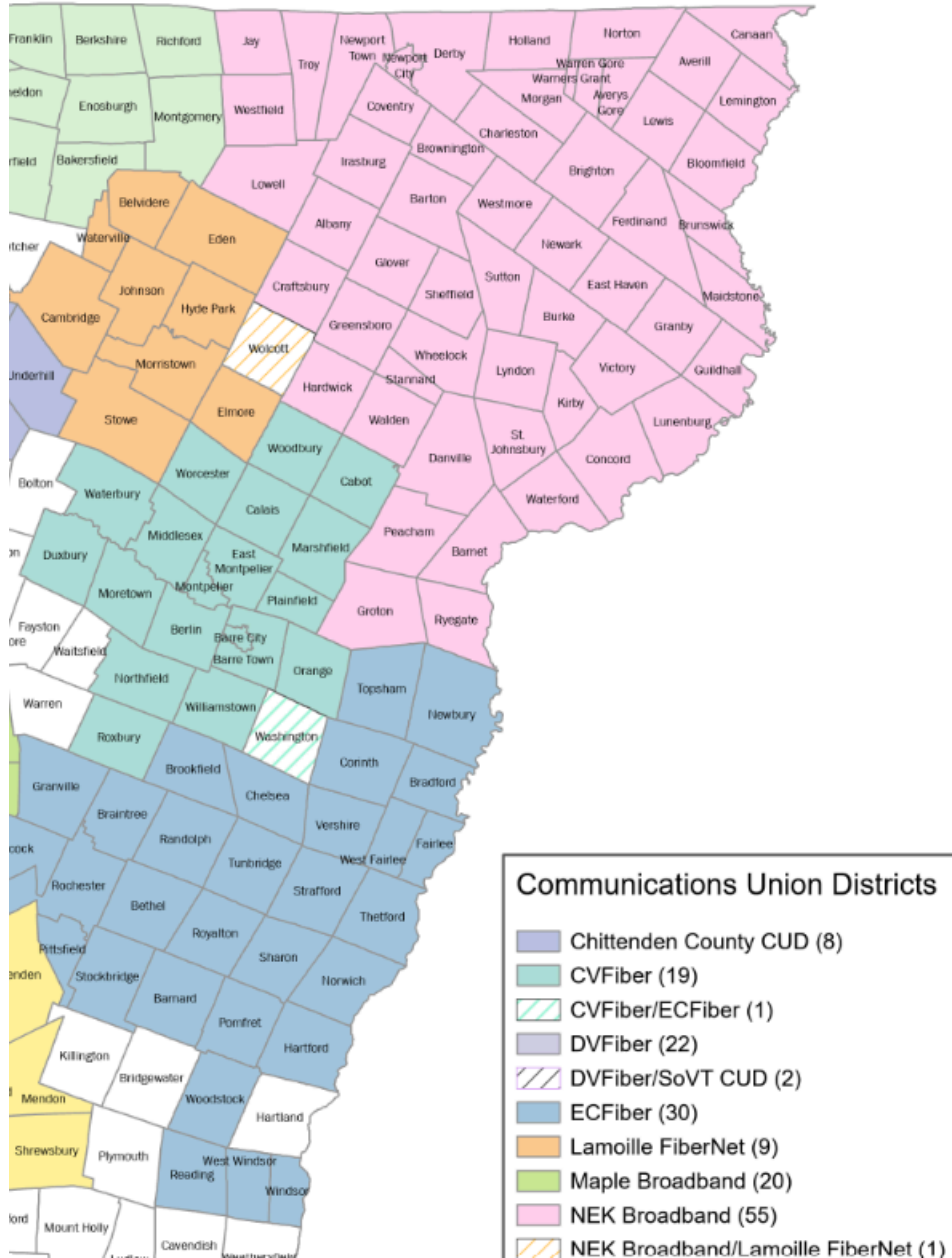
**SECTION 27. SAVINGS/SEVERABILITY.** If any term or provision of these Bylaws shall be invalidated, such action shall not affect the balance of these Bylaws.

ATTEST: \_\_\_\_\_ Date:

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## EXHIBIT B TO GOVERNING BOARD BYLAWS

### BRAND AREAS



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**EXHIBIT C**

**FURTHER DOCUMENTATION REQUIRED FOR MERGER**

Final Merger Plan

Notification to Secretary of State of Merger

Notification to the Public Utilities Commission

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**EXHIBIT D**

**GOVERNING BOARD OF MERGED CUD**

**Representatives of the Governing Board of the Merged CUD**

	<b>Municipality</b>	<b>Representative</b>	<b>Alternate(s)</b>
1	Albany	Rob Dewees	
2	Barnet	Neil Glassman	
3	Barton	Christopher Altmus	Amy Crouch
4	Bloomfield	Nate Nugent	
5	Brighton	Mike Strait	James Ozone
6	Brownington	Bill Davis	Amber Hastings
7	Brunswick	David Caron	Theresa Caron
8	Burke	Todd Vendituoli	
9	Canaan	Morgan Wade	Frank Sawicki, Jr.
10	Charleston	Peggy Stevens	John Kellogg
11	Concord	Bill Humphrey	
12	Coventry	Charles Conn	Phil Marquette
13	Craftsbury	Rudy Chase	Brian Machesney
14	Danville	Jonathan Baker	
15	Derby	Lindsay Brainard	Grant Spates
16	East Haven	TBA	
17	Glover	Noah Armstrong	Hadley Piper
18	Granby	Sonia Peters	Sheryl Brown
19	Greensboro	Mary Metcalf	John Stone
20	Groton	Mike Gaiss	Terrence Curran
21	Guildhall	Richard Schiller	John Orłowski
22	Hardwick	Paul Fixx	
23	Holland	Ed Brady	Andrew Bouchard
24	Irasburg	TBA	
25	Jay	Lynette Deaette	Tara Morse
26	Kirby	Dana Caspersen	Malcom Doak
27	Lemington	William Gilbert	Beth Ellingwood
28	Lowell	Marjorie Kramer	Faye Starr
29	Lunenburg	Harry Williams	Gary Briggs
30	Lyndon	Marty Feltus	
31	Maidstone	Jack Donnelly	
32	Morgan	Erick Pope	Larry Labor
33	Newark	Ben Tilford	Mark Whitworth
34	Newport City	Woodman Page	Chris Vachon
35	Newport Town	Wendy Matthews	David Ghelli
36	Norton	Sally Vallat	



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	<b>Municipality</b>	<b>Representative</b>	<b>Alternate(s)</b>
37	<b>Peacham</b>	<b>Jock Gill</b>	<b>Karen Lewis</b>
38	<b>Ryegate</b>	<b>Shawn Burroughs</b>	<b>Tyler Pokines</b>
39	<b>Sheffield</b>	<b>TBA</b>	<b>Annie McLean</b>
40	<b>St. Johnsbury</b>	<b>Nick Anzalone</b>	
41	<b>Stannard</b>	<b>Steve Pickard</b>	<b>Johanna Polsenberg</b>
42	<b>Sutton</b>	<b>Evan Carlson</b>	<b>David Tucker</b>
43	<b>Troy</b>	<b>Gaston Bathalon</b>	<b>Robert Langlands</b>
44	<b>UTGs</b>	<b>David Conley</b>	<b>Anthony Soldo</b>
45	<b>Victory</b>	<b>TBA</b>	
46	<b>Walden</b>	<b>Seth O'Brien</b>	
47	<b>Waterford</b>	<b>Mike Barrett</b>	<b>Bill Piper</b>
48	<b>Westfield</b>	<b>Carrie Glessner</b>	<b>Laura Emery</b>
49	<b>Westmore</b>	<b>Donna Dzugas Smith</b>	<b>Ray Lanier</b>
50	<b>Wheelock</b>	<b>Eileen Boland</b>	<b>David Stahler, Jr.</b>
51	<b>Wolcott</b>	<b>Bruce Wheeler</b>	
52	<b>Barre City</b>	<b>Amanda Gustin</b>	
53	<b>Barre Town</b>	<b>TBA</b>	
54	<b>Berlin</b>	<b>Jerry Diamantides</b>	<b>Jeremy Hansen</b>
55	<b>Cabot</b>	<b>R. D. Eno</b>	<b>Seth O'Brien</b>
56	<b>Calais</b>	<b>David Healy</b>	<b>Jared Thomas</b>
57	<b>Duxbury</b>	<b>Henry Amistadi</b>	<b>David Wendt</b>
58	<b>East Montpelier</b>	<b>Tom Fisher</b>	<b>Nik Khosla</b>
59	<b>Marshfield</b>	<b>John Morris</b>	<b>David Mannix</b>
60	<b>Middlesex</b>	<b>David Lawrence</b>	<b>Bruce Stevenson</b>
61	<b>Montpelier</b>	<b>TBA</b>	<b>Dan Jones</b>
62	<b>Moretown</b>	<b>Chuck Burt</b>	<b>Sybil Schlesinger, Karen Horn</b>
63	<b>Northfield</b>	<b>TBA</b>	
64	<b>Orange</b>	<b>Siobhan Perricone</b>	<b>Jim Burt</b>
65	<b>Plainfield</b>	<b>Jeremy Matt</b>	<b>Jon Hosford</b>
66	<b>Roxbury</b>	<b>Tim Sullivan</b>	
67	<b>Washington</b>	<b>TBA</b>	
68	<b>Waterbury</b>	<b>Christopher Shenk</b>	<b>Linda Gravell</b>
69	<b>Williamstown</b>	<b>Ted Barnett</b>	
70	<b>Woodbury</b>	<b>John Reid</b>	<b>Michael Gray</b>
71	<b>Worcester</b>	<b>Allen Gilbert</b>	<b>John Russell</b>

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**EXHIBIT D  
EXECUTIVE COMMITTEE OF MERGED CUD**

Position	Brand Area	County Location	Person Name
Chair	NEK Broadband	Caledonia	Paul Fixx
Vice Chair	CVFiber	Orange	Siobhan Perricone
At Large	NEK Broadband	Caledonia	Nicolas Anzalone
At Large	NEK Broadband	Caledonia	Bill Piper
At Large	NEK Broadband	Caledonia	Jonathan Baker
At Large	NEK Broadband	Essex	Mike Strait
At Large	NEK Broadband	Orleans	Mary Metcalf
At Large	NEK Broadband	Orleans	Brian Machesney
At Large	NEK Broadband	Orleans	Ray Lanier
At Large	NEK Broadband	Essex	Sally Vallat
At Large	CVFiber	Washington	Tom Fisher
At Large	CVFiber	Washington	Jeremy Matt
At Large	CVFiber	Washington	Chuck Burt
At Large	CVFiber	Washington	Allen Gilbert
At Large	CVFiber	Washington	David Mannix
At Large	CVFiber	Washington	Christopher Shenk
Clerk	CVFiber	Washington	Jeremy Matt
Treasurer (Non Voting)	None/Both	N/A	Denise Sullivan

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**FINANCE COMMITTEE OF MERGED CUD**

<b>Name</b>	<b>Brand Area</b>
William Piper	NEK Broadband
Michael Strait	NEK Broadband
John Kascenska	NEK Broadband
Marty Feltus	NEK Broadband
David Mannix	CVFiber
Ted Barnett	CVFiber
Sybil Schlesinger	CVFiber
John Burke	CVFiber

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**DISCLOSURE SCHEDULES**

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**Schedule 4.2A**

**CVF Tangible Property**

**CVFiber tangible property includes all assets owned by the district. These include, but are not limited to, the following:**

**Network infrastructure assets as reflected in the as-built documentation, NRTC Arc-GIS software programs which include specifications for design, make-ready, permitting, field collection, for constructed and in construction assets. Merged CUD has access to all programs documenting the assets.**

**All inventory, materials and supplies as outlined in the Finale Inventory program and a provided excel sheet. Merged CUD has access to Finale, the excel sheet, and conducted an independent audit.**

**Computers and all other miscellaneous tangible property.**

**Schedule 4.2B**

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**NEK Tangible Property**

**Network infrastructure assets as reflected in the as-built documentation, NRTC Arc-GIS software programs which include specifications for design, make-ready, permitting, field collection, for constructed and in construction assets. The Merged CUD has access to all programs documenting the assets.**

**All inventory, materials and supplies as outlined in the Finale Inventory program and a provided excel sheet. Merged CUD has access to Tracmor and the inventory excel sheet.**

**Computers and all other miscellaneous tangible property.**

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**Schedule 5.3**

**CVF Conflicts, Notices and Consents**

The Parties will have obtained or have received written or oral assurances that the following material notices, consents, licenses, permits, waivers or authorizations from governmental agencies and other third parties will be issued either prior to or following the Closing or are not required to be re-issued.

**Contracts Requiring Notice and/or Consent to Assignment Pursuant to Merger**

- A. WCVT – Network Management and Designated Service Provider Agreement with WCVT Dated June 15, 2022
- B. NRTC - Master Services Agreement with NRTC Dated December 21, 2021

**Government Consents**

- A. VCBB – VCBB Grant 02240-FY22-Act71Const-03 To CVFiber Effective August 10, 2022, Attachment C
- B. Notification to Secretary of State of Merger
- C. Notification to the Public Utilities Commission

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**Schedule 6.3**

**NEK Conflicts, Notices and Consents**

The Parties will have obtained or have received written or oral assurances that the following material notices, consents, licenses, permits, waivers or authorizations from governmental agencies and other third parties will be issued either prior to or following the Closing or are not required to be re-issued.

**Contracts Requiring Notice and/or Consent to Assignment Pursuant to Merger**

None

**Government Consents**

Notification to Secretary of State of Merger

Notification to the Public Utilities Commission



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**Schedule 5.10**

**CVF Material Contracts**

1. Agreements with CVF officers, directors, or employees

A. Jennille Smith
B. Lucas Stubbs
C. Olivia Kantyka
D. Batchelder CPA
E. Personnel Policy

2. Agreements involving payment by or to CVF of consideration in excess of \$25,000 over the term of such contract which cannot be canceled by notice of 60 days or fewer.

WCVT	OPERATOR
NRTC	PROJECT & CONSTRUCTION MANAGEMENT
NRTC MSA	PROJECT & CONSTRUCTION MANAGEMENT
EUSTIS CABLE	CONSTRUCTION SERVICES
NATHAN WESCHLER & ASSOCIATES	AUDIT
STRAIGHT LINE BROADBAND (TERMINATED)	WAREHOUSE & INVENTORY MGMT

3. Agreements related to the license or sublicense of Intellectual property

N/A

4. Leases of real property

A. WAREHOUSE - 157 PIONEER CTR
B. WAREHOUSE AMENDMENT
C. BOX YARD - RAWLAND LEASE
D. CALAIS OLT EASEMENT
E. RUMNEY SCHOOL OLT EASEMENT

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F. MARSHFIELD OLT EASEMENT
----------------------------

5. Agreements creating a lien against any CVF real or personal property

N/A

6. Agreements with any government entity

A. VCBB CONSTRUCTION GRANT
----------------------------

B. VCBB SUBRECIPIENT GRANT
----------------------------

C. VCBB TOWN ARPA MATCH GRANT
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D. CABOT TOWN ARPA
--------------------

E. CALAIS TOWN ARPA
---------------------

F. DUXBURY TOWN ARPA
----------------------

G. E. MONTPELIER TOWN ARPA
----------------------------

H. MIDDLESEX TOWN ARPA
------------------------

I. MORETOWN TOWN ARPA
-----------------------

J. NORTHFIELD TOWN ARPA
-------------------------

K. ORANGE TOWN ARPA
---------------------

L. PLAINFIELD TOWN ARPA
-------------------------

M. ROXBURY TOWN ARPA
----------------------

N. WASHINGTON TOWN ARPA
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O. WATERBURY TOWN ARPA
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P. WOODBURY TOWN ARPA
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Q. WORCESTER TOWN ARPA
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7. Other vendor agreements

A. MBI
B. MBI WORK ORDER POLES
C. KAREN KOTECKI
D. ARROWWOOD
E. CALIX
F. TECH GROUP
G. CAROLE MONROE
H. CODEWRYTER
I. STONE ENVIRONMENTAL
J. Sybil Schlesinger
K. CVRPC
L. MICHAEL REED
M. HR HAPPENS

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**Schedule 6.10**

**NEK Material Contracts**

8. Agreements with NEK officers, directors, or employees
  - a. Christa Shute
  - b. Matt Hubbard
  - c. Tonya Ozone
  - d. Erik Townsend
  - e. Danielle Sukkaew
  - f. Jason Stebbins
  - g. Catherine Ufford-Chase
  - h. Richard LaPage
  - i. Owen Carr
9. Agreements involving payment by or to NEK of consideration in excess of \$25,000 over the term of such contract which cannot be canceled by notice of 60 days or fewer.
  - a. WCVT Network and Support Agreements
  - b. Les Industries Bernard & Fils Ltee Brighton Warehouse
10. Agreements related to the license or sublicense of Intellectual property
  - a. N/A
11. Leases of real property
  - a. Red Barn Road Storage Danville Warehouse
  - b. Les Industries Bernard & Fils Ltee Brighton Warehouse
12. Agreements creating a lien against any NEK real or personal property
  - a. VEDA Loan
  - b. USDA ReConnect4 Grant Award
13. Agreements with any government entity
  - a. USDA ReConnect4 Grant Award
  - b. VCBB Construction Grant Award

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- |                           |             |
|---------------------------|-------------|
| c. VCBB PreConstruction   | Grant Award |
| d. VCBB Town ARPA Match   | Grant Award |
| e. Town ARPA - Burke      |             |
| f. Town ARPA - Derby      |             |
| g. Town ARPA - Glover     |             |
| h. Town ARPA - Greensboro |             |
| i. Town ARPA - Groton     |             |
| j. Town ARPA - Hardwick   |             |
| k. Town ARPA - Holland    |             |
| l. Town ARPA - Peacham    |             |
| m. Town ARPA - Ryegate    |             |
| n. Town ARPA - Walden     |             |
| o. Town ARPA - Waterford  |             |
| p. Town ARPA - Wolcott    |             |

14. Other vendor agreements

- a. Advantage Utilities
- b. Berry Dunn McNeil Parker LLC
- c. CTC
- d. Denise Sullivan CPA LLC
- e. Eustis Cable
- f. First Light
- g. J Andrews Marketing
- h. JSI
- i. K.Kotecki ROW Services
- j. Lerman Senter PLLC
- k. McSoley, McCoy
- l. Michael C Reed, LLC
- m. Mission Broadband
- n. Montroll, Oettinger & Barquist PC
- o. Pear Networks
- p. Shannon Resources


# Execution NEK CV MERGER AGREEMENT.docx

Final Audit Report

2024-06-01

Created:	2024-06-01
By:	Christa Shute (director@nekbroadband.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAw5lbLTixVrBiXiflXd7pn83yOljS2NI1

## "Execution NEK CV MERGER AGREEMENT.docx" History

-  Document created by Christa Shute (director@nekbroadband.org)  
2024-06-01 - 4:32:00 PM GMT
-  Document emailed to Jennille Smith (jsmith@cvfiber.net) for signature  
2024-06-01 - 4:32:06 PM GMT
-  Email viewed by Jennille Smith (jsmith@cvfiber.net)  
2024-06-01 - 5:41:00 PM GMT
-  Document e-signed by Jennille Smith (jsmith@cvfiber.net)  
Signature Date: 2024-06-01 - 5:41:31 PM GMT - Time Source: server
-  Agreement completed.  
2024-06-01 - 5:41:31 PM GMT