



Master Services Agreement

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Master Service Agreement – Terms and Conditions

This Agreement is between you as our Customer ("Customer" or "you" or "your") and Xpanse Networks, Inc. ("XPANSE") and it sets forth the terms and conditions under which you agree to use and we agree to provide the Service.

1. Binding Agreement

1.1 Acceptance by you of this Agreement occurs upon the earlier of: (a) XPANSE's acceptance of a Service Order signed by you indicating your acceptance of this Agreement; (b) your use of the Service; or (c) your retention of the Software or Equipment we provide beyond thirty (30) days following delivery.

1.2 This Agreement consists of the terms below (The Master Service Agreement), plus (a) the specific terms of your Service Order; (b) the Service Addendum for the services you receive (Attachments A through D); and (c) other XPANSE policies referred to in this Agreement, all of which are incorporated herein by reference.

1.3 By entering this Agreement or subscribing to XPANSE services, Customer understands and agrees to this Master Service Agreement and the Terms of Service applicable to service to which Customer subscribes (collectively, the "Agreement"). Additionally, Customer agrees to be bound by any future modifications or additions to the Agreement for which XPANSE provides notice to Customer. If Customer does not agree with any modification or addition to the Agreement, Customer may dispute and request a negotiation regarding such proposed changes. In the case of an inconsistency or conflict between terms and conditions of an applicable Service Addendum and/or Service Order, the governing order of precedence will be (1) the Service Order (2) the Service Addendum, (3) and the XPANSE Master Service Agreement.

1.4 By signing a Service Order form, Customer agrees to pay all charges incurred on Customer's account(s) with XPANSE as described therein and any applicable taxes, fees, and/or surcharges. These amounts may include cost for regulatory compliance. Invoices are due by the stated due date. Customer further agrees to adhere to all of the terms and conditions stated in the XPANSE Master Service Agreement, its Addendum(s), and referenced terms and conditions included with the Service Order and its Appendices (collectively the "Agreement") which are hereby incorporated by reference. Customer also authorizes XPANSE to obtain any credit information necessary and/or Customer Proprietary Network Information (CPNI), necessary to provision the XPANSE Service and to establish your XPANSE account, and authorizes release of said information by any and all third parties to XPANSE. Further, the signor on behalf of Customer represents that he/she is authorized to approve and accept the responsibility on behalf of Customer of the terms and conditions therein.

1.5 All non-recurring charges, e.g., activation, setup, and installation charges, are due and payable by Customer according to the terms and conditions of the Service Order. Delays in payment may result in Service activation delays. Service Order may not reflect all applicable government mandated taxes, fees, and/or surcharges, Regulatory Fees or similar liabilities that may be applicable to the Services or the hardware which Customer will be responsible for paying. Upon receipt of the Service Order executed by Customer, if XPANSE determines (in its sole discretion) to accept the Service Order, XPANSE will notify Customer and begin the provisioning process. A copy of the Service Order fully executed with XPANSE's representative's signature will be forwarded to Customer upon request.

2. Notices

2.1 XPANSE primarily communicates with customers via email. Customer agrees that sending a message to Customer's provided contact email address is an agreed upon means of providing notification to Customer. Customer agrees that it will notify XPANSE of any change to its preferred email address for notices. Customer agrees that such notices are used to communicate vital information about Customer's services, billing, service outages, the Agreement, and enhancements or changes to Customer's existing services and to make Customer aware of products or services that might be of interest to Customer. This information is time-sensitive in nature.

2.2 All service-related notices from Customer to XPANSE may be provided by email to support@xpansenetworks.com. All legal notices, including notice of termination, shall be in writing and addressed to: XPANSE Networks, Inc. Attn: Contract Administration, 7301 Ranch Rd 620 N Ste 155-208, Austin, Texas 78726.

3. Credit Review, Accounts Receivable, Billing and Invoicing

3.1 XPANSE reserves the right to perform a credit/background check as part of the qualification process prior to order placement or at any other time that XPANSE, in its sole discretion, deems appropriate. XPANSE may require Customer to provide a security deposit and/or or require prepayment of up to 90 days' worth of service fees based on the results of this check.

3.2 Accounts will be invoiced thirty (30) days prior to the start of each regular monthly service period. Exceptions may include the initial or final invoice for a particular service. Payment is due prior to the beginning of the service period billed, as indicated by the invoice's Due Date. All payments will be applied to the oldest unpaid invoice. If a payment in any form is recovered or otherwise not paid by Customer's financial institution, there will be a Returned Payment Fee. Customer remains responsible for such charges regardless of whether Customer is using the service being billed.

3.3 Billing will commence on the date upon which Customer is provided the service ready to use (i.e. the Billing Start Date). Customer will be financially responsible for all service time thereafter

unless XPANSE is notified within a timely manner of an outstanding issue which XPANSE deems to justify service credit. Service fees may include applicable state and federal taxes, fees and surcharges in addition to the advertised rate.

3.4 XPANSE will provide a monthly electronic invoice free of charge unless alternative billing arrangements have been made.

3.5 Pricing quoted by XPANSE for service does not include any taxes or surcharges that may be applicable. Customer will be responsible for paying the appropriate taxes, fees and surcharges for the services ordered.

3.6 Inclusion of credit card number on this agreement hereby authorizes XPANSE to charge all setup, service, and monthly charges (including any renewal of this Service) to Customer's Credit Card, without further notice to the Customer. Inclusion of Customer's tax identification number or social security number authorizes XPANSE to access your personal credit report to make judgment on credit worthiness before services are extended.

4. Installation Procedure Policy

4.1 XPANSE is not responsible for loss of income or time due to an order not being completed within the time frame desired, service outages, missed communications carrier appointments, and/or Trouble Ticket dispatches.

4.2 For most installation and/or truck roll dates, an authorized individual must be present to grant access into the business, telecommunication room, closet, etc. so the technician can complete his or her work. In the event that an authorized individual is not at the scheduled time of the technician visit, and notification was not provided by Customer to XPANSE at least two (2) business days in advance, a missed appointment fee will be charged. Similarly, a no access fee will be charged if a technician is denied access to the phone closet (NID or Dmarc) due to a locked facility or by the actions of others.

4.3 If Inside Wiring is authorized during order placement, Customer is financially responsible for any and all applicable Inside Wiring Fees. If Customer chooses not to pre-authorize Inside Wiring work, and it is determined that additional wiring is needed to complete Customer's installation, it is Customer's responsibility to ensure the necessary wiring is completed by Customer or a third-party vendor.

5. Late Payment and Billing Disputes

5.1 Customer agrees that acceptance of late or partial payments (even if marked "Paid in Full" or with other such verbiage) by XPANSE shall not waive any of XPANSE's rights to collect the full amount of Customer's charges for the Service. Customer must notify XPANSE in writing within sixty (60) days after receiving Customer's Invoice if Customer disputes any XPANSE charges on that Invoice or such

dispute will be deemed waived. Billing disputes should be directed to XPANSE by email to billing@xpansenetworks.com. Any balance past-due will be billed at the lesser of 6.5% per month finance charge and the maximum allowed under law. A minimum of \$150.00 disconnect/reconnect fees will be assessed on all balances exceeding 45 days past due, plus applicable finance charges. XPANSE reserves the right to terminate service without warning to any customer with an outstanding balance exceeding 45 days past due. If Service is terminated for nonpayment, you will be liable for the remainder of your contract immediately. The effective start date of each service shall be the first day of the contracted service being placed into billing as determined by XPANSE.

5.2 Customer agrees to reimburse XPANSE for reasonable attorneys' fees and any other costs associated with collecting delinquent or dishonored payments. If charges cannot be processed through Customer's credit card, XPANSE will charge Customer an additional \$25.00; however, if the state law where Customer receives the Service requires a different fee, XPANSE will charge Customer that amount. All invoices in excess of \$1,000 shall be paid by ACH unless other payment arrangements are mutually agreed unless the state law where Customer receives the Services requires otherwise..

6. Term and Termination

6.1 This Agreement commences on the Effective Date, and continues through the latest expiration of all Order Form or Service Term(s) subject to this Agreement, unless earlier terminated as provided herein. The Service Term(s) will continue for the number of months stated therein following the applicable Billing Start Date for a service.

6.2 This Agreement shall be for the term of three (3) years, unless a different term is indicated in a separate written document. Such term shall begin on the date XPANSE activates the Service outlined in this Agreement, i.e the date billing starts. This Agreement shall, upon expiration, be renewed for the same length as the initial term, upon identical terms by Customer's continued use of his account with XPANSE, unless written notice of cancellation is provided no later than sixty (60) calendar days prior to the expiration of an applicable service term. Termination by the Customer shall not create the right to a refund of any fees paid or payable. Such termination shall be effective upon the end of the current billing cycle, and any applicable early termination fees as outlined in this Agreement shall then be due and payable.

6.3 XPANSE reserves the right to terminate Customer account that remains past due at XPANSE's sole and final discretion. Such accounts will be subject to applicable early termination and disconnection fees. Customer will also be subject to lost equipment charges unless Customer returns all XPANSE-provided equipment within sixty (60) days of termination.

6.4 Pre-Installation Cancellation Fee. If Customer cancels an order for Service prior to installation for any reason other than a failure by XPANSE, Customer will be billed the greater of: (1) 50%

multiplied by the total number of remaining months in the term of the applicable Service Order(s), multiplied by the monthly recurring charges plus all waived nonrecurring charges, or (2) all amounts billed to XPANSE by any network providers. Customer agrees that the foregoing liquidated damages are fair and reasonable and that XPANSE's provisioning of the services would not be commercially viable but for these Customer commitments. Customer understands that a request to move service from the Customer's current location to another location that XPANSE determines cannot be economically served by XPANSE shall constitute termination of service or may incur a relocation charge.

6.5. Early Termination Fee. If service is terminated, either in whole or in part, prior to the selected term expiration or applicable renewal term, then Customer shall pay an early termination fee equal to the total number of remaining months in the term of the applicable Service Order(s), multiplied by the monthly recurring charges, to be paid by the Customer at the non-promotional rate. Customer agrees that the foregoing liquidated damages in Section 6.4 and this section are fair and reasonable and that XPANSE's provisioning of the services would not be commercially viable but for these Customer commitments. Customer understands that a request to move service from the Customer's current location to another location that XPANSE determines cannot be economically served by XPANSE shall constitute termination of service or may incur a relocation charge.

6.6. Other Charges.

a. Where XPANSE approves a Customer move and such a move is provisioned, no cancellation charge will apply to a Customer's move; however, a \$300 charge for re-installation and related costs including, but not limited to, any early termination charges billed by an underlying carrier to XPANSE will be assessed against Customer and payable to XPANSE with respect to such a move. The term of the Product/Service at the new location will be extended for a new thirty-six (36) month term from the date that re-installation is completed at the new location.

b. Orders requiring the shipment of hardware, e.g., Customer Premises Equipment (CPE), may be subject to a \$45.00 shipping and handling charge. Shipping and handling charges are non-refundable.

c. If Customer refuses the charges outlined in this Agreement, Customer agrees to pay an additional \$175.00, and authorizes XPANSE to assess this charge to the Customer Credit Card or other payment method. Customer also agrees to pay all collection fees required to collect any overdue, refused, or back-charged fees associated with this Agreement.

d. If an installation appointment is cancelled after 12:00 noon (in the time zone of the affected circuit) on the business day preceding the scheduled installation date or if the Customer is

not available at the scheduled time and date to permit installation to proceed as scheduled, a \$225.00 charge will be assessed.

6.7 XPANSE has the right to terminate Customer's service at its sole discretion as determined by XPANSE's Acceptable Use Policy. Customers within an active service term that are terminated due to violation of XPANSE's Acceptable Use Policy are liable for any and all outstanding charges, early termination charges and disconnection fees. XPANSE's Acceptable Use Policy is located on the XPANSE website at www.Xpansenetworks.com/Agreements/AUP and is incorporated into this agreement as if set forth at length.

7. Rates and Invoices.

Rates are specified in the applicable Service Order(s). Ancillary or one-time fees for additional services shall be provided to Customer for approval in the applicable Service Order(s). Customer shall be invoiced and shall pay monthly in advance for: (i) the monthly recurring charges (prorated for any partial month) based on the rates set forth in the applicable Service Order or portal tool, and (ii) the charges for other services ordered by Customer. All usage is invoiced for the preceding month. The first invoice shall be for the first two months (prorated for any partial month) of the Service Term. Regulatory fees, surcharges and taxes payable by Customer may be designated as cost recovery fees on invoices provided by XPANSE. Such amounts will be applied based on the applicable taxes, fees and surcharges to the Customer's location and particular services.

8. Disconnection Policy

8.1 It is the responsibility of the Customer to notify XPANSE of cancellation. Returning hardware, completion of service term, or cessation of payment does not constitute notification of cancellation.

8.2 Within thirty (30) days of termination of a Service, all XPANSE-provided equipment for that Service must be returned by Customer to XPANSE. If all such equipment is not returned within this time period, Customer will be invoiced for the cost to replace that equipment.

9. XPANSE-provided Equipment.

Equipment provided by XPANSE and delivered to Customer is only to be used in conjunction with the XPANSE-provided Service(s), and Customer is not authorized to use the equipment for any other purpose. Customer is obligated to comply with all documentation and manufacturer's instructions that accompany such Equipment as strict adherence to technical documentation is required for warranty pass through. Any violation of the preceding sentence will be considered a Default pursuant to the terms of the Agreement. Customer will take all reasonable measures to protect and care for the equipment as it would its own equipment. Customer shall be responsible for all loss, damage or destruction of the equipment from

the date of delivery to Customer's premise until the date the Equipment is removed from Customer's premises by XPANSE or its contractors or agents. Upon termination or expiration of the Agreement, the Equipment must be in the same condition as when originally delivered, normal wear and tear accepted. If Equipment cannot be recovered by XPANSE, or if Equipment is damaged beyond the ordinary wear and tear resulting from its use, Customer will be liable to XPANSE for either the replacement value of the Equipment or its repair costs, both of which shall be determined by XPANSE. Under no circumstance may Customer or its employees, agents, contractors or subcontractors move the Equipment furnished as part of the Service outside of the facility in which it was installed without prior XPANSE approval.

9. XPANSE-Provided Hardware and Software

9.1 Hardware Warranty. If Customer received CPE or other Devices new from XPANSE and the CPE or Device included a limited warranty at the time of receipt, Customer must refer to the separate limited warranty document provided with the CPE or Device for information on the limitation and disclaimer of certain warranties. Remedies for breach of any such warranties will be limited to those expressly set forth in such documentation. If Customer's CPE or Device did not include a limited warranty from XPANSE at the time of receipt, Customer agrees that Customer accepts the CPE or Device "as is" and that Customer is not entitled to replacement or refund in the event of any defect. Any limited warranty shall not apply to any defect or failure other than a manufacturing defect, and, without limiting the generality of the foregoing, shall not apply to any defect caused by damage in transit or customer handling. Customer's sole remedy for any breach of any limited warranty is to obtain a repaired or replacement CPE or Device, by following XPANSE's return procedures. Customer must include with the returned CPE or Device a letter stating that Customer is returning the CPE or Device for warranty repair or replacement and stating the nature of the defect. OTHER THAN WARRANTIES AS TO THE CPE OR DEVICE EXPRESSLY SET FORTH IN DOCUMENTATION PROVIDED WITH THE CPE OR DEVICE SPEAKEASY MAKES NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY, FITNESS OF THE CPE OR DEVICE FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE OR ANY WARRANTY THAT THE CPE OR DEVICE OR ANY FIRMWARE OR SOFTWARE IS "ERROR FREE" OR WILL MEET CUSTOMER'S REQUIREMENTS. THE FOREGOING WILL NOT BE DEEMED TO LIMIT ANY DISCLAIMER OR LIMITATION OF WARRANTY SET FORTH IN THE DOCUMENTATION PROVIDED WITH THE CPE OR DEVICE.

9.2 Hardware Returns. Customers desiring to return purchased products for credit once approved must do so within thirty (30) days of the original shipment date. After thirty (30) days all sales are final. Purchases returned within thirty (30) days will be charged a restock fee of 20% of the original

purchase price of the product(s) returned. Prior to returning any material, an RMA number must be issued by XPANSE. The product must be in the same condition as when it originally shipped from XPANSE in its original package with all accessories. Any package received without a valid RMA will be returned to the shipper. To return products purchased through XPANSE, contact XPANSE. XPANSE will provide an RMA number that must be affixed to the outside box of your returned shipment. Restocking fees will be deducted from the credit issued to the Customer's account. Once the product is physically received and tested, a credit will be issued to the Customer's account. XPANSE will not accept the return or exchange of any item if the UPC code has been removed from the packaging. Refunds on hardware will be issued in form of in-house account credit, unless otherwise requested and agreed to by XPANSE. Refunds on purchases made with a credit card will only be made as in-house account credit or as a credit to the same card.

9.3 XPANSE-Provided Software. In the event XPANSE provides any software to Customer in connection with the Services, XPANSE grants Customer a personal, non-exclusive, non-transferable license, for the duration of the Service Term of the Services for which the software is used, to use such software, in object code form only, on the hardware on which it is installed for the sole purpose of enabling Customer to use the Services. XPANSE and/or XPANSE's third-party suppliers retain all rights, title and interest (including all intellectual property and proprietary rights) in and to such software. Customer acknowledges that the software and the content and design thereof are valuable copyrights, trade secrets and/or other intellectual property of XPANSE, its Affiliates, parents and/or its third-party suppliers. Customer agrees not to (a) disclose or make available to third parties any portion of such software without XPANSE's advance written permission; (b) copy, modify or create any derivative work of the software (or any portion thereof); (c) reverse engineer, decompile or disassemble such software or otherwise attempt to derive the source code, algorithms, structure or organization of the software; (d) assign, transfer, lease, time-share or redistribute the software; or (e) authorize or permit any other third party to do any of the foregoing. Customer shall not remove, alter, cover or obfuscate any copyright, trademark, service mark or other proprietary rights notices placed or embedded by XPANSE or any of its third-party software suppliers on or in any software. Customer shall not use or allow the use of the software after the applicable Service Term without obtaining a valid license from XPANSE or from the third-party supplier respecting such use. For certain software, additional licensing terms may be included as a "click-wrap" license with the software to which Customer must agree and abide. CUSTOMER ACKNOWLEDGES THAT XPANSE AND XPANSE'S THIRD-PARTY SOFTWARE SUPPLIERS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, OR THOSE ARISING FROM A COURSE OF DEALING AND USAGE OF TRADE AS RESPECTS ANY SOFTWARE.

10. Confidential Information.

Customer and XPANSE acknowledge that it may have access to certain confidential information of the other party concerning the other party's business, plans, customers, technology and products (herein referred to as "Confidential Information"). Each party agrees it will not use in any way, for its own use or the use of any third party, except as permitted by this Agreement, nor disclose to any third party (except as required by law or to comply with other legal and accounting requirements) any of the other party's Confidential Information and will take reasonable precautions to protect the confidentiality of such information. Information will not be deemed Confidential Information if such information is known to the receiving party prior to receipt from the disclosing party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party, becomes known (independently of disclosure by the disclosing party) to the receiving party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party, becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the receiving party, is independently developed by the receiving party, or is required to be released by law or regulation, provided that the receiving party provides prompt written notice to the disclosing party of such impending release, and the releasing party cooperates fully with the disclosing party to minimize such release.

11. Third-party Equipment.

XPANSE is not responsible for the installation, operation, maintenance, compatibility with the XPANSE-provided Service(s) or performance of any third-party hardware or software. If such third-party hardware or software impairs operation of the Service(s), Customer remains liable for payment of all charges for such services, and, if such third-party equipment is likely to cause hazard or service interruption/obstruction, Customer will immediately remove such hardware or software.

12. Intellectual Property.

Except as otherwise expressly provided herein, nothing contained in this Agreement shall be construed as conferring by implication, estoppel or otherwise any license or right under any patent, trade name or copyright of XPANSE or Customer.

13. Limitation of Liability and Remedies

13.1 YOU EXPRESSLY UNDERSTAND AND AGREE THAT XPANSE WILL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF XPANSE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (a) THE USE OR THE INABILITY TO USE THE SERVICE AND/OR SOFTWARE; (b) THE COST OF PROCUREMENT OF

SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICE AND/OR SOFTWARE; (c) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (d) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICE AND/OR SOFTWARE; (e) FAILURE TO INSURE THE COMPATIBILITY OF YOUR SYSTEM (I.E., THE EQUIPMENT, DEVICES, AND SOFTWARE THAT YOU PROVIDE TO RECEIVE THE SERVICE) WITH THE SERVICE AND/OR SOFTWARE, OR (f) ANY OTHER MATTER RELATING TO THE SERVICE AND/OR SOFTWARE. YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY DISPUTE WITH XPANSE IN CONNECTION WITH THE SERVICE AND/OR SOFTWARE IS THE CANCELLATION OF YOUR SERVICE AS PROVIDED IN THESE TERMS AND CONDITIONS. THE LIMITATIONS SET FORTH HEREIN APPLY TO ALL CLAIMS INCLUDING, BUT NOT LIMITED TO, CLAIMS FOUNDED IN BREACH OF CONTRACT, BREACH OF WARRANTY, PRODUCT LIABILITY, TORT AND ANY AND ALL OTHER THEORIES OF LIABILITY AND APPLY WHETHER OR NOT XPANSE WAS INFORMED OF THE LIKELIHOOD OF ANY PARTICULAR TYPE OF DAMAGES

13.2 IF CUSTOMER'S STATE LAWS PREVENT CUSTOMER FROM TAKING FULL RESPONSIBILITY FOR CUSTOMER'S USE OF THE SERVICE, XPANSE'S LIABILITY IS LIMITED TO THE GREATEST EXTENT ALLOWED BY LAW. IN ANY EVENT, XPANSE'S LIABILITY TO CUSTOMER UNDER THIS AGREEMENT OR IN RELATION TO ANY MATTER IN ANY WAY CONNECTED WITH THIS AGREEMENT, FOR ANY AND ALL TYPES OF DAMAGES, IN NO EVENT SHALL EXCEED THE AMOUNT OF SERVICE FEES THAT CUSTOMER HAS PAID TO XPANSE IN THE SIX (6) MONTHS PRECEDING CUSTOMER'S NOTICE OF ANY CLAIM TO XPANSE, OR THE AFFECTED PERIOD, WHICHEVER IS GREATER.

14. Disclaimer of Warranties

YOU EXPRESSLY UNDERSTAND AND AGREE THAT:

14.1 YOU SHALL DEFEND, INDEMNIFY AND HOLD US HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, OBLIGATIONS, LOSSES, LIABILITIES, COSTS OR DEBT, AND EXPENSES (INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES) ARISING FROM: (I) YOUR USE OF AND ACCESS TO THE XPANSE PLATFORM AND/OR SERVICES EXCEPT FOR CLAIMS COVERED BY OUR INDEMNIFICATION OBLIGATIONS ABOVE; (II) YOUR VIOLATION OF THIS AGREEMENT; OR (III) YOUR VIOLATION OF ANY THIRD PARTY RIGHT, INCLUDING WITHOUT LIMITATION ANY COPYRIGHT, PROPERTY, OR PRIVACY RIGHT; PROVIDED, THAT WE (A) PROMPTLY GIVE YOU WRITTEN NOTICE OF THE CLAIM; (B) GIVE YOU CONTROL OF THE DEFENSE AND SETTLEMENT OF THE CLAIM (PROVIDED

THAT YOU MAY NOT SETTLE ANY CLAIM UNLESS THE SETTLEMENT UNCONDITIONALLY RELEASE US OF ALL LIABILITY); AND (C) PROVIDE TO YOU ALL REASONABLE ASSISTANCE, AT YOUR EXPENSE. WE MAY PARTICIPATE IN THE DEFENSE AND SETTLEMENT ACTIVITIES WITH COUNSEL OF OUR CHOOSING AT YOUR EXPENSE.

14.2 DISCLAIMERS AND EXCLUSIVE REMEDY. THE XPANSE PLATFORM AND SERVICES ARE PROVIDED “AS IS” WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED OR ANY WARRANTIES ARISING FROM A COURSE OF DEALING OR TRADE USAGE INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, NOR DO WE WARRANT THAT THE XPANSE PLATFORM OR SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE OR REGARDING THE SECURITY, ACCURACY, RELIABILITY, TIMELINESS OR PERFORMANCE OF THE SERVICES. WE MAKE NO WARRANTY ABOUT THE SUITABILITY OF THE XPANSE PLATFORM OR SERVICES FOR ANY PURPOSE AND DO NOT WARRANT THAT THE XPANSE PLATFORM OR SERVICES WILL MEET YOUR REQUIREMENTS. IN THE CASE OF A BREACH OF WARRANTY BY XPANSE, YOUR SOLE AND EXCLUSIVE REMEDY SHALL BE, AT OUR OPTION, FOR XPANSE TO REPERFORM THE SERVICES OR TO RECEIVE A PRO RATA RETURN OF FEES CORRESPONDING TO THE NONCONFORMING SERVICE.

14.3 XPANSE INDEMNITY – INTELLECTUAL PROPERTY INFRINGEMENT. XPANSE SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS CUSTOMER, ITS AFFILIATES, AND ITS AND THEIR RESPECTIVE EMPLOYEES, OFFICERS, DIRECTORS AND AGENTS FROM AND AGAINST ANY CLAIMS, LIABILITIES, LOSSES, COSTS, OR DAMAGES (INCLUDING LEGAL FEES AND COSTS) ARISING OUT OF ANY THIRD PARTY CLAIM BROUGHT AGAINST THEM TO THE EXTENT RESULTING FROM A SERVICE PROVIDED TO CUSTOMER UNDER THIS AGREEMENT INFRINGING ANY US PATENT, COPYRIGHT, TRADEMARK, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY (COLLECTIVELY, “INTELLECTUAL PROPERTY RIGHTS”), BUT NOT TO THE EXTENT THAT SUCH INFRINGEMENT IS: (X) ATTRIBUTABLE TO (I) THE MODIFICATION OF SUCH SERVICES OTHER THAN AS AUTHORIZED IN WRITING BY XPANSE OR AS DESCRIBED BY THE PARTIES IN A SERVICE ATTACHMENT, (II) COMBINATION OF SUCH SERVICES WITH EQUIPMENT, SOFTWARE OR OTHER MATERIALS, FACILITIES, SERVICES OR METHODS NOT AUTHORIZED IN WRITING OR FURNISHED BY XPANSE OR THE XPANSE PROVIDERS OR AS DESCRIBED BY THE PARTIES IN A SERVICE ATTACHMENT OR (III) USE OF THE SERVICE IN VIOLATION OF THIS AGREEMENT, OR (Y) THE SUBJECT OF CUSTOMER’S INDEMNIFICATION OBLIGATIONS. IN THE EVENT THAT A SERVICE IS ALLEGED, OR IN XPANSE’S JUDGEMENT, LIKELY TO BE ALLEGED, TO INFRINGE A THIRD PARTY’S INTELLECTUAL PROPERTY RIGHTS, XPANSE MAY AT ITS OPTION EITHER: (A) PROCURE

THE RIGHT FOR CUSTOMER TO CONTINUE USING SUCH SERVICE; (B) REPLACE OR MODIFY THE AFFECTED SERVICE SO THAT THE SERVICE BECOMES NON-INFRINGEMENT, PROVIDED, HOWEVER, THAT IF THE REPLACEMENT SERVICE OR THE SERVICE AS MODIFIED DOES NOT SUBSTANTIALLY MAINTAIN THE FUNCTIONALITY OF THE SERVICES AS ORIGINALLY PROVIDED TO CUSTOMER, CUSTOMER MAY TERMINATE THE AFFECTED SERVICES WITHOUT INCURRING TERMINATION CHARGES UNDER SECTION 8.3 OR OTHERWISE; OR (C) TERMINATE THE AFFECTED SERVICES AND PROVIDE CUSTOMER WITH A PRO RATA REFUND FOR ANY CUSTOMER PREPAYMENT FOR SUCH SERVICES.

14.4 INDIRECT AND CONSEQUENTIAL DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCLUDING THE INDEMNIFICATION OBLIGATIONS HEREIN, OR CLAIMS, LIABILITIES OR LOSSES ASSOCIATED WITH A BREACH OF YOUR PAYMENT OBLIGATIONS HEREIN, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES ARISING OUT OF OR IN ANY WAY RELATING TO THESE TERMS, THE SERVICES PROVIDED, OR THE USE OF OR INABILITY TO USE THE SERVICES INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, WORK STOPPAGE, LOST PROFITS, LOSS OF DATA, COMPUTER FAILURE OR ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSSES EVEN IF ADVISED OF THE POSSIBILITY THEREOF AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE) UPON WHICH THE CLAIM IS BASED.

14.5 BASIS OF BARGAIN. YOU ACKNOWLEDGE AND AGREE THAT THE FOREGOING SECTIONS ON WARRANTIES AND DISCLAIMERS, INDEMNIFICATION AND LIMITATION OF LIABILITY FAIRLY ALLOCATE THE RISKS BETWEEN THE PARTIES AND ARE ESSENTIAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. YOU EXPRESSLY ACKNOWLEDGE THAT THE FEES THAT WE CHARGE FOR THE SERVICES ARE BASED UPON OUR EXPECTATION THAT THE RISK OF ANY LOSS OR INJURY THAT MAY BE INCURRED BY USE OF THE SERVICES SHALL BE BORNE BY YOU AND NOT XPANSE AND WERE WE TO ASSUME ANY FURTHER LIABILITY OTHER THAN AS SET FORTH HEREIN, SUCH FEES WOULD OF NECESSITY BE SET SUBSTANTIALLY HIGHER.

15. Additional Customer Representations and Warranties Regarding U.S. Export Laws.

In addition to the representations and warranties as set forth in the Agreement, Customer acknowledges that the services governed by the Agreement are subject to U.S. export laws and regulations and that any use or transfer of provided-equipment must be authorized under those laws and regulations. Further, use of the services outside of the U.S. may subject Customer and/or Customer's End Users to export

or import regulations in other countries. Without limiting the foregoing, goods, software or technical data related to the services are prohibited for export or re-export to Cuba, Iran, Sudan, North Korea, Syria or foreign nationals thereof, or any other country that is subject to U.S. economic sanctions or comprehensive export controls restricting such export or re-export, as well as to persons or entities barred from engaging in export transactions by the U.S. Departments of Commerce, State or Treasury. Customer represents and warrants that it will comply with such export controls set forth above. Customer is responsible for notifying its End Users of such restrictions and agrees to be responsible for End Users' use. Customer will not use, distribute, transfer or transmit, directly or indirectly, information or any immediate product (including processes and services) utilizing the services, except in compliance with U.S. export laws and regulations.

16. Indemnity

CUSTOMER AGREES TO DEFEND, INDEMNIFY, AND HOLD XPANSE HARMLESS FROM ANY LOSS, DAMAGE AND OR COST (INCLUDING ATTORNEYS' FEES) RESULTING FROM CUSTOMER'S VIOLATION OF THIS AGREEMENT OR ANY ACTIVITY RELATED TO CUSTOMER'S ACCOUNT.

17. Modifications to Service

17.1 XPANSE reserves the right to modify or discontinue, temporarily or permanently, at any time and from time-to-time, the Service (or any function or feature of the Service or any part thereof) with or without notice when due to a change in laws, regulations and/or market conditions. You agree that XPANSE will not be liable to you or to any third party for any such modification, suspension or discontinuance of the Service.

17.2 XPANSE may be required to modify its pricing for service provided to you in case of carrier price increases, regulatory price increases or general price increases. In case of a price increase to Customer, XPANSE shall provide Customer with a minimum of thirty (30) days' notice. Within sixty (60) days of such notice, Customer may terminate service with no liability in case of such price increase by XPANSE where such increase is material.

18. Privacy Policy and Customer Network & Data Security

18.1 XPANSE is committed to respecting Customer's privacy. XPANSE's CPNI Policy is located on the XPANSE website at www.xpansenetworks.com/legal/CPNI and is incorporated into this Agreement as if set forth at length.

18.2 Without the prior written consent of both Parties, XPANSE and XPANSE Providers shall not connect any electronic device to Customer's internal computer and data communications network, or use any Customer or XPANSE owned or managed device to bridge or connect other unauthorized devices to Customer's computer and data communications network. If any XPANSE Providers access Customer's

computer and data communications network, XPANSE agrees that they will: (a) do so only for the purpose of providing Services to Customer and not for any other purpose; (b) not access any Confidential Information (including Customer Data) of Customer, any of its affiliates, or any of their respective employees, agents, customers or suppliers, unless the XPANSE Providers have a “need to know” such information in order to perform XPANSE’s obligations under this Agreement; (c) not disclose any of such Confidential Information to any other person other than to Customer and/or other XPANSE Providers with a “need to know” such information in order to perform XPANSE’s obligations under this Agreement; and (d) not knowingly introduce any viruses, worms, time bombs, time locks, drop dead devices, traps, access codes, trap door devices or any other code that is designed to disrupt, disable, erase, alter, harm or otherwise impair Customer or its computer and data communications network. Customer may monitor or audit all information of XPANSE or XPANSE Providers stored on or transmitted through Customer’s computer network, and XPANSE expressly waives any expectation of privacy in such information for itself and for XPANSE Providers. XPANSE will ensure that all XPANSE Providers understand this waiver. Without limiting XPANSE’s confidentiality obligations, if XPANSE or any XPANSE Providers are to receive or be a repository for, or have access to, any Customer Data or any derivatives thereof, whether in electronic, hardcopy or in any other form, then XPANSE will be responsible for establishing and maintaining an information security program that is designed to: (i) ensure the security and confidentiality of Customer Data; (ii) protect against any anticipated threats or hazards to the security or integrity of Customer Data; (iii) protect against unauthorized access to or use of Customer Data; (iv) ensure the proper disposal of Customer Data; and (v) ensure that all XPANSE Providers comply with all of the foregoing. In meeting this obligation XPANSE will implement appropriate safeguards to protect Customer Data that are no less rigorous than accepted industry practices. “Customer Data” means any Customer business information including, but not limited to any personally identifiable information, geographic location information, elite athlete information, high-value intellectual property (including pre-release, non-public intellectual property), business plans, Customer executive safety information, strategic financial data, and other information regarding Customer’s business operations.

19. Miscellaneous Legal Provisions.

19.1 If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this agreement will remain in full force and effect.

19.2 The Customer may not sell, transfer, or assign this Agreement without the prior written consent of XPANSE.

19.3 Any alterations made to this Agreement by the Customer are null and void without the signature of an authorized XPANSE employee. Furthermore, the signed contract will remain in force (less the Customer alterations) according to the terms of this Agreement.

19.4 Customer agrees that by signing an Agreement and/or Service Order referencing these terms, Customer is bound to all terms and conditions as outlined in this agreement.

19.5 The section titles and paragraph headings in these Terms and Conditions are for convenience only and have no legal or contractual effect.

19.6 The failure of XPANSE to exercise or enforce any right or provision of this Agreement will not constitute a waiver of such right or provision. If any provision of the Agreement is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the Agreement remain in full force and effect.

19.7 Other than for any payment obligations hereunder, neither party shall be liable to the other for default or delay in the performance of any of its obligations hereunder due to events beyond the reasonable control of such party, including without limitation acts of God or of public enemy (collectively, "Force Majeure"). In the case of a Force Majeure event, the affected party's performance is excused for a period equal to the time lost by reason of Force Majeure.

20. Governing Law, Venue, and Claims

The interpretation, validity and enforcement of the Agreement, and all legal actions brought under or in connection with the subject matter of the Agreement, shall be governed by the law of the State of Texas (except that any conflicts-of-law principles of such state that would result in the application of the law of another jurisdiction shall be disregarded). Any legal action brought under or in connection with the subject matter of the Agreement shall be brought only in the Travis County, Texas. Each party submits to the exclusive jurisdiction of these courts and agrees not to commence any legal action under or in connection with the subject matter of the Agreement in any other court or forum. Each Party waives any objection to venue of any legal action brought under or in connection with the subject matter of the Agreement in the Federal or state courts sitting in Austin, Texas, and agrees not to plead or claim in such courts that any such action has been brought in an inconvenient forum. Any claim that Customer wishes to assert under the Agreement must be initiated not later than one (1) year after the claim arose.

21. Dispute Resolution Process

21.1 The parties agree to use the dispute resolution procedures set forth in this Section 11 with respect to any controversy or claim arising out of or relating to the Agreement or its breach, except that XPANSE may elect to litigate, or bring before the applicable agency in the case of subsection (iii), the following types of controversies or claims: (i) action seeking a temporary restraining order or injunction, (ii) a suit to compel compliance with this dispute resolution process, (iii) disputes relating to the lawfulness

of rates, terms, conditions or practices concerning Services are subject to the Communications Act of 1934, as amended, or the rules and regulations of the FCC, a state public utility commission or other administrative agency, (iv) Customer's non-compliance with publicity provisions, or (v) billing or payment disputes or collections matters.

21.2 Either party may submit a dispute to binding arbitration for resolution by a single arbitrator with a professional arbitration service mutually agreeable to the parties after furnishing the other party ten (10) days prior written notice. If the parties cannot agree on an arbitration service, the arbitration will take place pursuant to the American Arbitration Association ("AAA") Commercial Arbitration Rules and Mediation Procedures. The parties shall bear equally the costs of arbitration, including the fees and expenses of the arbitrator. Each party shall bear the cost of preparing and presenting its case, which will be heard at a mutually agreeable site in Travis County, Texas, or as otherwise expressly provided in an applicable Service Addendum and/or Service Order

21.3 This Section 11 and the arbitrator's authority to grant relief shall be subject to the Federal Arbitration Act, 9 U.S.C. §§ 1- 16, et seq. ("FAA"), the provisions of this Agreement, and the AAA Code of Ethics for Arbitrators in Commercial Disputes. The arbitrator shall have no power or authority to make any award that provides for punitive or exemplary damages or damages otherwise limited or excluded in the Agreement. The arbitrator's decision shall be final and binding. The award may be confirmed and enforced in any court of competent jurisdiction. The FAA shall govern all post-award proceedings.

22. Use of Name, Logo, Quotes & Case Studies

Customer extends to XPANSE the right to use, copy, transmit, display, and distribute Customer name, logo, quotes, case studies and testimonials in connection with XPANSE products. Such use shall include but not be limited to, sales collateral, websites, public relations, advertising and other associated activities involving applicable external communications, using all media known and hereafter developed

23. Amendment

This Agreement, and any Service Addendum or Service Order, may only be modified or supplemented by an instrument in writing executed by a duly authorized representative of each party if by Customer, or by notice from XPANSE as described herein if by XPANSE. No verbal agreements may override the terms of this Agreement. Without limiting the generality of the foregoing, any handwritten changes to a Service Order shall be void unless acknowledged and approved in writing by a duly authorized representative of each party.

24. Entire Agreement

This Agreement, including any future Service Addendum(s) and Service Order(s) executed hereunder, constitutes the entire and final agreement and understanding between the parties with respect to

the Service and supersedes all prior agreements relating to the Service, which are of no further force or effect. The Service Addendums are included on the XPANSE website and are hereby made integral parts of this Agreement for all applicable Services by XPANSE to Customer.