

**10T SOLUTIONS**  
**GENERAL TERMS AND CONDITIONS**  
**("General Terms and Conditions")**

**ARTICLE 1: DEFINITIONS**

For purposes of these General Terms and Conditions, the following terms shall have the meanings specified below.

**Affiliate:** With respect to each party, any entity that controls, is controlled by or is under common control with such, party.

**Agreement:** Collectively, these General Terms and Conditions, the Master Services Agreement executed by the Customer and accepted by 10T Solutions, any applicable Product Specific Attachment and each binding Sales Order.

**10T Solutions:** The operating company shall also include its Affiliates and their respective directors, officers, employees, agents, suppliers, licensors, successors, and assigns, as the case may be.

**10T Solutions Equipment:** Any and all facilities, equipment or devices provided by 10T Solutions or its authorized contractors at the Service Location(s) that are used to deliver the Services. Notwithstanding the foregoing, all inside internet (ethernet) wiring within a Service Location, whether or not installed by 10T Solutions, shall not be considered 10T Solutions Equipment.

**Confidential Information:** All information regarding either party's business which has been marked or is otherwise communicated as being "proprietary" or "confidential" or which reasonably should be known by the receiving party to be proprietary or confidential information. Without limiting the foregoing, Confidential Information shall include, even if not marked, the Agreement, 10T Solutions Equipment, all Licensed Software, promotional materials, proposals, quotes, rate information, discount information, subscriber information, network upgrade information and schedules, network operation information (including without limitation information about outages and planned maintenance) and invoices, as well as the parties' communications regarding such items.

**Customer:** The entity named on the Master Service Agreement Cover Page and/or the purchase order or ordering entity.

**Customer-Provided Equipment:** Any and all facilities, equipment or devices supplied by a party other than 10T Solutions or its authorized contractors for use in connection with the Services.

**Network:** The 10T Solutions Equipment, facilities, SIM cards, cellular network access, associated with electronics and other equipment used to provide the Services.

**Product Specific Attachment(s) or PSA(s):** The additional terms and conditions applicable to the Services.

**Sales Order:** A request to provide the Services to a Service Location(s) submitted by Customer to 10T Solutions on (a) the then current 10T Solutions form designated for such purpose or (b) such other form, or in such other manner, as may be agreed upon by the parties.

**Service(s):** Service(s) provided by 10T Solutions pursuant to a Sales Order. All Services provided under the Agreement are for commercial, non-residential use only.

**Service Commencement Date:** With respect to each Service, "Service Commencement Date" shall have the meaning specified in the PSA applicable to such Service, it being understood that a single Sales Order containing multiple Service Locations or Services may have multiple Service Commencement Dates.

**Service Location(s):** The Customer location(s) where 10T Solutions provides the Services.

**Service Term:** As specified in a Sales Order, the duration of time (which shall commence on the Service Commencement Date) for which Services are ordered. If not specified in a Sales Order, the Service Term shall be one (1) year from the Service Commencement Date.

**Termination Charges:** Charges that may be imposed by 10T Solutions upon early termination of a Service as specified in the applicable PSA.

**"Website"** – means the 10T Solutions website where the General Terms and Conditions, PSAs, the Privacy Policy and the Use Policies may be posted. The current URL for the Website is <https://10tsolutions.com> (as the same may be updated by 10T Solutions from time-to-time).

**ARTICLE 2. DELIVERY OF SERVICE**

**2.1 Orders.** To request Service at a Service Location(s), Customer shall submit a properly completed Sales Order to 10T Solutions. Such Sales Order shall become binding on the parties upon the earlier of (i) 10T Solutions's notice to Customer that it accepts such Sales Order or (ii) 10T Solutions begins providing the Service described in the Sales Order. 10T Solutions will provide Customer written notification in the event Service installation at any Service Location will require an additional non-recurring installation fee ("Custom Installation Fee"). Notwithstanding anything to the contrary contained in this Article 2.1, Customer shall have five (5) days from receipt of such notice to reject the Custom Installation Fee and terminate the affected Service Location(s).

**2.2 Access.** In order to deliver Services to Customer, 10T Solutions may require access, right-of-way, conduit, and/or common room space (“Access”) within and/or outside each Service Location. Within the Service Location, Customer shall be solely responsible for securing and maintaining such Access as 10T Solutions may require to deliver the Services. In the event that Customer fails to secure or maintain such Access, 10T Solutions (i) may cancel or terminate Service at such Service Location pursuant to Article 4.3 and (ii) shall be excused from its obligations with respect to the Service(s) at such Service Location (including any obligation to issue service credits) until such time as Customer provides 10T Solutions with the necessary Access. If 10T Solutions is unable to secure or maintain Access outside a particular Service Location, which Access is needed to provide Services to such Service Location, Customer or 10T Solutions may cancel or terminate Service at such Service Location, without further liability beyond the termination date, upon a minimum thirty (30) days’ prior written notice to the other party.

**2.3 Hazardous Materials.** If the presence of asbestos or other hazardous materials exists or is detected at a Service Location or within the building where the Service Location is located, 10T Solutions may immediately stop providing and/or installing Services until such materials are removed. Customer shall be responsible for any additional expense incurred by 10T Solutions as a result of encountering, or in the avoidance of, hazardous materials.

## **2.4 Equipment**

**A. 10T Solutions Equipment.** 10T Solutions may, in its sole discretion, remove or change 10T Solutions Equipment. Customer shall not move, rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any 10T Solutions Equipment or permit others to do so, and shall not use the 10T Solutions Equipment for any purpose other than as authorized by the Agreement. Customer shall (i) provide an adequate environmentally controlled space and such electricity as may be required for installation, operation, and maintenance of the 10T Solutions Equipment and (ii) be responsible for damage to, or loss of, 10T Solutions Equipment caused by its acts or omissions, or by fire, theft or other casualty at the Service Location(s), unless caused by the gross negligence or willful misconduct of 10T Solutions. 10T Solutions shall maintain, at its cost, 10T Solutions Equipment during the term of this Agreement; provided, however, that such maintenance shall be at Customer’s cost to the extent it is related to causes other than the ordinary and proper use of the 10T Solutions Equipment. Upon termination or expiration of this Agreement and/or any Sales Order, Customer shall be responsible for the return of all applicable 10T Solutions Equipment. Until such time as the 10T Solutions Equipment is returned to 10T Solutions, 10T Solutions may continue to invoice Customer

for the monthly fee applicable to such 10T Solutions Equipment. If any returned 10T Solutions Equipment has been damaged and/or destroyed other than by 10T Solutions or its agents, normal wear and tear excepted, 10T Solutions may, in its sole discretion, invoice Customer for the manufacturer’s list price of such 10T Solutions Equipment or the cost of repair.

**B. Customer-Provided Equipment.** Customer shall have sole responsibility for providing maintenance, repair, operation and replacement of all Customer-Provided Equipment, inside ethernet wiring and other Customer equipment and facilities on the Customer’s side of the demarcation point (i.e., the point of interconnection between the Network and Customer-Provided Equipment located at a Service Location). Neither 10T Solutions nor its employees, Affiliates, agents or contractors shall (i) have any obligation to install, operate, or maintain Customer-Provided Equipment or (ii) be liable for any damage, loss, or destruction to Customer-Provided Equipment, unless caused by the gross negligence or willful misconduct of 10T Solutions. Customer-Provided Equipment shall at all times be compatible with the Network. Customer shall be responsible for the payment of service charges for visits by 10T Solutions’s employees or agents to a Service Location when the service difficulty or trouble report results from Customer-Provided Equipment.

## **2.5 Network, Intellectual Property and IP Addresses.**

**A.** The Network is and shall remain the property of 10T Solutions regardless of whether installed within, upon, overhead, above, or underground at or near the Service Location and shall not be considered a fixture or an addition to the land or the Service Location(s) located thereon. Customer agrees that it shall take no action that directly or indirectly impairs 10T Solutions’s title to the Network, or any portion thereof, or exposes 10T Solutions to any claim, lien, encumbrance, or legal process, except as otherwise agreed in writing by the parties. Nothing in this Agreement shall preclude 10T Solutions from using the Network for services provided to other 10T Solutions customers. For a period of twelve (12) months following 10T Solutions’s discontinuance of Service to the Service Location(s), 10T Solutions retains the right to remove the Network. To the extent 10T Solutions removes such portion of the Network it shall be responsible for returning the Service Location(s) to its prior condition, reasonable wear and tear excepted.

**B.** Customer acknowledges that use of the Services does not give it any ownership or other rights in any telephone number or Internet/online addresses provided in connection

with such Services, including, but not limited to, Internet Protocol addresses, e-mail addresses and web addresses.

C. Title and intellectual property rights to (i) the Services and (ii) any computer software or code provided by 10T Solutions to use the Services, including, but not limited to, associated documentation, and all updates thereto (“Licensed Software”) are, in each case, owned by 10T Solutions, its agents, suppliers or affiliates or their licensors or otherwise by the owners of such material. The copying, redistribution, bundling or publication of the Services, in whole or in part, without the express prior written consent of 10T Solutions or other owner of such material, is prohibited.

D. The Agreement provides no right to use any party’s or its Affiliates’ trademarks, service marks, or trade names, or to otherwise refer to the other party in any marketing, promotional, or advertising materials or activities.

**2.6 License Grant.** If Customer requires the use of Licensed Software from 10T Solutions in order to use the Services, Customer shall have a nonexclusive, nontransferable, and limited license to use such Licensed Software in object code only and solely to the extent necessary to use the applicable Service during the corresponding Service Term. Customer may not claim title to, or an ownership interest in, any Licensed Software (or any derivations or improvements thereto), and Customer shall execute any documentation reasonably required by 10T Solutions, including, without limitation, end-user license agreements for the Licensed Software. Customer shall not: (i) copy the Licensed Software (or any upgrades thereto or related written materials) except for emergency back-up purposes or as permitted by the express written consent of 10T Solutions; (ii) reverse engineer, decompile, or disassemble the Licensed Software; (iii) sell, lease, license, or sublicense the Licensed Software; or (iv) create, write, or develop any derivative software or any other software program based on the Licensed Software. Customer acknowledges that the use of Service may periodically require updates and/or changes to the Licensed Software resident in the 10T Solutions Equipment or Customer Provided-Equipment. Customer hereby consents to, and shall provide free access for, such updates deemed reasonably necessary by 10T Solutions.

### **ARTICLE 3. BILLING AND PAYMENT**

#### **3.1 Charges; Changes to MRC; Taxes.**

A. Customer agrees to pay all charges associated with the Services, including, but not limited to, (i) any fees or payment obligations in connection with the Services imposed by governmental or quasi-governmental bodies in connection

with the sale, installation, use, or provision of the Services (e.g., applicable franchise fees, right of way fees and Universal Service Fund charges) regardless of whether 10T Solutions or its Affiliates pay the fees directly or are required or permitted by law to collect them from Customer and (ii) charges incurred as the result of fraudulent or unauthorized use of the Services. Any failure on the part of Customer to be ready to receive Service, or any refusal on the part of Customer to receive Service, shall not relieve Customer of its obligation to pay charges for any Service that is otherwise available for use. For the avoidance of doubt, 10T Solutions shall not be responsible for any purchases made by Customer or its end users while using the Services.

B. With respect to each Sales Order, 10T Solutions may, upon thirty (30) days prior written notice to Customer (or such longer period as may be required by law) modify the monthly recurring charges applicable to (i) Ethernet and/or Internet Services at any time after the expiration of the initial Service Term and (ii) any other services at any time; provided, that, Customer acknowledges and agrees that such notice requirement may be satisfied by including notice of a monthly recurring charge modification(s) in a Customer invoice. Customer shall have thirty (30) days from receipt of any such notice to cancel the applicable Service without further liability. Should Customer fail to cancel within such timeframe, Customer shall be deemed to have accepted the modified Service pricing.

C. Except to the extent Customer provides a valid tax exemption certificate prior to the delivery of Service, Customer shall be responsible for the payment of any and all applicable local, state, and federal taxes or fees (however designated). Customer shall also be responsible to pay any Service fees, payment obligations and taxes that become applicable retroactively.

#### **3.2 Payment Terms; Disputes**

A. Except as otherwise indicated herein or in a PSA, 10T Solutions will invoice Customer in advance on a monthly basis for all monthly recurring charges and fees arising under the Agreement. All other charges will be billed monthly in arrears, including without limitation, certain usage based charges and third party pass through fees. Payment is due upon presentation of an invoice and will be considered timely made to 10T Solutions if received within thirty (30) days after the invoice date. If a Service Commencement Date is not the first day of a billing period, Customer’s first monthly invoice shall include any prorated charges for the Services, from the Service Commencement Date to the start of the next billing period. In certain cases, 10T Solutions may agree to provide billing

services on behalf of third parties, as the agent of the third party based on Customer's agreements with such third parties ("Third Party Fees"). Any such Third-Party Fees shall be payable pursuant to Customer's contract or other arrangement with such third party and/or 10T Solutions. 10T Solutions shall not be responsible for any dispute regarding Third Party Fees. Partial payment of any bill will be applied to the Customer's outstanding charges in amounts and proportions solely determined by 10T Solutions. Except to the extent otherwise prohibited by law, Customer will be assessed a service charge up to the full amount permitted under applicable law for any check or other instrument used to pay for the Services that has been rejected by the bank or other financial institution. Any payment not made when due will be subject to a late charge equal to the lower of (i) 1.5% per month and (ii) the highest rate allowed by law. If 10T Solutions is required to use a collection agency or attorney to collect any amount owed by Customer or any unreturned 10T Solutions Equipment, Customer agrees to pay all reasonable costs of collection or other action. No acceptance of partial payment(s) by 10T Solutions shall constitute a waiver of any rights to collect the full balance owed under the Agreement.

**B.** If Customer disputes any portion of an invoice, Customer shall pay the undisputed portion of the invoice and submit a written claim, including all substantiating documentation, to 10T Solutions for the disputed amount of the invoice by the invoice due date. The parties shall negotiate in good faith to resolve any billing dispute submitted by Customer pursuant to this Article 3.2(B). Under no circumstances may Customer submit a billing dispute to 10T Solutions later than ninety (90) days following Customer's receipt of the applicable invoice.

**3.3 Credit Approval and Deposits.** Initial and ongoing delivery of Services may be subject to credit approval. Customer authorizes 10T Solutions to make inquiries and to receive information about Customer's credit history from others and to enter this information in Customer's records. 10T Solutions, in its sole discretion, may deny the Services based upon an unsatisfactory credit history. Subject to applicable regulations, 10T Solutions may require Customer to make a deposit as a condition to 10T Solutions's provision of the Services, or as a condition to 10T Solutions's continuation of the Services. The deposit will not, unless explicitly required by law, bear interest and shall be held by 10T Solutions as security for payment of Customer's charges. 10T Solutions may apply the deposit to any delinquent Customer charges upon written notice to Customer.

#### **ARTICLE 4. TERM & TERMINATION**

**4.1 Sales Order Term.** Upon the expiration of the Service Term applicable to a Sales Order, each Sales Order shall automatically renew for successive periods of one (1) year each (each, a "Renewal Term"), unless prior written notice of nonrenewal is delivered by either party to the other at least thirty (30) days before the expiration of the Service Term or the then current Renewal Term. To the extent the initial Service Term or a Renewal Term applicable to a Sales Order extends beyond the expiration date of the MSA Term, such Sales Order shall continue to be governed by the terms and conditions of the Agreement.

**4.2 Termination for Convenience.** Notwithstanding any other term or provision in this Agreement, Customer shall have the right, in its sole discretion, to terminate any or all Sales Order(s) at any time, upon thirty (30) days prior written notice to 10T Solutions. 10T Solutions may terminate the Agreement upon notice if Customer does not take any Service under a Sales Order for twelve (12) consecutive months or longer.

**4.3 Termination for Cause.** If either party breaches any material term of the Agreement and the breach continues unremedied for thirty (30) days after written notice of default, the other party may terminate for cause any Sales Order materially affected by the breach. Either party may terminate a Sales Order immediately upon notice to the other party if the other party has become insolvent or involved in liquidation or termination of its business, or adjudicated bankrupt, or been involved in an assignment for the benefit of its creditors.

**4.4 Effect of Expiration/Termination of a Sales Order.** Upon the expiration or termination of a Sales Order for any reason (i) 10T Solutions shall disconnect the applicable Service, (ii) 10T Solutions may delete all applicable data, files, electronic messages, or other information stored on 10T Solutions's servers or systems and (iii) 10T Solutions may assess and collect from Customer applicable Termination Charges. Termination by either Party of a Sales Order does not waive any other rights or remedies that it may have under this Agreement. The nondefaulting Party shall be entitled to all available legal and equitable remedies for such breach.

#### **ARTICLE 5. LIMITATION OF LIABILITY; DISCLAIMER OF WARRANTIES**

##### **5.1 Limitation of Liability.**

**A. THE AGGREGATE LIABILITY OF 10T Solutions FOR ANY AND ALL LOSSES, DAMAGES AND CAUSES ARISING OUT OF THE AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THE PERFORMANCE OF SERVICE, AND NOT OTHERWISE LIMITED HEREUNDER, WHETHER IN CONTRACT, TORT, OR OTHERWISE, SHALL NOT**

EXCEED DIRECT DAMAGES EQUAL TO THE SUM TOTAL OF PAYMENTS MADE BY CUSTOMER TO 10T Solutions DURING THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE EVENT FOR WHICH DAMAGES ARE CLAIMED. THIS LIMITATION SHALL NOT APPLY TO 10T SOLUTIONS' INDEMNIFICATION OBLIGATIONS AND CLAIMS FOR DAMAGE TO PROPERTY AND/OR PERSONAL INJURIES (INCLUDING DEATH) ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF 10T SOLUTIONS WHILE ON THE CUSTOMER SERVICE LOCATION.

**B. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THE AGREEMENT, IN NO EVENT SHALL THE AGGREGATE LIABILITY OF 10T SOLUTIONS UNDER THIS AGREEMENT FOR ALL INDEMNIFICATION OF IP CLAIMS UNDER SECTION 6.1(j) OF THESE GENERAL TERMS AND CONDITIONS EXCEED THE GREATER OF (I) ONE (1) MILLION DOLLARS (\$1,000,000) AND (II) THE AGGREGATE AMOUNT OF FEES RECEIVED BY 10T SOLUTIONS FROM CUSTOMER DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE IP CLAIM FIRST AROSE.**

**C. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THE AGREEMENT, IN NO EVENT SHALL 10T SOLUTIONS BE LIABLE FOR ANY LOSS, DAMAGE OR CLAIM ARISING OUT OF OR RELATED TO: (1) STORED, TRANSMITTED, OR RECORDED DATA, FILES, OR SOFTWARE; (2) ANY ACT OR OMISSION OF CUSTOMER, ITS USERS OR THIRD PARTIES; (3) INTEROPERABILITY, INTERACTION OR INTERCONNECTION OF THE SERVICES WITH APPLICATIONS, EQUIPMENT, SERVICES OR NETWORKS PROVIDED BY CUSTOMER OR THIRD PARTIES; OR (4) LOSS OR DESTRUCTION OF ANY CUSTOMER HARDWARE, SOFTWARE, FILES OR DATA RESULTING FROM ANY VIRUS OR OTHER HARMFUL FEATURE OR FROM ANY ATTEMPT TO REMOVE IT. CUSTOMER IS SOLELY RESPONSIBLE FOR BACKING UP ITS DATA, FILES, AND SOFTWARE PRIOR TO THE INSTALLATION OF SERVICE AND AT REGULAR INTERVALS THEREAFTER.**

**D. NOTWITHSTANDING ANYTHING TO CONTRARY CONTAINED IN THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT,**

**SPECIAL, COVER, PUNITIVE OR CONSEQUENTIAL DAMAGES, WHETHER OR NOT FORESEEABLE, OF ANY KIND INCLUDING BUT NOT LIMITED TO ANY LOSS REVENUE, LOSS OF USE, LOSS OF BUSINESS, OR LOSS OF PROFIT WHETHER SUCH ALLEGED LIABILITY ARISES IN CONTRACT OR TORT; PROVIDED, THAT, THE FOREGOING LIMITATION SHALL NOT LIMIT CUSTOMER'S LIABILITY FOR AMOUNTS OWED FOR THE SERVICES, FOR ANY EQUIPMENT OR SOFTWARE PROVIDED BY 10T SOLUTIONS, OR FOR TERMINATION CHARGES.**

**5.2 Disclaimer of Warranties.** Services shall be provided pursuant to the terms and conditions in the applicable PSA and Service Level Agreement, and are in lieu of all other warranties, express, implied or statutory, including, but not limited to, the implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement. **TO THE MAXIMUM EXTENT ALLOWED BY LAW, 10T SOLUTIONS EXPRESSLY DISCLAIMS ALL SUCH EXPRESS, IMPLIED AND STATUTORY WARRANTIES.** Without limiting the generality of the foregoing, and except as otherwise identified in a PSA or Service Level Agreement, 10T Solutions does not warrant that the Services, 10T Solutions Equipment, or Licensed Software will be uninterrupted, error-free, or free of latency or delay, or that the Services, 10T Solutions Equipment, or Licensed Software will meet customer's requirements, or that the Services, 10T Solutions Equipment, or Licensed Software will prevent unauthorized access by third parties. Customer acknowledges and agrees that the Services are not fail-safe and are not designed or intended for use in situations requiring failsafe performance or in which an error or interruption in the Services could lead to severe injury to business, persons, property or environment.

**5.3 Exclusive Remedies.** Customer's sole and exclusive remedies are as expressly set forth in the Agreement. In those states where Customer's remedies cannot be so limited, the liability of 10T Solutions is limited to the maximum extent permitted by law.

## **ARTICLE 6. INDEMNIFICATION**

**6.1 10T Solutions's Indemnification Obligations.** Subject to Sections 5.1(B), 5.1(C) and 5.1(D) and any other limitations contained in the Agreement, 10T Solutions shall indemnify defend, and hold harmless Customer, its Affiliates and their respective employees, directors, officers, and agents (the "Customer Indemnified Parties") from and against all , actions, causes of actions, damages, liabilities, losses, and expenses (including reasonable attorneys' fees) arising out of (i) infringement of U.S. patent or copyright law based solely on

10T Solutions Equipment or Licensed Software; provided, that, 10T Solutions shall have no liability for any claim of infringement arising from: (a) 10T Solutions's compliance with any designs, specifications, or instructions of Customer; (b) modification or alteration of the Licensed Software or 10T Solutions Equipment by Customer or a third party without the prior knowledge and written approval of an authorized officer of 10T Solutions; (c) use of the Licensed Software or 10T Solutions Equipment in a way not authorized in writing by an authorized officer of 10T Solutions; and/or (d) Customer's failure to use an updated version of the Licensed Software or 10T Solutions Equipment which has been provided, or made available, to Customer and (ii) damage to tangible personal property or real property, and personal injuries (including death) arising out of the gross negligence or willful misconduct of 10T Solutions while working on the Service Locations.

**6.2 Customer's Indemnification Obligations.** Customer shall indemnify, defend, and hold harmless 10T Solutions from any and all Claims arising on account of or in connection with Customer's and its users' use or sharing of the Service provided under the Agreement, including with respect to: (i) any content received or distributed by Customer or its users through the Service, (ii) libel, slander, infringement of copyright, or unauthorized use of trademark, trade name, or service mark arising out of communications via the Service; (iii) for patent infringement arising from Customer's combining or connection of Customer-Provided Equipment to use the Service and (iv) for damage arising out of the gross negligence or willful misconduct of Customer.

**6.3 Indemnification Procedures.** To the extent a party may be entitled to indemnification under this Agreement (an "Indemnified Party"), such Indemnified Party shall (i) promptly notify the other Party (the "Indemnifying Party") in writing of any pending or threatened claim or demand that the Indemnified Party has determined has given or would reasonably be expected to give rise to such right of indemnification (an "Action") and (ii) cooperate in every reasonable way to facilitate the defense or settlement of such Action. The Indemnifying Party shall assume the defense of any Action with counsel reasonably satisfactory to the Indemnified Party. The Indemnified Party may employ its own counsel in any such case, and shall pay such counsel's fees and expenses. The Indemnifying Party shall have the right to settle any claim for which indemnification is available; provided, however, that to the extent that such settlement requires the Indemnified Party to take or refrain from taking any action or purports to obligate the Indemnified Party, then the Indemnifying Party shall not settle such claim without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed.

## **ARTICLE 7. CONFIDENTIAL INFORMATION AND PUBLICITY**

**7.1 Disclosure and Use.** All Confidential Information disclosed by either party shall, during the term of the Agreement and for two (2) years after the expiration or termination thereof (or such longer period as may be required by law), be kept by the receiving party in strict confidence and shall not be disclosed to any third party without the disclosing party's express written consent. Notwithstanding the foregoing, (i) such information may be disclosed (A) to the receiving party's employees, affiliates, and agents who have a need to know for the purpose of performing under this Agreement, using the Services and rendering the Services (provided that in all cases the receiving party shall take appropriate measures prior to disclosure to its employees, affiliates, and agents to assure against unauthorized use or disclosure) or (B) as otherwise authorized by this Agreement and (ii) each party's confidentiality obligations hereunder shall not apply to information that: (A) is already known to the receiving party without a pre-existing restriction as to disclosure, (B) is or becomes publicly available without fault of the receiving party; (C) is rightfully obtained by the receiving party from a third party without restriction as to disclosure, or is approved for release by written authorization of the disclosing party, (D) is developed independently by the receiving party without use of the disclosing party's Confidential Information or (E) is required to be disclosed by law or regulation. Each party agrees to treat all Confidential Information of the other in the same manner as it treats its own proprietary information, but in no case using less than a reasonable degree of care. Notwithstanding anything to the contrary contained in this Article 7.1 or the Agreement, Customer acknowledges and agrees that 10T Solutions shall have no liability or responsibility for content received or distributed by Customer or its users through the Service.

**7.2 Publicity.** Neither party shall issue any publication or press release relating to, or otherwise disclose the existence of, the terms and conditions of any contractual relationship between 10T Solutions and Customer without the prior written consent of the other party.

**7.3 Remedies.** Notwithstanding any other Article of this Agreement, the non-breaching party shall be entitled to seek equitable relief to protect its interests pursuant to this Article 7, including, but not limited to, injunctive relief.

## **ARTICLE 8. PROHIBITED USES; USE AND PRIVACY POLICIES**

**8.1 Prohibited Uses; 10T Solutions Use Policies.** Customer is prohibited from using, or permitting the use of, any Service (i) for any purpose in violation of any law, rule, regulation, or

policy of any government authority; (ii) in violation of any Use Policy (as defined below); (iii) for any use as to which Customer has not obtained all required government approvals, authorizations, licenses, consents, and permits; or (iv) to interfere unreasonably with the use of 10T Solutions service by others or the operation of the Network. Customer is responsible for the compliance of its users with the provisions of the Agreement. Customer may not sell, resell, sublease, assign, license, sublicense, share, provide, or otherwise utilize in conjunction with a third party (including, without limitation, in any joint venture or as part of any outsourcing activity) the Services or any component thereof. Customer acknowledges and agrees that Customer's and its users' use of Services shall be subject to 10T Solutions's acceptable use policies ("AUPs") and security policies (together with the AUPs, the "Use Policies") that may limit Customer's and its users' use of the Services. The Use Policies are posted on the Website, and are incorporated into this Agreement by reference. 10T Solutions reserves the right to act immediately and without notice to (i) terminate or suspend the Services and/or to remove from the Services any information transmitted by or to Customer or users, if 10T Solutions determines that such use or information is in violation of this Article 8.1 or the Use Policies and (ii) terminate or suspend the Services in the event of fraudulent use of Customer's Services. Customer acknowledges and agrees that 10T Solutions may, but is not obligated to, detect or report unauthorized or fraudulent use of the Services to Customer.

**8.2 Privacy Policy.** 10T Solutions's commercial privacy policy (the "Privacy Policy") applies to 10T Solutions's handling of Customer confidential information. The Privacy Policy is available on the Website. Notwithstanding the foregoing or anything to the Contrary contained in the Agreement or the Privacy Policy, 10T Solutions is not responsible for any information provided by Customer to third parties and Customer assumes all privacy and other risks associated with providing personally identifiable information to third parties via the Services.

## **ARTICLE 9. MISCELLANEOUS TERMS**

**9.1 Force Majeure.** Neither party nor its Affiliates shall be liable to the other party for any delay, failure in performance, loss, or damage to the extent caused by force majeure conditions such as acts of God, fire, explosion, power blackout, cellular network interruptions, acts of regulatory or governmental agencies, unforeseeable third party actions, or other causes beyond the party's reasonable control, except that Customer's obligation to pay for Services provided under the Agreement shall not be excused. Changes in economic,

business or competitive condition shall not be considered force majeure events.

**9.2 Assignment or Transfer.** Customer shall not assign any right, obligation or duty, in whole or in part, nor of any other interest hereunder, without the prior written consent of 10T Solutions, which shall not be unreasonably withheld. All obligations and duties of either party hereunder shall be binding on all successors in interest and permitted assigns of such party.

**9.3 Notices.** Except as otherwise identified herein, any notice sent pursuant to the Agreement shall be deemed given and effective when sent by facsimile (confirmed by first-class mail), or when delivered by overnight express or other express delivery service, in each case, to the following addresses (or to such other addresses as a party may designate by written notice to the other party): (i) with respect to Customer, to the address set forth on any Sales Order; or (ii) with respect to 10T Solutions, to: Vice President of Sales Operations, 15 Lincoln St, #235, Wakefield, MA 01880, with a copy to Legal Department, 15 Lincoln St, #235, Wakefield, MA 01880. Alternatively, Customer may send termination notice to 10T Solutions via email at [help@10tsolutions.com](mailto:help@10tsolutions.com) (as the same may be updated by 10T Solutions from time-to-time).

### **9.4 Amendments; Changes to the Agreement.** The

Agreement may not be amended except by a written agreement executed by the parties; **provided, that**, notwithstanding the foregoing, 10T Solutions may change or modify the Agreement (including these General Terms and Conditions and the PSAs), and any related policies (including the Use Policies and Privacy Policy) from time to time ("Revisions") by posting such Revisions to the Website. The Revisions are effective upon posting to the Website. Customer will receive notice of any Revisions in the next applicable monthly invoice. Customer shall have thirty (30) calendar days from the invoice notice of such Revisions to provide 10T Solutions with written notice that the Revisions adversely affect Customer's use of the Service(s). If, after such notice, 10T Solutions is able to verify such adverse effect but is unable to reasonably mitigate the Revision's impact on such Services, then Customer may terminate the impacted Service(s) without further obligation to 10T Solutions beyond the termination date, including Termination Charges, if any. This shall be Customer's sole and exclusive remedy for any Revisions. Terms or conditions contained in any Sales Order, or restrictive endorsements or other statements on any form of payment, shall be void and of no force or effect.

**9.5 Tariffs.** Notwithstanding anything to the contrary in the Agreement, 10T Solutions may elect or be required to file with regulatory agencies tariffs for certain Services. In such event, the terms set forth in the Agreement may, under applicable law, be superseded by the terms and conditions of the tariffs. Without limiting the generality of the foregoing, in the event of any inconsistency with respect to rates, the rates and other terms set forth in the applicable Sales Order shall be treated as individual case based arrangements to the maximum extent permitted by law, and 10T Solutions shall take such steps as are required by law to make the rates and other terms enforceable. If 10T Solutions voluntarily or involuntarily cancels or withdraws a tariff under which a Service is provided to Customer, the Service will thereafter be provided pursuant to the Agreement and the terms and conditions contained in the tariff immediately prior to its cancellation or withdrawal. In the event that 10T Solutions is required by a governmental authority to modify a tariff under which Service is provided to Customer in a manner that is material and adverse to either party, the affected party may terminate the applicable Sales Order upon a minimum thirty (30) days' prior written notice to the other party, without further liability.

**9.6 Entire Understanding; Construction; Survival; Headings; No Waiver.** The Agreement supersedes all prior agreement between the parties with respect to its subject matter and constitutes a complete and exclusive statement of the terms of the agreement between the parties with respect to the subject matter hereof. In the event that any portion of the Agreement is held to be invalid or unenforceable, the parties shall replace the invalid or unenforceable portion with another provision that, as nearly as possible, reflects the original intention of the parties, and the remainder of the Agreement shall remain in full force and effect. The rights and obligations of either party that by their nature would continue beyond the termination or expiration of the Agreement shall survive termination or expiration of the Agreement. The article headings used herein are for reference only and shall not limit or control any term or provision of this Agreement or the interpretation or construction thereof. No failure by either party to enforce any right(s) hereunder shall constitute a waiver of such right(s). The Agreement may be executed in counterpart copies. Each party represents and warrants that the persons who executes the Agreement on its behalf are duly authorized to do so.

**9.7 Choice of Law; Compliance with Laws.** The domestic law of the state in which the Service is provided shall govern the construction, interpretation, and performance of this Agreement, except to the extent superseded by federal law. Each of the parties agrees to comply with all applicable local,

state and federal laws and regulations and ordinances in the performance of its respective obligations under this Agreement.

**9.8 No Third Party Beneficiaries; Independent Contractors.** This Agreement does not expressly or implicitly provide any third party (including users) with any remedy, claim, liability, reimbursement, cause of action, or other right or privilege. The parties to this Agreement are independent contractors. Neither party is an agent, representative, or partner of the other party. Neither party shall have any right, power, or authority to enter into any agreement for, or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other party. This Agreement shall not be interpreted or construed to create an association, agency, joint venture, or partnership between the parties or to impose any liability attributable to such a relationship upon either party.