

Terms and Conditions for Service Ordered from China Telecom (Americas) Corporation

These terms and condition apply to Services (as defined below) ordered from China Telecom (Americas) Corporation (“CT Americas”) in the absence of a Master Service Agreement between CT Americas and the purchaser (“Customer”). By submitting a Customer Order Summary, Customer agrees to be bound by these terms and conditions (the “Agreement”) as if Customer had executed this Agreement. CT Americas and Customer may be referred to collectively as “Parties” and each individually as a “Party.” CT Americas and Customer agree that the terms of this Agreement apply to the provision and use of all Services ordered pursuant to a Customer Order Summary.

1 ORDERING SERVICES

CT Americas, either directly or through its affiliates or underlying carriers, shall provide Customer with services for the direct transmission and reception of data, video, voice, and facsimile signals between terminals (the “Services”). Customer will purchase Services by submitting a Customer Order Summary, which will set out the Service requested and information reasonably necessary for CT Americas to provide that Service, including term of the Service, volume requirements, technical and logistical specifications, geographic scope and pricing. Acceptance of a Customer Order Summary by CT Americas and provision of a new Service is subject to submission of accurate information by Customer and availability of the requested Service. CT Americas reserves the right to reject a Customer Order Summary for any reason.

2 TERM

2.1 This Agreement is effective and the Parties’ obligations shall commence upon the date when CT Americas accepts the Customer Order Summary and, unless otherwise terminated pursuant to the terms of this Agreement, shall continue for a period of three years. Thereafter, the term shall be automatically renewed for successive one-year periods, until one Party provides the other Party with written notice of termination. This Agreement shall be terminated 60 days following the receipt of such written notice.

2.2 Each Customer Order Summary shall set out the term of any Service provided under this Agreement. If no term is

specified in a Customer Order Summary, the term shall be one year. The term of each Customer Order Summary shall automatically be renewed for successive one-year periods, until one Party provides the other Party with written notice of termination. The Customer Order Summary shall be terminated sixty days following the receipt of such written notice. At the expiry of any term of service, CT Americas shall be entitled to change the monthly recurring charges for the Service provided under the expiring Customer Order Summary, provided that CT Americas gives thirty (30) calendar days written notice of such change to Customer.

2.3 If the term of a Customer Order Summary extends beyond the term of this Agreement, then notwithstanding Section 2.1, this Agreement will continue to govern the provision of Service under that Customer Order Summary until the term of that Summary has expired.

2.4 A request by Customer for termination of a Service at the end of a term or otherwise must be sent by email to provisioning@ctamericas.com and will only be effective when CT Americas confirms receipt of the request.

3 PRICING AND BILLING

3.1 Commencing on the Ready for Service Date (as defined in Section 9), the Customer shall pay CT Americas the monthly charge set forth in the Customer Order Summary (the “Monthly Recurring Charge”). Customer also shall pay to CT Americas a one-time installation charge

as set forth in the Customer Order Summary (the "Installation Fee"), which Installation Fee shall be due and payable upon the execution of the Customer Order Summary and shall be non-refundable in the event of cancellation or termination of this Agreement or a related Service.

- 3.2 CT Americas will invoice the Monthly Recurring Charges on a monthly basis and in advance, with the initial Monthly Recurring Charge due on the Ready for Service Date and subsequent Charges due on or before the first day of each calendar month. If the Ready for Service Date occurs on a date other than the first day of a calendar month, the initial Monthly Recurring Charge shall be reduced to an amount equal to the remaining days of said month following the Service Date (including the Service Date), multiplied by a rate equal to one-thirtieth (1/30th) of the Monthly Recurring Charge.
- 3.3 Customer shall make all payments due within thirty (30) calendar days of the invoice date.
- 3.4 CT Americas' obligation to provide Services to Customer pursuant to this Agreement is subject to approval of the applicable Customer Order Summary and Customer's creditworthiness. CT Americas reserves the right at any time to require Customer to provide credit support in the form of (a) cash or (b) a letter of credit from a commercial bank or trust company acceptable to CT Americas ("Credit Support") or to increase existing Credit Support. Any Credit Support will be maintained as security for Customer's performance of its obligations pursuant to this Agreement. Subject to Section 10.4, CT Americas will return the Credit Support to Customer within thirty (30) days of the expiration or termination of this Agreement.
- 3.5 In addition to other remedies set forth herein, if Customer fails to pay any amount when due, CT Americas may (a) charge interest on the unpaid balance from the date due until the date paid at the rate of 1.0% per month or the highest rate permitted by applicable law, whichever is lower and (b) draw on the Credit Support

to pay the unpaid amount. CT Americas may also net or set-off amounts payable by CT Americas to Customer under this Agreement or otherwise against any unpaid balance if Customer fails to pay any amount when due.

- 3.6 The charges described in Sections 3.1 and 3.2 are exclusive of, and Customer shall assume and pay promptly, all applicable taxes, including consumption, value added taxes or other national, regional or local sales, use, excise, privilege, gross receipts or other similar taxes, duties or charges imposed on or incident to the provision, sale or use of any Service (except income tax). Customer will also be responsible to pay any other regulatory surcharges which CT Americas is required, or permitted, to invoice to Customer in connection with the provision, sale or use of any Service, including, without limitation, permanent or temporary surcharges to meet government obligations, governmental fees or assessments (including surcharges and fees established or caused by government, by a support or subsidy program administrator or by CT Americas intended to address costs of governmental programs), and in addition any program-related costs or administrative cost requirements of CT Americas. The taxes and surcharges described above may be shown on invoices as cost recovery fees. Customer will also be responsible to pay any penalties incurred by CT Americas as a result of Customer's failure to pay any taxes or surcharges described above. Customer may present CT Americas a valid exemption certificate and CT Americas will give effect thereto prospectively.
- 3.7 Customer shall be responsible for all costs and expenses, including attorneys' fees and expenses and court costs, incurred by CT Americas in the enforcement of the payment obligation under this Article 3 and Termination Payments and the collection of outstanding amounts from the Customer.
- 3.8 All monetary references in this Agreement are denominated in United States dollars, and all financial

transactions under this Agreement must be settled in United States dollars.

- 3.9 CT Americas reserves the right to adjust the Monthly Recurring Charges and the Installation Fees at any time in order to reflect changes in the currency exchange rates applicable to the underlying services. CT Americas will provide Customer with five days' written notice of any currency adjustments.

4 BILLING DISPUTES

- 4.1 If Customer reasonably disputes any matter contained in any invoice, the Customer shall pay the undisputed portion of the invoiced charges. Written notice regarding any dispute as to the amount owing must be provided to CT Americas in reasonable detail including documentation identifying the charges, which are in dispute, within thirty (30) days of receipt of such disputed invoice.
- 4.2 In the event of a dispute, the Parties shall thereafter investigate the matter and endeavor to resolve the disputed charges within thirty (30) days following notice of the dispute. If the Parties are unable to informally resolve the dispute in good faith, CT Americas reserves the right to suspend or terminate the Services. Nothing herein shall be construed to constitute a waiver of CT Americas' right to declare a default by Customer under this Agreement on account of a delinquency, to terminate this Agreement and to exercise any other rights under this Agreement or at law or in equity.
- 4.3 Following resolution of the dispute, the adjustment (if any) will be applied to the payment of the Customer's next Monthly Recurring Charge. If the dispute is resolved so that one Party must pay money to the other, that Party must pay interest on the amount determined to be payable from the original due date at the rate of 1.0% per month for each day thereafter until payment is made.
- 4.4 Any amounts, which are determined to have been billed in error, will be credited against the following month's invoice. A request for adjustment shall not be cause

for delay of payment of the balance due, nor may it be grounds for the Customer to withhold payment for any undisputed amount.

5 RESPONSIBILITY OF CUSTOMER

- 5.1 Customer will, if applicable:
- (i) at its own expense, provide all necessary preparations required to comply with the installation and maintenance specifications of CT Americas, its affiliates or underlying carriers, including but not limited to arranging access to any of the rights-of-way, conduits and equipment space necessary for CT Americas to provide Services to the Customer's sites; and
 - (ii) be responsible for the costs of relocation of Services once installed.
- 5.2 Other than as set forth in Section 6.1, Customer will, if applicable, provide the necessary equipment, protective apparatus, space, conduits, ventilation, air conditioning and electrical power required to terminate and maintain the facilities used to provide Services to Customer's sites without charge or cost to CT Americas. The space, conduits and power will be made available to CT Americas, its affiliates or underlying carriers on a timely basis. Customer will be responsible for maintaining the equipment space and associated facilities, conduits and rights-of-way as safe places to work, which are insured against fire, theft, vandalism and other casualty. Customer will also be responsible for ensuring that the use of the equipment space and associated facilities, conduits and rights-of way comply with all applicable laws, rules and regulations as well as any existing leases or other contractual agreements or rights of others.
- 5.3 Customer will comply with all applicable laws and regulations. Customer will be responsible for obtaining and maintaining all necessary licenses, permits and

approvals required by any and all governmental authorities to permit Customer to receive Services and comply with its obligations under this Agreement. Customer further represents that its use of Services will be in accordance with such licenses, permits and approvals and that it will not use Services for any unauthorized purpose.

5.4 Customer will be liable for any and all damages to the equipment of CT Americas, its affiliates or underlying carriers located on Customer's premises, excluding reasonable wear and tear and any damages caused by CT Americas, its affiliates or underlying carriers. Upon expiration or termination of a Customer Order Summary, Customer will surrender to CT Americas any equipment and other property owned by CT Americas, its affiliates or underlying carriers and provided to Customer.

5.5 Customer will not permit or assist others to, and will take all reasonable steps to ensure that its own employees, customers and third parties do not, misuse, abuse or fraudulently use the Services, including but not limited to the following:

- (i) Obtaining or attempting to obtain Services by any means or device with intent to avoid payment; or
- (ii) Unauthorized access, alteration, destruction or any attempt thereof, of any information of another CT Americas customer by any means or device; or
- (iii) Using Services so as to impair or interfere with the use of equipment or facilities of CT Americas, its affiliates or underlying carriers by other customers or authorized users, or in violation of the law or in aid of any unlawful act;
- (iv) Using services to send "junk mail" or "spam" through electronic mail or any other means carried by the Internet, notwithstanding their number or length, and having not been

duly and specifically requested by recipient.

- (iv) Using Services to impair or interfere with the privacy of any communications.

5.6 Customer will take every reasonable precaution in its use of the Services to prevent contamination of any software or hardware or diffusion of any software or hardware contamination including computer viruses.

5.7 If Customer continues to engage in any of the activities prohibited in this Article 5 after written notice from CT Americas and a five-day cure period, CT Americas may suspend its performance and/or terminate the relevant Service with no further obligation to Customer. In the event of such termination, Customer shall be liable for Termination Payments (as defined in Section 10.3).

6 EQUIPMENT AND SOFTWARE

6.1 CT Americas, its affiliates or underlying carriers may be required to provide a Network Terminating Unit (NTU) at the Customer's premises. The equipment shall at all times remain the sole and exclusive property of CT Americas, its affiliates or underlying carriers and Customer shall have no interest or rights in it except for quiet possession and the rights to use the equipment under these conditions. If equipment is damaged or removed by Customer, CT Americas will invoice the Customer for the full price of the NTU.

7 OPERATIONAL AND COMMERCIAL MATTERS

7.1 CT Americas is not liable for the security of the Customer's telecommunications services, telephone connections or for traffic transmitted under this Agreement and has no obligations to ensure and makes no representations or warranties concerning the security of such communications, connections or traffic.

7.2 The Customer shall, upon prior and reasonable notice from CT Americas, and subject to the compliance with the

Customer's security procedures, allow agents and employees of CT Americas, its affiliates or underlying carriers reasonable entry and access to the premises at which Services will be provided, to install, inspect, repair or remove its facilities and/or equipment, or to perform necessary inspections or maintenance in cases where Customer-provided equipment or facilities are disrupting provision of the Services.

- 7.3 The technical standards and methods of operation to be applied by the Parties for the implementation and provision of the Services must conform to the provisions of the Communications Act of 1934, as amended, the rules and regulations of the Federal Communications Commission, International Telecommunication Union-Telecommunications Standardization Sector Recommendations, and other relevant state or federal laws, as amended from time to time.
- 7.4 CT Americas reserves the right to limit any and all communications or traffic from the Customer on any route during conditions of network congestion.
- 7.5 Provision of Service may be subject to a Service Level Agreement. Each Service Level Agreement sets forth the applicable credit allowances for that Service and provides the sole remedy for service interruption or service problems for that Service. Notwithstanding the foregoing, CT Americas provides no credit allowances for service interruption or service problems on an unprotected international submarine cable.

8 LOCAL LOOP

- 8.1 If Customer desires CT Americas to order and administer local tail circuits (each a "Local Loop") in order to interconnect Customer's network and equipment with the Services, CT Americas reserves the right to order Local Loops from the local circuit provider (the "Loop Provider") of its choice. In the event of interruptions to or other problems with a Local Loop, Customer shall notify CT Americas' designated technical point of contact via phone, fax and/or e-mail. CT Americas' sole obligation with regard to such interruptions shall be to use its commercially reasonable efforts to cause the Loop Provider to promptly remedy such problems.
- 8.2 Upon at least sixty (60) days prior written notice to Customer, CT Americas may change the Loop Provider for a Local Loop. Such changes shall be at CT Americas' sole cost and expense. Customer may request a change in a Loop Provider upon at least 60 days prior written notice to CT Americas. If CT Americas accepts Customer's request, Customer shall submit a new Customer Order Summary. Changes requested by Customer shall be at Customer's sole cost and expense, including all costs or penalties incurred by CT Americas due to the early termination of the original Local Loop.
- 8.3 The Customer Order Summary includes charges for the Local Loop. CT Americas may begin billing Customer for Local Loop charges as soon as those charges are incurred, regardless of whether the Ready for Service Date has occurred, unless the delay in the Ready for Service Date is due to the negligence of CT Americas. Customer shall be liable for all termination charges incurred by CT Americas due to its cancellation of a Local Loop, unless (i) such cancellation is initiated by CT Americas pursuant to Section 8.2 or is due to CT Americas' gross negligence or willful misconduct or (ii) provision for sharing any such termination charge is set forth in the Customer Order Summary.
- 8.4 If Customer does not indicate on the Customer Order Summary that it desires CT Americas to provide (or, where necessary, to order and administer) a Local Loop on its behalf, then Customer shall be solely responsible for ordering and administering that Local Loop. CT Americas shall not be liable for any delays in the Ready for Service Date caused by Customer's failure to place a timely order for a Local Loop, nor for any delays in Local Loop delivery caused by Customer's Loop Provider.

9 ACCEPTANCE AND TESTING

CT Americas shall provide the Customer written notice once the Service is deemed ready and available for use. Customer has 48 hours to test the circuit, at Customer's expense, and notify CT Americas in writing if the Service is in material non-compliance with the applicable technical specifications set forth in the Customer Order Summary. If no written notice is received from Customer within 48 hours or if Customer accepts the Service in writing within that 48-hour period, the "Ready for Service Date" shall be the date on which CT Americas provided the notice of availability to Customer. If Customer delivers notice of material non-compliance within the 48-hour period, CT Americas shall promptly take such reasonable action as is necessary to correct any such non-compliance in the Services and shall notify Customer of a new Ready for Service Date upon correction.

10 SUSPENSION AND TERMINATION RIGHTS; TERMINATION PAYMENT

10.1 CT Americas, without prejudice to its other rights at law or in equity, may terminate this Agreement immediately and without notice if Customer is in default in the payment of any amount due hereunder and has failed to remedy such default within ten days of receipt of written notice from CT Americas. Notwithstanding anything to the contrary set forth in this Agreement, CT Americas may suspend or terminate any applicable Service (a) immediately and without notice if any misuse of such Service or misconduct with respect to such Service on the part of Customer or its customers would, in CT Americas' reasonable opinion, cause material damage to CT Americas' network, facilities or other property or (b) on request of a governmental authority.

10.2 Either Party may terminate this Agreement (a) if the other Party fails to perform and discharge its material obligations as set forth in this Agreement (other than a payment default which is governed by Section 10.1) and such default has not been cured within thirty (30) days after receipt by the defaulting Party of written notice thereof from the non-defaulting Party or b) immediately (i) in the event of any evidence of the potential or imminent insolvency of the other Party or that Party's insolvency, dissolution or cessation of business operations; (ii) if the other Party files a petition in bankruptcy or if a petition in bankruptcy is filed against it; or (iii) if the other Party makes an assignment for the benefit of any of its creditors or similar arrangement pursuant to any bankruptcy law or similar law of an applicable jurisdiction.

10.3 In the case of termination of this Agreement or any Service after the Ready for Service Date (a) by Customer for any reason other than a material breach solely attributable to CT Americas or (b) by CT Americas pursuant to the terms of Sections 10.1 or 10.2 hereof, Customer shall remain liable to pay CT Americas an amount equal to (a) the Monthly Recurring Charges for the remainder of the term of that Service as set forth in the Customer Order Summary plus (b) the aggregate charges, payable to any affiliates or underlying carriers, if any, for which CT Americas is or becomes contractually liable in connection with any such termination ("Termination Payment"). Customer agrees that CT Americas' damages will be difficult to ascertain if termination occurs and that the Termination Payment establishes liquidated damages and is not a penalty.

10.4 In the event of a termination by CT Americas pursuant to Sections 10.1 or 10.2, the Credit Support shall become the property of CT Americas. CT Americas shall have the right to apply the Credit Support to any outstanding amounts owed by Customer.

10.5 If Customer cancels a Service prior to the Ready for Service Date for any reason,

Customer shall pay CT Americas a cancellation charge equal to (a) the Monthly Recurring Charge for one month plus (b) the aggregate charges, payable to any affiliates or underlying carriers, if any, for which CT Americas is or becomes contractually liable in connection with any such cancellation.

- 10.6 If CT America suspends service instead of terminating a service, during the suspension period Customer shall continue to pay all MRCs. CT Americas may charge Customer a re-installation fee equal to one month's MRC.

11 **FORCE MAJEURE**

- 11.1 The Parties' obligations under this Agreement are subject to, and neither Party shall be liable for any delays, failures to perform (except the payment of money due by Customer), omissions, damages, losses or destruction, or malfunction of any equipment or any consequence thereof occasioned by or due to fire, flood, water, the elements, labor disputes or shortages, utility curtailments, power failures, blackouts, explosions, civil disturbances, unavailability of transportation or other essential services, acts or omissions of third Parties (other than the Customer's own customers or accounts, for whom Customer shall remain responsible), acts of God, government, or public utility, or any other cause that is beyond the Party's reasonable control.

- 11.2 If either Party is delayed in performing as aforesaid, it shall give to the other Party in writing at the earliest possible time after such cause becomes known, notice of its claim for any extension of time for its performance, together with a statement on which it bases its claim of force majeure.

- 11.3 If an event of force majeure continues for a period of thirty (30) days, either Party may terminate this Agreement by giving notice in writing to the other Party.

12 **DISCLAIMER OF WARRANTIES**

- 12.1 The Services are provided on an "as is," "as available" basis. CT Americas EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. CT Americas makes no warranty that the Services will meet the Customer's requirements, nor that the Service(s) will be uninterrupted, timely, secure, or error free. No advice, information, or expectation, whether oral or written, obtained by Customer through use of the Service shall create any warranty not expressly made herein.

13 **LIMITATION OF LIABILITY**

- 13.1 EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, CT AMERICAS WILL NOT BE LIABLE TO CUSTOMER, OR TO ITS SUBSIDIARIES, AFFILIATES OR END USERS, WHETHER IN CONTRACT OR TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR ANY LOSS, CLAIM, COST OR DAMAGES RESULTING FROM (i) THE USE OR INABILITY TO USE ANY OF THE SERVICES OR FOR THE COST OF PROCUREMENT OF SUBSTITUTE SERVICES SUSTAINED BY CUSTOMER, ITS SUBSIDIARIES, AFFILIATES OR ITS END USERS DUE TO ANY FAILURE IN OR BREAKDOWN OF THE COMMUNICATION FACILITIES ASSOCIATED WITH PROVIDING THE SERVICES HEREUNDER, or (ii) ANY INTERRUPTION OR DEGRADATION IN THE SERVICE OR IN THE NETWORK OR ANY OTHER NETWORK OR CONNECTION INVOLVED IN THE PROVISION OF SUCH SERVICES WHATSOEVER SHALL BE THE CAUSE OR DURATION THEREOF.

- 13.2 CT AMERICAS DOES NOT MONITOR AND DISCLAIMS ALL LIABILITY AND RESPONSIBILITY FOR THE CONTENT OF ANY COMMUNICATIONS TRANSMITTED

VIA AN APPLICABLE SERVICE AND DISCLAIMS LIABILITY AND RESPONSIBILITY FOR UNAUTHORIZED USE OR MISUE OF ANY APPLICABLE SERVICE.

Americas' maximum liability for any Service shall be limited to the total payments by Customer to CT Americas in the six-month period preceding the event out of which the liability arose.

13.3 IN NO EVENT WILL EITHER PARTY BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, SUCH AS, WITHOUT LIMITATION, LOSS OF REVENUES, PROFITS, CUSTOMERS, BUSINESS OPPORTUNITIES OR GOODWILL, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

13.4 THE TERMS AND CONDITIONS IN THIS AGREEMENT THAT EXCLUDE OR LIMIT EITHER PARTY'S LIABILITY APPLY TO THE EXTENT PERMITTED BY LAW. PROVISIONS OF APPLICABLE LEGISLATION MAY IMPLY WARRANTIES OR CONDITIONS OR IMPOSE OBLIGATIONS UPON A PARTY WHICH CANNOT BE EXCLUDED, RESTRICTED OR MODIFIED OR WHICH CANNOT BE EXCLUDED, RESTRICTED OR MODIFIED EXCEPT TO A LIMITED EXTENT. THIS AGREEMENT MUST BE READ AND CONSTRUED SUBJECT TO ANY SUCH LEGISLATION. IF ANY SUCH LEGISLATION APPLIES, THEN TO THE EXTENT TO WHICH A PARTY IS ENTITLED TO DO SO, THE LIABILITY OF THAT PARTY UNDER THAT LEGISLATION WILL BE LIMITED AT THE OPTION OF THE RELEVANT PARTY TO:

- (a) re-supply of the Services;
- (b) payment of the cost of having the Services supplied again; or
- (c) ANY other remedy prescribed by any relevant law.

13.5 Except for breaches of confidentiality and indemnification claims under Section 14, Customer hereby agrees that CT

14 INDEMNITY

Customer shall indemnify and hold harmless CT Americas, its affiliates, stockholders, officers, directors, agents and employees against any and all damages, losses, claims, costs and expenses (including reasonable legal costs and attorney fees) ("Losses") arising out of or otherwise as related to (i) any breach by or negligence of Customer or its employees, agents or end users, (ii) the installation, hook-up, maintenance, provision, use, or trouble-shooting, of the Services described in the Agreement, including any interruption of the Service, bodily injury or property damage and (iii) any content, pictures, materials or statement published or distributed by Customer or by any other person from or in connection with the equipment supplied by CT Americas or any Service.

15 REGULATORY EVENTS AND REGULATIONS

This Agreement is made expressly subject to all present and future valid orders, approvals, directives and regulations of any regulatory body having jurisdiction over the subject matter hereof and to the laws of the United States of America, any of its States, or any foreign governmental agency having jurisdiction, including, without limitation, the People's Republic of China and the Hong Kong Special Administrative Region. In the event that this Agreement, or any of its provisions, shall be found contrary to or in conflict with any such order, rule, regulation, directive or law, the Agreement or such provision(s) shall be deemed modified to the extent necessary to comply with any such order, rule, regulation, directive or law and shall be modified in such a way as is consistent with the form, intent or purpose of this Agreement.

16 NO AGENCY

Neither Party is authorized to act as an agent for, or legal representative of, the other Party and neither Party shall have the authority to assume or create any obligation on behalf of, in the name of, or binding upon the other Party. No provisions of this Agreement will be considered

to constitute a joint venture, partnership or agency between the Parties or to merge the assets, liabilities and undertaking of the Parties.

17 BINDING EFFECT; ASSIGNMENT

This Agreement is personal to, shall be binding upon and inure only to the benefit of the Parties hereto. Nothing in this Agreement is intended to create or confer any right or remedy on any third Party. Neither Party shall voluntarily or by operation of law assign, transfer, license or otherwise transfer all or any material part of its rights or duties or other interests in this Agreement or the proceeds thereof, without the other Party's prior written consent, which consent shall not be unreasonably withheld or delayed. However either Party may assign this Agreement without consent to any parent, subsidiary or affiliated company, entity or successor in interest whether by merger, reorganization, or transfer of all or substantially all of its assets or otherwise that has a credit rating at least equal to Clients and that meets CT Americas' test for creditworthiness. No assignment shall release Customer of its obligations hereunder. Any attempt to assign any rights or duties in violation of this provision shall be null and void.

18 AMENDMENT

CT Americas may amend the terms of this Agreement at any time, with such amendment effective upon posting to the website.

19 MERGER

This Agreement, Customer Order Summaries and Service Level Agreements contain the entire contractual arrangements between the Parties with respect to the subject matter of this agreement. The entire understanding between the Parties in relation to the matters herein are fully represented and all prior negotiations, correspondence, arrangements, understandings, promises and agreements with respect to such subject matter cease to have any effect. If there is a conflict between the provisions of this Agreement and the terms of any Customer Order Summary, the terms of this Agreement shall prevail over the provisions of any Customer Order Summary.

20 INTERPRETATION

The words and phrases used herein shall have the meaning generally understood in the telecommunications industry. This Agreement shall be construed in accordance with its fair meaning and is not to be construed for or against either Party on account of which Party drafted this Agreement.

21 SEVERABILITY

Any article or any other provisions of this Agreement which is or becomes illegal, invalid or unenforceable shall be severed herefrom and shall be ineffective to the extent of such illegality, invalidity or unenforceability and shall not effect or impair the remaining provisions hereof, which provisions shall otherwise remain in full force and effect.

22 REPRESENTATION OF AUTHORITY

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations hereunder have been duly authorized and that the Agreement is validly and legally binding on such Party and enforceable in accordance with its terms.

23 GOVERNING LAW

This agreement is governed by and construed in accordance with the laws of the State of Virginia, excluding its choice of laws principles.

24 CONFIDENTIALITY

24.1 "Confidential Information" means this Agreement and other information of any type and form reasonably related to the Agreement and the Services that the receiving Party ("Recipient") knows or has reason to know is confidential, proprietary or trade secret information of the other Party ("Discloser"), either a) because the information is marked as confidential or proprietary at the time of disclosure or promptly after disclosure or b) because of the nature of the information and the context in which it was disclosed. Without limitation, information concerning business models and strategies, network design and traffic, Service performance, customers, requirements, and pricing is in all cases covered under clause b), subject to the

following sentence. The term "Confidential Information" does not include information that: i) was in Recipient's possession before receipt from Discloser; ii) is independently developed by or for Recipient without reference to Discloser's Confidential Information; iii) is rightfully received by Recipient from a third party without a duty of confidentiality; or iv) is or becomes available to the public through no fault of Recipient.

- 24.2 Recipient may use Discloser's Confidential Information only in connection with this Agreement and may not disclose any such Confidential Information except as follows: a) to employees, contractors and financial and legal advisors of Recipient who have a need to know and who have been informed of Recipient's obligations hereunder; and b) when disclosure is required under applicable law, if Recipient first gives Discloser notice of the required disclosure and cooperates with Discloser, at Discloser's expense, in seeking reasonable protective arrangements (however, Recipient is not required to act in a manner which would result in sanctions or other penalties).
- 24.3 Recipient's obligations under Section 24.2 end three (3) years following disclosure.
- 24.4 Recipient will be primarily liable to Discloser for the compliance of each person described in Section 24.2(a) with this Section 24. Recipient will preserve all proprietary markings on Discloser's Confidential Information provided to Recipient. At Discloser's request, Recipient will return Confidential Information to Discloser or destroy it and certify its destruction.
- 24.5 All information exchanged under the Agreement is provided "AS IS", without warranty of any kind.
- 24.6 Each Party acknowledges that its breach or threatened breach of this Section 24 may cause the Discloser irreparable harm which would not be adequately compensated by monetary damages.

Accordingly, in the event of any such breach or threatened breach, the Recipient agrees that equitable relief, including a temporary or permanent injunction, is an available remedy in addition to any legal remedies to which the Discloser may be entitled. .

25 NOTICES

- 25.1 All notices, requests, or other communications hereunder shall be in writing, addressed to the Parties at the addresses set forth on the Customer Order Summary.
- 25.2 Notices or requests must be in writing in the English language and must be delivered by a method providing for proof of delivery (including express courier, and facsimile or email if evidence of receipt is obtained). Any notice or request will be deemed to have been given on the date of receipt. Notices and requests must be delivered to the addresses set forth in the Customer Order Summary until a different address has been designated by notice to the other Party. For purposes of this Agreement, the date of "receipt" is (i) 24 hours after deposit with an overnight courier service; (ii) the date of a facsimile or e-mail as evidenced in the successful facsimile transmission report or the email confirmation; or (iii) three days after deposit in the U.S. mail as a certified or registered letter.

26 DATA PROTECTION.

- 26.1 During the performance of this Agreement, it may be necessary for CT Americas to transfer, process and store billing and utilization data and other data necessary for CT Americas' operation of its network and for the performance of its obligations under this Agreement. The transfer, processing and storing of such data may be to or from the United States. Customer hereby consents to CT Americas' (i) transfer, storage and processing of such data in the United States; and (ii) use of such data for its own internal purposes and as allowed by law. This data will not be disclosed to third parties.

26.2 CT Americas will protect the confidentiality of customer proprietary network information (“CPNI”) as required by 47 C.F.R. §64.2009. CT Americas will not use CPNI for any purpose other than to market similar services to Customer.

27 CONTENTS OF COMMUNICATIONS.

CT Americas shall have no liability or responsibility for the content of any communications transmitted via the Service and Customer shall defend, indemnify and hold CT Americas harmless from any and all claims (including claims by governmental entities seeking to impose penal sanctions) related to such content or for claims by third parties relating to Customer's or its end users' use of Service. CT Americas provides only access to the Internet; CT Americas does not operate or control the information, services, opinions or other content of the Internet. Customer agrees that it shall make no claim whatsoever against CT Americas relating to the content of the Internet or respecting any information, product, service or software ordered through or provided by virtue of the Internet.

28 PUBLICITY; USE OF NAME

Except as set forth in this Section 28, neither Party (i) shall issue any publication or press release relating to this Agreement or the relationship of the Parties under this Agreement except as may be required by law or securities exchange or agreed to in writing between the Parties or (ii) may use the name, logo, trade name, service marks, trademarks or printed material of the other Party in any promotional or advertising material, statement, document, press release or broadcast without the prior written consent of the other Party, which consent may be granted or withheld at the other Party's sole discretion. CT Americas has the right to provide any customer or potential customer bound by a nondisclosure agreement access to a list of customers and a description of Service purchased by such customers. Customer consents to such disclosure, including the listing of Customer's name and Service purchased by Customer (financial terms relating to the purchase shall not be disclosed).

29 DISPUTE RESOLUTION

The Parties agree that any action related to this Agreement shall be brought and maintained only in a Federal or State court of competent jurisdiction located in Fairfax County, Virginia. The Parties each consent to the jurisdiction and venue of such courts and waive any right to object to such jurisdiction and venue.

30 MISCELLANEOUS

30.1 No waiver by either Party of any provisions of this Agreement shall be binding unless made expressly and confirmed in writing. Any such waiver shall relate only to such matter, non-compliance or breach as it relates to and shall not apply to any subsequent or other matter, non-compliance or breach. The failure of either Party to enforce or insist upon compliance with any of the provisions of this Agreement or the forbearance or waiver thereof, in any instance, shall not be construed as a general waiver or relinquishment of any such right.

30.2 Nothing in the Agreement diminishes, restricts or prejudices the rights of either Party to enter into similar agreements with other Parties or to otherwise compete with each other. Each Party acknowledges that it remains at all times solely responsible for the success and profits of its own business.