

TelNet Worldwide, Inc. ("TelNet") agrees to provide "Customer" with quality products, services and enhancements pursuant to the reciprocal rights and obligations set forth in this Agreement.

## SECTION 1. DEFINITIONS

- 1.1 Accepted Order Date:** The date TelNet accepts Customer Order based on credit approval and receipt of proper order documentation.
- 1.2 Agreement:** "Agreement" refers to and incorporates the Service Agreement between TelNet and Customer, the Acceptable Use Policy, Customer Purchase Order(s), these General Terms and Conditions for Delivery of Service ("T&Cs"), the Colocation and Interconnection Services Addendum, any related equipment Rental Agreements, related tariffs or rate guides, the TelNet 911 Emergency Service Advisory Notification for VOIP Services, and the TelNet E911 Disclosure Notice and Acknowledgement.
- 1.3 Anticipated Service Ready Date:** The date upon which TelNet anticipates that Service will be available to Customer, as set forth in the Customer Welcome or such other written notice from TelNet.
- 1.4 AUP:** TelNet's Acceptable Use Policy prohibits illegal, inappropriate, and certain other uses of Service. It also governs behavior in and around TelNet Facilities. The AUP is published and available on TelNet's website at: [http://telnetww.com/infosource/acceptable\\_use\\_policy.pdf](http://telnetww.com/infosource/acceptable_use_policy.pdf).
- 1.5 Cloud or Cloud Services.** Services or applications made available to users via the Internet from source other than Customer's own on-premises servers.
- 1.6 Cloud Services Addendum:** The Cloud Services Addendum sets forth various Cloud-related services and other responsibilities which shall apply as further described or referenced in the Customer Order. The Cloud Services Addendum describes responsibilities relating to the provision of server and storage resources.
- 1.7 Colocation and Interconnection Services Addendum:** The Colocation and Interconnection Services Addendum sets forth colocation, interconnection, and related services, and other responsibilities which shall apply as further described or referenced in the applicable Customer Order. It describes responsibilities relating to the provision of power, maintenance, heating and air conditioning, fire suppression, repair and maintenance, remote hands and other matters.
- 1.8 Colocation Space or Space:** The area within the Facility where Customer is permitted to colocate communications equipment pursuant to a Customer Order accepted by TelNet. Customer Space does not include access to overhead cable trays or underfloor access.
- 1.9 Connection Notice:** Written notice from TelNet that the Service ordered has been installed by TelNet pursuant to the Customer Order, and has been tested and is functioning properly.
- 1.10 Customer:** The person or entity identified as the "Customer" in the Agreement.
- 1.11 Customer Equipment:** The computer equipment, software, hardware, cable or other materials placed by or for Customer in the Space, other than equipment or other materials owned or leased by TelNet.
- 1.12 Customer Order:** A request for Service submitted to TelNet and authorized by Customer in the form designated by TelNet, in a Service Agreement (SA), Master Service Agreement (MSA) or designated service addendum.
- 1.13 Customer Premises or Service Address:** The location or locations occupied by Customer or its customers to which Service is delivered.
- 1.14 Excused Outage:** Any outage, unavailability, delay or other degradation of Services related to, associated with or caused by scheduled maintenance events, Customer actions or inactions, Customer provided power or equipment, any third party, including, without limitation, Customer's end users, third party network providers, traffic exchange points controlled by third parties, or any power, equipment or services provided by third parties, or an event of Force Majeure as defined in Section 7.1.

- 1.15 Expedite Charges:** Charges that TelNet is assessed by a third party, including any appropriate margin, for providing service to Customer in an expedited manner.
- 1.16 Facilities:** Property owned or leased by TelNet and used to deliver Service, including terminal and other equipment, wires, lines, ports, servers, routers, IAD, switches, channel service units, data service units, cabinets, racks, equipment kept on site for maintenance purposes, private rooms and the like.
- 1.17 Facility:** A building or portion of a building owned or leased by TelNet for the purpose of, among other things, providing service or locating and colocating communications equipment. Facility includes parking areas, loading areas, truck maneuvering areas and common areas.
- 1.18 Local Loop:** The connection between the demarcation point at Customer Premises and the TelNet network.
- 1.19 Off-Net:** Traffic that originates from or terminates to any location that is not on the TelNet network.
- 1.20 On-Net:** Traffic that originates from and terminates to a location that is on the TelNet network.
- 1.21 Professional Services Addendum:** The Professional Services Addendum sets forth various IT/technical support related services and other responsibilities which shall apply as further described or referenced in the Customer Order or in the Statement of Work.
- 1.22 Revenue Commitment:** A commitment by Customer to order and pay for a minimum volume of Services during an agreed upon Service Term, as set forth in a Customer Order.
- 1.23 Rush Charges:** Charges for the increase in costs to TelNet, including any appropriate margin, for providing Services, in an expedited manner.
- 1.24 Service or Services:** Any service, product or enhancement provided by TelNet pursuant to a Customer Order, including any use of the Facility or Facilities.
- 1.25 Service Commencement Date:** The date upon which Service is installed, tested and turned up, or is otherwise deemed available to Customer by TelNet.
- 1.26 Service Level or SLA:** The standards of performance identified as such in a Customer Order.
- 1.27 Service Term:** The duration of time (measured starting on the Service Commencement Date) for which Service is ordered, as specified in the Customer Order.
- 1.28 Statement of Work or SOW:** A formal document that captures and defines the work activities, deliverables, and timeline TelNet and Customer must execute in performance of specified work for Customer. The SOW may include detailed requirements and pricing with standard regulatory and governance terms and conditions assigned as part of the Customer Order.
- 1.29 User:** A Customer or Visitor.
- 1.30 Visitor:** A person who is required to sign the AUP on behalf of himself or herself or an entity to enter the Facility, other than an employee of a Customer or TelNet, including contractors, subcontractors, agents, representatives, and invitees of a Customer or TelNet.
- 1.31 VoIP Service:** those Voice over Internet Protocol ("VoIP") services that: (1) enable real-time, two-way voice communications; (2) require a broadband connection; (3) require IP-compatible customer equipment; and (4) permit subscribers to receive calls from and initiate calls over the Public Switched Telephone Network (PSTN).

## SECTION 2. DELIVERY OF SERVICE

- 2.1 Submission of Customer Order.** To order any Service, Customer shall submit a Customer Order requesting the Service(s) desired. The Customer Order and its backup detail must include a description of the Service, the nonrecurring charges and monthly recurring charges ("**Monthly Fees**" or "**MRCs**") for Service and any applicable Service Term and/or Revenue Commitment. Upon receipt, TelNet has sole discretion to accept the Customer Order.
- 2.2 Credit Approval and Deposits.** Customer will provide TelNet with credit information as requested, and agrees that TelNet may obtain credit reports and other information from credit reporting agencies and other sources at any time. Customer authorizes the release of credit information by third parties to TelNet. TelNet may take Customer's credit information into consideration in deciding whether to accept a Customer Order. TelNet may require Customer to make a deposit, (which will not exceed Customer's estimated charges for two months' Service) as a condition to TelNet's acceptance of any Customer Order, or as a condition to TelNet's continuation of Service. TelNet will hold the deposit as security for payment of Customer's charges and reserves the right to apply a deposit amount to any past due charges for Services, with prior notice.

- 2.3 Services and Installation; Commitment for TelNet Services.** TelNet will provide the Service identified on the Customer Order for the Service Term and Monthly Fees at the Service Address as defined in the Customer Order. Customer is responsible for the Install/Setup Fees as defined in the Customer Order for each applicable Service. Customer is also responsible for any Local Exchange Carrier dispatch fees passed on to TelNet for trouble unrelated to the carrier. If unanticipated set-up or installation costs are required, TelNet may withdraw its approval of the Customer Order and cancel Service prior to commencement without obligation or liability.
- 2.4 Rush and Expedited Service Requests.** Normal installation turnaround for TelNet T1-based Services within TelNet's On-Net service area is 35-45 calendar days from the Accepted Order Date. Customer may request an earlier Anticipated Service Ready Date, in which case Customer agrees to pre-pay associated Rush Charges and/or Expedite Charges. Payment of Rush Charges and/or Expedite Charges guarantees TelNet's best efforts to deliver Services as requested but does not guarantee that Service will be delivered on the date requested. Rush Charges may be refunded if date is not met. Expedite Charges are non-refundable. Expedite Service is not available for all Service in all areas.
- 2.5 Porting Service Standard.** In the event the migration and activation of Customer's telephone numbers (porting) requires more than one hour of activity/testing by a TelNet provisioner or technician, due to reasons beyond TelNet's control, (e.g., due to Customer, or Customer's technician or phone vendor,) Customer is responsible for TelNet time and material ("T&M") charges for any additional time beyond the first scheduled hour of porting for each TelNet representative required to complete the migration. This additional T&M charge will be billed at a rate of \$125 per hour, per involved TelNet employee, with a 30-minute minimum.
- 2.6 Customer Premises.** Customer shall allow TelNet or TelNet's designated representative access to the Customer Premises to the extent reasonably determined by TelNet for the installation, inspection and scheduled or emergency maintenance of Facilities relating to the Service. TelNet shall notify Customer two (2) business days in advance of any regularly scheduled maintenance that will require access to the Customer Premises. Customer will be responsible for providing and maintaining, at its own expense, the level of power, heating and air conditioning necessary to maintain the proper environment for the Facilities on the Customer Premises. In the event Customer fails to do so, Customer shall reimburse TelNet for the actual and reasonable cost of repairing or replacing any Facilities damaged or destroyed as a result of Customer's failure. Customer will provide a safe place to work and comply with all laws and regulations regarding the working conditions on the Customer Premises.
- 2.7 Connection to Customer Premises.** Customer Order for Service assumes that such Service will be terminated at a pre-established demarcation point in the building within which the Customer Premises is located, as determined by the local access provider. TelNet may charge Customer additional non-recurring charges and/or Monthly Fees not otherwise set forth in the Customer Order for such Off-Net Service where the local access provider determines that it is necessary to extend the demarcation point through the provision of additional infrastructure, cabling, electronics or other materials necessary to reach the Customer Premises. TelNet will notify Customer of any additional non-recurring charges and/or Monthly Fees as soon as practicable after TelNet is notified by the local access provider of the amount of such charges.
- 2.8 TelNet Facilities.** Title to all Facilities shall remain with TelNet. TelNet will provide and maintain the Facilities in good working order. Customer shall not, and shall not permit others to, rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any Facilities, without the prior written consent of TelNet. The Facilities shall not be used for any purpose other than that for which TelNet provides them. Customer shall not take any action that causes the imposition of any lien or encumbrance on the Facilities. In no event will TelNet be liable to Customer or any other person for interruption of Service or for any other loss, cost or damage caused or related to improper use or maintenance of the Facilities by Customer or third parties provided access to the Facilities by Customer in violation of these Terms, and Customer shall reimburse TelNet for any damages incurred as a result thereof. Customer agrees (which agreement shall survive the expiration, termination or cancellation of any Customer Order) to allow TelNet to remove the Facilities from the Customer Premises, both: i) after termination, expiration or cancellation of the Service Term in connection with which the Facilities were used (see Section 3.10); and ii) for repair, replacement or otherwise as TelNet may determine is necessary or desirable; TelNet will use reasonable efforts to minimize disruptions to the Service caused thereby.
- 2.9 TelNet Data Centers ("Facility" and/or "Facilities")**
- A) TelNet has the right to execute license and colocation agreements with third parties for space in the Facility.
- B) GRANT OF LICENSE; TERM; PERMITTED USES; NO REAL PROPERTY INTEREST.**
1. **Grant of License.** TelNet grants to Customer the right and non-exclusive and non-sublicensable license ("License") to install, operate and maintain Customer-provided equipment in the specified Colocation Space. The License is granted for the Service Term, as set forth in the Customer Order and for the uses permitted in this Agreement. Notwithstanding the foregoing, TelNet reserves the right to relocate, change or otherwise substitute replacement Space at any time during the Service Term, provided that the replacement Space is substantially similar in size and configuration to the original Space, and provided that TelNet provides Customer with thirty (30) days prior written notice. Customer may not assign this Agreement, sublicense the Space or allow

any other person or entity to use the Space for any reason, without first obtaining the written consent of TelNet.

2. **Permitted Uses.** Customer has the right to use the Space solely for the purposes of (i) installation of Customer-provided equipment in the Space, (ii) maintaining the Customer-provided equipment, (iii) operating the Customer-provided equipment, and (iv) removing the Customer-provided equipment ("**Permitted Uses**"). Unless otherwise agreed by TelNet in writing, Customer shall perform the Permitted Uses at its sole cost and expense.
3. **Not a Grant of an Interest in Real Property.** Customer represents, warrants, acknowledges and agrees (i) that it does not have, has not been granted and will not own or hold any real property interest in the Space or the Facility; (ii) that Customer is a licensee, not a tenant or lessee of the Space; and (iii) that Customer does not have the rights, privileges or remedies that a tenant or lessee would have under a real property lease or occupancy agreement.

**2.10 Customer-Provided Equipment.** TelNet may, at Customer expense, install certain Customer-provided communications equipment in preparation for commencement of Service, but TelNet shall not be responsible for the operation or maintenance of any Customer-provided communications equipment. TelNet undertakes no obligations and accepts no liability for the configuration, management, performance or any other issue relating to Customer's routers or other Customer-provided equipment used for access to or the exchange of traffic in connection with the Service.

### SECTION 3. BILLING AND PAYMENT

**3.1 Charges.** The Customer Order will set forth the applicable non-recurring charges ("**Install Fees**" and/or "**Set Up Fees**") and the recurring Monthly Fees (or "**MRCs**") for the Service. If the Service requires TelNet to install additional infrastructure, cabling, electronics or other materials, the Customer Order may include additional non-recurring charges. If Customer requests and TelNet approves, in its sole discretion, changes to the Customer Order or Service after acceptance by TelNet, including, without limitation, the Service installation date or Service Commencement Date, additional non-recurring charges and/or Monthly Fees not otherwise set forth in the Customer Order may apply.

**3.2 Commencement of Billing.** Monthly Fees and other charges begin on the earlier of: (a) when the Service is made available to Customer; or (b) no later than twenty (20) days after the TelNet Service has been delivered to Customer Service Location (whether or not Service has been activated). Applicable Install Fees and Setup Fees for Services are due upon completion of installation or earlier as designated by TelNet. Customer is responsible for all Monthly Fees and other charges invoiced for the Service without regard to whether someone other than Customer uses or shares the Service Address or the Service. TelNet is not obligated to invoice or provide Service to anyone other than the Customer.

**3.3 Invoices, Payment and Late Payments.** On a monthly basis, invoices shall be delivered electronically or in paper form. TelNet charges for Service shall be invoiced in advance, except charges which are dependent upon usage; usage charges shall be invoiced in arrears. Billing for partial months shall be prorated based on calendar days. Payment is due within twenty-one (21) days after the date of the invoice. Past due amounts shall incur late fees at an interest rate of 1.5% per month.

**3.4 Taxes and Fees.** Customer will be responsible for all applicable taxes that arise in any jurisdiction, including, without limitation, value added, consumption, sales, use, gross receipts, excise, access, bypass, franchise or other taxes, fees, duties, charges or surcharges, however designated, imposed on, incident to, or based upon the provision, sale or use of the Service.

**3.5 Regulatory and Legal Changes.** A portion of TelNet's costs of providing the Services may be set by regulatory agencies, legislative bodies and/or incumbent service providers. In the event that any regulatory agency, legislative body, court or incumbent service provider changes the underlying costs or fees that TelNet must incur to provide Service to Customer, TelNet reserves the right to pass such adjusted costs through to Customer and modify its tariff pricing to cover such adjusted costs.

**3.6 Disputed Invoice.** If Customer reasonably disputes any portion of a TelNet invoice, Customer must pay the undisputed portion of the invoice and submit a written statement of the dispute and the amount disputed. A statement disputing an invoiced amount should be submitted to TelNet prior to the due date, but in no event later than ninety (90) days of receipt of the invoice for the Service. If the dispute is resolved against Customer, Customer shall pay the disputed amount plus interest at the rate referenced in Section 3.3. If the dispute is resolved in favor of the Customer, the disputed amount will be removed from Customer's account, and, if Customer has paid any disputed amounts, TelNet shall credit Customer's account for such amounts within twenty (20) days.

**3.7 Correction to Invoice.** If TelNet discovers within six months of the date of an invoice that an invoiced charge is not accurate, TelNet will adjust Customer's next available invoice to correct the inaccurate invoice. Adjustments to correct prior invoices are limited to no more than six months' activity.

**3.8 Revenue Commitment.** If Customer makes a Revenue Commitment, then Customer will be billed for and responsible for paying the greater of (a) the charges for Service ordered and delivered, or (b) the amount of the Revenue Commitment.

### **3.9 Termination**

A) Customer may cancel a Customer Order following TelNet's acceptance of the same and prior to the Service Commencement Date upon prior written notice to TelNet. If Customer does so, or if the delivery of Service is terminated by TelNet prior to delivery of a Connection Notice due to a failure of Customer to comply with this Agreement, Customer shall pay termination fees equal to the sum of:

1. any third-party cancellation/termination charges and other TelNet out-of-pocket expenses related to the installation and/or cancellation of Service, and
2. as the case may be:
  - (i) one (1) month of Monthly Fees for the cancelled Service if written notice of cancellation is received by TelNet more than five (5) business days prior to the Anticipated Service Ready Date; or
  - (ii) two (2) months of Monthly Fees for the cancelled Service if written notice of cancellation is received by TelNet five (5) business days or less prior to the Anticipated Service Ready Date; and
  - (iii) in the case of Colocation Space, the costs incurred by TelNet in returning the Colocation Space to a condition suitable for use by another party.

Customer's right to cancel any particular Service under this Section 3.9 shall expire upon TelNet's delivery to Customer of a Connection Notice for such Service.

B) In addition to Customer's right of cancellation under Section 3.9 (A) above, Customer may terminate Service prior to the end of the Service Term upon thirty (30) days' prior written notice to TelNet on the proper TelNet Disconnect Authorization form, subject to the payment of liquidated damages as set forth below. If, after either the Service Ready Date or Customer's receipt of the Connection Notice for a particular Service and prior to the end of the Service Term, Customer terminates Service, or if the delivery of Service is terminated due to a failure of Customer to comply with this Agreement, Customer shall pay TelNet liquidated damages equal to the sum of the Monthly Fees multiplied by the number of months remaining in the Service Term plus any waived installation or labor charges.

C) If, after either the Service Ready Date or Customer's receipt of the Connection Notice for a particular Service and prior to the end of the Service Term, TelNet terminates the Customer Order or Service pursuant to Section 4.1, items A-F, Customer shall pay TelNet liquidated damages equal to the sum of the Monthly Fees multiplied by the number of months remaining in the Service Term plus any waived installation or labor charges.

D) If all or part of the Customer's Service is terminated or switched to another carrier without prior notice to TelNet, TelNet will continue to invoice the Customer until Customer notifies TelNet in writing on the proper TelNet Disconnect Authorization form and requests that its Service be discontinued and for 30 days after the date TelNet receives such notice. Customer shall be responsible for paying such charges, in addition to any applicable liquidated damages, as noted above.

### **3.10 Customer Obligations Upon Termination.**

- A) Customer agrees that upon termination of Service(s), Customer will:
1. immediately cease all use of the Service(s) and all TelNet Facilities;
  2. pay in full for use of the Service(s) up to the date that this Agreement has been terminated and the Service(s) are disconnected; and
  3. return all TelNet Facilities to TelNet or to TelNet's designee in working order, normal wear and tear excepted, within thirty (30) days of the date on which Service(s) are disconnected. Otherwise, Customer will be charged up to the retail price for a new replacement for such Facilities. Customer may also be charged incidental costs that TelNet incurs in replacing the Facilities.
- B) As required, Customer will allow TelNet and its agents access to the Customer Premises during regular business hours at a time agreed upon by Customer and TelNet to remove all Facilities and other material provided by TelNet.

**3.11 Fraudulent Use of Services.** Customer is responsible for all charges attributable to use of the Service, whether such use is by Customer or the result of fraudulent or unauthorized use of the Service.

**3.12 Service Term.** Except as otherwise provided, TelNet shall deliver the Service for the entire duration of the Service Term, and Customer shall pay all charges for delivery of the Service through the end of the Service Term.

### 3.13 Use of Service.

- A) Customers utilizing auto-dialers, fax blasting, telemarketing, call centers, internet dialing, and party lines do not qualify for Services with unlimited usage. TelNet Service offerings are based on the average use of a typical single business. TelNet reserves the right to deny, terminate, or transition Customer to a message rate pricing schedule if TelNet determines that, at its sole discretion, Customer's use is inconsistent with single business use or otherwise indicates automated use. Customer shall use Service only in a manner that, in TelNet's sole discretion, is consistent with the purposes of the Service.
- B) A Customer will be deemed in violation of this Section if TelNet determines, in its sole discretion, that an action of Customer, in connection with the use of the Services is: (a) inconsistent with the purposes of the Services or (b) violates any local, state, federal or international law, statute, agency decision, regulation, ordinance, executive order or any other legally binding governmental directive, including without limitation the federal Can Spam Act of 2003, the Computer Fraud and Abuse Act (18 U.S.C. 1030 et seq.), the Telephone Consumer Protection Act (47 U.S.C. 227), the Telemarketing Consumer Fraud and Abuse Prevention Act (15 U.S.C. 1601-1608) and the Federal Trade Commission's amended Telemarketing Sales Rule, (collectively, "Laws or Regulations").
- C) A Customer will also be deemed in violation of this Section if TelNet determines, in its sole discretion, that that any action of Customer, whether or not in connection with the Customer's use of the Services, has resulted in: (i) any harm to TelNet, its reputation, its services or its customers; (ii) any third party blacklisting, blocking, filtering, or refusing any e-mail or any other network application or communications protocol from TelNet or its customers; or (iii) interference in any manner with the free flow of e-mail or any other network application or communications protocol from or to TelNet or its customers.
- D) **Customer shall not engage in any activity (whether legal or illegal) that results in harm to TelNet, the Services, or any other TelNet customer or that interferes with TelNet's provision of, or any other TelNet customer's use or enjoyment of, any of TelNet service.**
- E) AN ATTEMPTED OR INDIRECT VIOLATION OF THIS SECTION, AND AN ATTEMPTED, ACTUAL, OR INDIRECT VIOLATION BY A THIRD PARTY ON CUSTOMER'S BEHALF, IS AN UNACCEPTABLE USE UNDER THIS SECTION.

## SECTION 4. DISCONTINUANCE OF CUSTOMER ORDER

### 4.1 Termination of a Customer Order by TelNet.

TelNet may terminate a Customer Order and discontinue Service without TelNet liability:

- A) if Customer fails to pay a past due amount for Service (other than an amount reasonably disputed under Section 3.6), within thirty (30) days after written notice from TelNet demanding payment;
- B) if Customer violates any law, rule, regulation or policy of any government authority related to Service;
- C) if Customer makes a material misrepresentation to TelNet in connection with the ordering or delivery of Service;
- D) if Customer engages in fraudulent use of Service;
- E) if Customer files bankruptcy, for reorganization, or fails to discharge an involuntary petition therefore within sixty (60) days;
- F) if Customer's use of Service materially exceeds Customer's credit limit, unless within thirty (30) day written notice by TelNet, Customer provides adequate security for payment for Service; or
- G) if a court or other government authority prohibits TelNet from furnishing Service; or
- H) if Customer's Service is delivered by TelNet within a third-party colocation facility and TelNet's right to provide Service to that facility is terminated.

### 4.2 Effect of Discontinuance.

Upon TelNet's discontinuance of Service to Customer, in addition to the remedies specified in this Agreement, TelNet may pursue all other remedies that may be available to TelNet at law or in equity.

## SECTION 5. LIABILITIES

### 5.1 Consequential Damages.

**Subject to Section 3.8, notwithstanding any other provision hereof, neither party shall be liable to the other for any indirect, incidental, special, consequential, exemplary or punitive damages including but not limited to damages for lost profits or lost revenues or loss of anticipated profits resulting**



**from or arising out of the performance or failure to perform under any Customer Order and/or this Agreement provided that the foregoing shall not apply to any amounts payable to third parties as judgments or settlements in relation to matters for which one party is indemnifying the other under this Agreement or Customer Order.**

**5.2 Disclaimer of Warranties.** WITH RESPECT TO THE SERVICES AND TELNET FURNISHED EQUIPMENT, TELNET HEREBY DISCLAIMS, WITHOUT LIMITATION, ALL WARRANTIES NOT STATED HEREIN, WHETHER EXPRESS, IMPLIED OR STATUTORY, EITHER IN FACT OR BY OPERATION OF LAW, AND IN PARTICULAR DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PURPOSE. FURTHER, TELNET DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT THE CUSTOMER'S SOFTWARE OR THIRD-PARTY APPLICATIONS WILL WORK IN ACCORDANCE WITH THE CUSTOMER EXPECTATIONS.

## **SECTION 6. PUBLICITY**

**6.1 Publicity.** Neither party shall have the right to use the other 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 without prior written consent. Neither party shall issue any publication nor press release relating to any contractual relationship between TelNet and Customer without prior written consent, except as may be required by law or agreed between the parties.

## **SECTION 7. GENERAL TERMS**

**7.1 Force Majeure.** Neither party shall be liable, nor shall any credit allowance or other remedy be extended, for any delay or failure of equipment or performance due to causes beyond such party's reasonable control ("**Force Majeure**"). Events of Force Majeure include, without limitation, fire; flood; weather; acts of God; labor disputes; utility curtailments; power failures; cable cuts; explosions; civil disturbances; terrorism; vandalism; governmental actions. If as a result of Force Majeure, TelNet is unable to deliver Service, Customer shall not be obligated to pay TelNet for the affected Service for the period TelNet is unable to provide the Service.

**7.2 Assignment and Resale.** Customer may not assign or subcontract its rights, privileges and obligations under this Agreement or a Customer Order without the express prior written consent of TelNet. Customer shall remain liable for the payment of all charges due under each Customer Order.

**7.3 Notices.** Notices are properly given, if delivered in person, or via overnight courier, electronic mail or when deposited with the U.S. Postal Service, (a) with respect to Customer, to the address and/or email address listed on any Customer Order, or (b) with respect to TelNet, to: Customer Services, TelNet Worldwide, Inc., 1175 W. Long Lake Road, Suite 101, Troy, MI 48098, email: [admin@telnetww.com](mailto:admin@telnetww.com). Customer shall notify TelNet of any changes to its addresses/contact information listed on any Customer Order.

**7.4 Indemnification.** Each party shall indemnify the other from any claims by third parties and expenses (including legal fees and court costs) respecting damage to tangible property, personal injury or death caused by such party's negligence or willful misconduct.

**7.5 Application of Tariffs.** TelNet may elect or be required to file tariffs with the appropriate regulatory agency respecting the delivery of certain Services. If tariffs are filed in connection with a Service ordered by Customer, then the terms set forth in the applicable tariff shall govern TelNet's delivery of, and Customer's consumption or use of, such Service.

**7.6 Contents of Communications.** TelNet shall have no liability or responsibility for the content of any communications transmitted via the Service, and Customer shall defend, indemnify and hold TelNet harmless from any and all claims (including claims by governmental entities seeking to impose sanctions) related to such content or for claims by third parties relating to Customer's use of Service. TelNet provides only access to the Internet and/or Public Service Telephone Network (PSTN); TelNet does not operate or control the information, services, opinions or other content of the Internet and/or PSTN. Customer shall make no claim against TelNet relating to the content of the Internet/PSTN or respecting any information, product, service or software ordered through or provided by virtue of the Internet.

**7.7 Entire Understanding.** This Agreement constitutes the entire understanding of the parties related to Service. In the event of a conflict between these General Terms and Conditions for Delivery of Service and the terms and conditions of any Customer Order, these General Terms and Conditions shall control. This Agreement shall be governed and construed in accordance with the laws of the state of Michigan.

**7.8 No Waiver.** A failure by a party to enforce a right under this Agreement shall not constitute a waiver of such right.