

ECO CARRIER MASTER SERVICE AGREEMENT

Last Edited 2/19/2020

1 Terms.

The terms and conditions in this Master Service Agreement shall be binding between 46 Labs and Customer upon submission of any 46 Labs Eco Carrier Service Order, and together with the terms and conditions in each service order, any supplemental terms and conditions, including exhibits and Service Level Agreements, Service Support Agreements, 46 Labs' Acceptable Use Policy and Privacy Policy, which are incorporated herein and comprise Customer's agreement with 46 Labs. This Agreement represents the entire agreement between the Parties and supersedes and merges all prior offers, agreements, promises, understandings, statements, representations, warranties, indemnities and inducements to the making of this Agreement relied upon by either party, whether written or oral, between or among Customer and 46 Labs as well as 46 Labs' agents, employees, or sales persons. In the event of an inconsistency between these documents, the conditions of the documents listed below shall control in the following order of precedence:

- 1.1 Any mutually agreed upon Service Order or amendment or addendum thereto, properly executed by authorized representatives of both 46 Labs and Customer;
- 1.2 Applicable supplemental terms and conditions, including the Service Level Agreements, Support Service Agreements and exhibits to this MSA;
- 1.3 This Master Service Agreement; and
- 1.4 The Acceptable Use Policy and Privacy Policy.

THIS MSA, ALL SOs, SLA, SSA, ANY SUPPLEMENTAL PRODUCT TERMS AND CONDITIONS, AND 46 LABS' AUP AND PRIVACY POLICY ARE LOCATED ON A WEBSITE ACCESSIBLE AT ALL TIMES BY CUSTOMER AND MAY BE MODIFIED BY 46 LABS AT ANY TIME. FOR CHANGES TO ANY OF THE AFOREMENTIONED COMPONENTS OF THE AGREEMENT, 46 LABS WILL NOTIFY CUSTOMER OF ANY MATERIAL CHANGES IN THE AGREEMENT PRIOR TO THE BILLING PERIOD IN WHICH THE CHANGES WOULD GO INTO EFFECT. NOTIFICATION OF ANY SURCHARGE MAY BE IN THE FORM OF AN INVOICE INSERT OR BY A MESSAGE WITHIN CUSTOMER'S INVOICE; BY POSTCARD OR LETTER; BY 46 LABS' CALLING AND SPEAKING TO CUSTOMER OR LEAVING A MESSAGE FOR CUSTOMER; BY POSTINGS ON 46 LABS' WEBSITE AT WWW.46LABS.COM/SERVICE-TERMS/; OR BY EMAIL. CUSTOMER SHALL BE BOUND BY CHANGES IMMEDIATELY AFTER THEY BECOME EFFECTIVE. CUSTOMER ACCEPTS THE INCORPORATION INTO THE AGREEMENT OF SUPPLEMENTAL PRODUCT TERMS AND CONDITIONS, THE TERMS AND CONDITIONS IN THIS MSA, AUP AND PRIVACY POLICY, AND ALL MODIFICATIONS MADE THERETO.

2 Definitions.

- 2.1 "46 Labs" shall mean "46 Labs LLC", its subsidiaries and affiliate companies.
- 2.2 "Agreement" shall mean and refer to the collective agreements between the parties including the AUP, MSA, PP, SLA, SSA, and all associated SOs.

- 2.3 "ANI" is automatic number identification and shall refer to the feature or process for automatically determining the origination telephone number on toll calls for billing purposes.
- 2.4 "AUP" refers to and means 46 Labs' Acceptable Use Policy available at www.46labs.com/service-terms/.
- 2.5 "Billing Disputes" shall be as described in Section 5
- 2.6 "Confidential Information" shall include 46 Labs pricing, trade secrets as defined under applicable law, and any and all information, whether provided in writing, orally, visually, electronically or by other means, whether or not marked as "confidential" or "proprietary," related to the Services and/or business of 46 Labs, including, but not limited to, the terms and conditions of the Agreement. Confidential Information shall not include information (a) already lawfully known to or independently developed by Customer as evidenced by its written records, (b) disclosed in published materials, (c) generally known to the public, or (d) lawfully obtained from third parties without any obligation of confidentiality.
- 2.7 "CPN" is the calling party number and shall refer the person or device that initiates a telephone call.
- 2.8 "Credit Card Surcharge" shall mean the three percent (3%) surcharge applied to the total amount paid by Customer that makes payment by credit card following approval by 46 Labs.
- 2.9 "Customer" shall be the party using the Service as further described in an accompanying SO.
- 2.10 "Customer Provided Equipment" or "CPE" shall mean software, hardware, or equipment purchased or supplied by Customer for the performance of the Services.
- 2.11 "Early Termination Liability" or "ETL" shall mean the Customer's liability in the event of a termination of this Agreement prior to the current Service Order Term for the service and shall be equal to the average amount of the total fees for any and all cancelled services for the prior three (3) months multiplied times the number of months remaining in the applicable Term for the services cancelled.
- 2.12 "Indemnified Party" shall mean the party to this Agreement seeking Indemnification under Section 9 by reason of having a claim made against it.
- 2.13 "Indemnifying Party" shall mean the party responsible for providing indemnification under Section 9.
- 2.14 "LATA" shall refer to the three- or five-digit code that labels a particular geographic market in which calls are routed local access transport areas.
- 2.15 "Local Number Portability" or "LNP" shall refer to the Local Number Portability database maintained on behalf of the telecommunications industry by NPAC.
- 2.16 "Monthly Recurring Charge" or "MRC" shall mean charges for Services that are fixed in amount and not dependent on usage as described the applicable SO.
- 2.17 "Monthly Usage Charge" or "MUC" shall mean charges for services that are variable in amount and are based on Customer usage. Monthly Usage Charges may include a minimum monthly usage charge as described in any associated SO.
- 2.18 "MPLS" shall refer to and mean the multiprotocol label switching technique.
- 2.19 "MSA" shall refer to and mean this Master Service Agreement document.

- 2.20 “Non-recurring Charge” or “NRC” shall mean one-time charges for a discrete service as described the applicable SO.
- 2.21 “NPAC” refers to the Number Portability Administration Center for both the United States and Canada.
- 2.22 “NPA/NXX” NPA shall mean Number Plan Area, commonly called Area Code. NXX refers to the three digits of a phone number immediately following the area code known also as the exchange.
- 2.23 “OCN” shall mean the four-character identifier for North American phone companies
- 2.24 “Product” shall mean software, hardware, documentation or equipment supplied by 46 Labs, or a third-party by the direction of 46 Labs, in addition to the Services to the Customer under any SO.
- 2.25 “PP” shall mean and refer to the 46 Labs Privacy Policy available at www.46labs.com/service-terms/.
- 2.26 “Regulatory Change” shall mean to the imposition of new regulations, modifications of existing regulations, new interpretation, application or enforcement of, or exercise of authority related to, any regulation or finding of any federal, state and/or local regulatory agency, legislative body, or a court of competent jurisdiction, including, without limitation, the imposition of any charges, surcharges, and/or taxes in reliance on or as a result of the same
- 2.27 “Service” shall refer to the 46 Labs telecommunication services as further described in this Agreement and any accompanying SO.
- 2.28 “Scheduled Maintenance” shall mean and refer to the 46 labs standard maintenance windows for a specific service as published at www.46labs.com/service-terms/.
- 2.29 “SO” or “Service Order” shall mean and refer to any 46 Labs Eco Carrier Service Order associated with the Agreement.
- 2.30 “Service Order Term” shall have the meaning and duration as set forth in the associated SO.
- 2.31 “SLA” shall mean and refer to the service level agreement “SLA – Eco Carrier” available for review at www.46labs.com/service-terms/. 46 Labs reserves the right to amend these SLAs from time to time and such amendments shall be effective on notifying the customer and posting the revised SLA to www.46labs.com/service-terms/.
- 2.32 SSA shall mean and refer to 46 Labs’ Service Support Agreements available for review at www.46labs.com/service-terms/.
- 2.33 “Start of Service Date” shall mean the date the Services are available to the Customer for use.
- 2.34 “Tax Exempt Document” shall mean the Customer provided tax-exempt certification.
- 2.35 “Term” shall have the meaning set forth in Section 11.
- 2.36 “TCIA” shall refer to and mean the Truth in Caller ID Act of 2009 and codified under U.S.C. 47 U.S.C § 227.
- 2.37 “TSR” shall refer to and mean the Federal Trade Commission’s Telemarketing Sales Rule as codified in U.S. 16 C.F.R 310.
- 2.38 “TCPA” shall refer to and mean the Federal Communication Commission’s Telephone Consumer Protection Act as codified under U.S.C. 47 U.S.C § 227.

- 3 Service Limitations, Requirements, Start Date, Availability of Facilities.** The Service is offered and furnished subject to the availability, in 46 Labs' sole judgment, of all necessary facilities, including those acquired or leased by 46 Labs from other entities.
- 3.2 Reseller. 46 Labs is acting as a reseller/network provider of certain services, facilities and equipment provided by third parties. 46 Labs may be unable to initiate service due to facilities or other constraints of third parties. Further, 46 Labs cannot guarantee any requested turn up/start of service date or ensure that 46 Labs or its underlying network/facilities providers can achieve any projected turn up/start of service date. Any statement or representation to the contrary shall be deemed null and void.
- 3.3 Right to Alter Service. In its sole discretion and without liability to Customer, 46 Labs may: (a) alter the methods, processes or suppliers by or through which it provides Service; (b) change the facilities used to provide Service; or (c) substitute comparable Service for that being provided to Customer. If necessary due to the potential impact on affected Customers, 46 Labs will furnish prior notice of any alterations, changes or substitutions.
- 3.4 46 Labs' Right to Suspend, Terminate, Block, Discontinue, or Surcharge Service Without Notice to Customer.
- 3.4.1 Fraud, Network Blockage or Degradation, Legal Compliance. 46 Labs may discontinue furnishing Service by blocking traffic to or from certain countries, cities, NXX exchanges, or individual telephones; by blocking call origination; or by blocking calls using certain Customer authorization or access codes; or cancel Customer's account immediately and terminate this Agreement without notice, without 46 Labs incurring any liability whatsoever, if 46 Labs deems that such action is necessary to prevent or protect against fraud, or to otherwise protect 46 Labs' personnel, agents, facilities or services, for reasons which include but are not limited to: (a) violation of 46 Labs' AUP; (b) use or misuse of the Service in a manner that results, or could result, in network blockage or other degradations that adversely affect the Service furnished to Customer or to other existing or prospective customers of 46 Labs; (c) manipulation, change, or in any way modifying traffic line records, including the CPN or ANI; (d) excessive termination to a single central office in excess of that location's termination capacity; (e) sequential dialing; (f) call blasting; (g) excessive incomplete calls; (h) improperly formatted SIP messages; (i) uses, or threatens to use any of the Services for any unlawful or fraudulent purpose or otherwise violates the terms of the Agreement; (j) if 46 Labs is ordered or requested to terminate service by a governmental entity (k) a change in law or regulation that financially impairs 46 Labs ability to deliver the service or (l) for a violation of the TCPA, TSR, Federal Do Not call Rules, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, a violation of the Federal Do Not Call rules, or any other FCC or FTC rule or law applicable to the Service.
- 3.4.2 For Financial Cause. 46 Labs may immediately and at any time terminate the Agreement, discontinue service, cancel an application for service, cancel the Customer's account, or require Customer to deposit funds as security, without incurring any liability, for any of the following reasons: (a) Customer fails to pay any amount owed to 46 Labs when due; (b) Customer's failure to comply with any material term or condition of this Agreement; (c) For usage by Customer beyond any credit limit or prepaid balance limit

imposed by 46 Labs; (d) If, in 46 Labs' sole judgment, any aspect of Customer's payment arrangements with 46 Labs appear to be fraudulent, including false or misleading credit information, or Customer's use of a credit card that has been reported as misused or stolen; (e) Customer's ability to pay, or if, in 46 Labs' sole judgment, Customer's payment arrangements with 46 Labs appear to be inadequate to meet any of Customer's obligations to 46 Labs coming due; (f) Customer's filing of any voluntary petition of bankruptcy or the filing of an involuntary petition in the bankruptcy court which names Customer as the debtor; or (g) Customer communicates any intent to breach, or to not comply with the terms of this Agreement, including but not limited to payment for services at then-prevailing rates.

- 3.4.3 Customer Obligation to Pay Through Disconnection Period. Customer shall be responsible for payment of all MRCs through any disconnection period.
- 3.4.4 Service Reconnection Delay. In the event 46 Labs invokes its right to suspend, alter, terminate, disconnect, or any combination thereof for Customer's violation of Section 3.4 and the Customer subsequently resolves the issue, the process of reconnection of the Service may take up to thirty (30) business days.
- 3.5 Regulation and impact on fees. The fees set forth in the Agreement are subject to Regulatory Change. 46 Labs reserves the right, at any time, including retroactively, to do either or both (a) to charge as a pass through to Customer all fees, surcharges or taxes directly or indirectly related to such Regulatory Change or (b) modify the rates and/or terms and conditions of the Agreement to reflect the impact of such Regulatory Change, including, without limitation, the impact of any actions by third parties in connection with such Regulatory Change.
- 3.6 Expedited Installation. Customer acknowledges that requests and payments for an expedited installation do not guarantee that any third party will meet a requested installation date. Requests for expedited installation may expedite the process by which Customer's order is serviced, but 46 Labs cannot guarantee that any installation will occur by a specified date. 46 Labs cannot refund any payment made for expedited service in the event that an expedited service date is not met.
- 3.7 Service Availability Notice. The Service is available throughout the Term as described in the SLA, except in the case of Scheduled Maintenance of either or both the 46 Labs' network or its underlying carrier's networks. 46 Labs will use reasonable efforts to provide prior notification via electronic mail to Customer regarding any Scheduled Maintenance of the Service. 46 Labs may interrupt its provision of Service for unscheduled emergency maintenance without notice to Customer or Customer's customers. 46 Labs reserves the right to monitor and/or record certain calls for the purpose of quality control or trouble-shooting service issues, subject to state and federal privacy laws.
- 3.8 Local Number Portability. Because 46 Labs utilizes the LNP, the number dialed by Customer may return porting information which results in calls terminating to a different physical locations, OCNs or LATAs that may vary from the dialed number. 46 Labs does not provide Customer access to the NPAC database. Customers wishing to determine whether a dialed number has been ported prior to dialing must arrange independent access to the NPAC database.

- 3.9 OCN Information. All calls will utilize OCN information provided by Bellcore or similar database providers. OCN's are determined by criteria including the NPA/NXX of the number dialed, as well as the NPAC database. 46 Labs shall not be liable for the accuracy of any OCN information, which may be utilized by Customer for any purpose, including but not limited to rating, scrubbing or sorting.
- 3.10 Internet Services. All Internet services provisioned under this Agreement or any SO are provided as information services, and not as telecommunication services for the purposes of regulation.
- 3.11 Rights to IP Addresses and Circuits. Customer agrees that IP addresses are not guaranteed, transferable or provided for further distribution. Upon termination of the Agreement, any SO, or cancellation of any Service, all rights to circuits ordered on behalf Customer will revert to 46 Labs, and Customer shall have no rights to the continued use of them regardless of provider. 46 Labs does not represent or warrant that IP Addresses used by Customer in conjunction with the Service will be available to Customer after termination or cancellation.
- 3.12 Requested Start Date. 46 Labs will use its commercially reasonable efforts to activate Services by the agreed-upon date. However, 46 Labs cannot guarantee Service activation by a particular date because of reliance on third parties, including Customer, to perform certain tasks and provide certain information before 46 Labs can activate Services. Customer is responsible for canceling any communications services that the Services will replace and for any and all charges related to those services.

4 Billing and Payment Arrangements.

- 4.1 Form of Invoice. 46 Labs shall send invoices for Services by either email, web portal or surface mail. Any invoice delivered by any of these methods shall constitute a valid bill for Services.
- 4.2 Payment, Due Date.
 - 4.2.1 Payment Obligation. Customer's obligation to pay for Services and the associated MRC, NRC and MUCs shall begin on the Start of Service Date.
 - 4.2.2 Prepayment. Unless Customer receives credit approval in writing from 46 Labs', the Customer will be invoiced for all MRCs on a prepaid basis. Customer will be billed in arrears for MUCs, NRCs and any pro-rata MRC or MUC. MRCs or MUCs that begin or are terminated between the Start of Service Date and the end of a billing period will be prorated. 46 Labs may invoice customer in advance for all applicable third-party services charges. Customer shall pay for all Services ordered from 46 Labs, pursuant to the terms and rates set forth in any SO or associated pricing exhibits. Customer shall timely pay the full amount invoiced less any Billing Dispute, even if Customer expects a portion of the invoiced amount to be paid or reimbursed by a future credit.
 - 4.2.3 30-Day Payment Customers. Payments from Customers who receive written credit approval from 46 Labs' shall be due thirty days (net 30) from the date of the invoice. Undisputed amounts which are not paid in full within thirty (30) days of the invoice date will be past due and subject to an additional charge equal to the lesser of one and one half percent (1.5%) per month late payment fee or the maximum monthly rate permitted by law on past-due balances. In the event of non-payment of any past due invoice due

- or a material breach of this Agreement, including, but not limited to access arbitrage or fraudulent use of services, all outstanding invoices, including any unbilled usage shall become immediately due and payable, and Customer shall be considered in default.
- 4.2.4 Customer shall be considered in default of the Agreement and all outstanding invoices and charges, including any unbilled Monthly Usage Charges shall become immediately due and payable.
- 4.2.5 Rounding. Unless otherwise stated in an SO, charges for Services shall be rounded up to two digits to the next cent. By way of example, a cost calculated to \$1.214 would be rounded to \$1.22.
- 4.3 Credit Information. Customer agrees that 46 Labs may request credit information from third parties, and Customer authorizes the release of such information as part of this application.
- 4.4 Forms of Payment. Acceptable forms of payment include wire transfers and ACH credits. Payment by check or cash is not acceptable. 46 Labs may, in its sole discretion, accept payment by credit card. A Credit Card Surcharge will be applied to the total amount paid using a credit card. Customer's sole recourse for disputed charges shall be as outlined in Section 5. If Customer pays 46 Labs by credit card then Customer's continued use of Services after Customer's payment to 46 Labs appears on Customer's credit card account, shall be construed as Customer's acknowledgement of the validity of such undisputed charges. Thereafter, Customer waives all rights to reverse such charges and shall be responsible for all expenses and fees 46 Labs incurs for contesting an attempt to reverse the charges.
- 4.5 Taxes, Surcharges and Other Service Related Fees.
- 4.5.1 Customer's obligation to pay applicable taxes, cost recover fees, set-up fees and all other charges due and owing for Service shall survive the expiration of the Agreement. 46 Labs' surcharges are listed at www.46labs.com/service-terms/.
- 4.5.2 Taxes. Service fees and charges are exclusive of all taxes, fees, tax-related surcharges and tax-like surcharges (as enumerated below). Customer shall be responsible for, and must pay, all taxes, including, without limitation, sales, use, excise, gross receipts, value added, access, bypass, franchise, telecommunications, consumption and other taxes, fees, duties, charges or surcharges, roaming charges, however designated, and imposed directly on 46 Labs based on the provision, sale or use of Service. If Customer believes it, or the Services it receives and uses, are exempt from any tax, Customer will provide 46 Labs with a properly executed Tax Exempt Document in a form acceptable to 46 Labs that evidences the exemption claimed. Customer shall renew such certification annually and shall provide evidence of such continuing certification upon request by 46 Labs. In the event Customer fails to renew its tax-exempt certification, or if its tax-exempt certification is repealed, Customer shall be responsible to 46 Labs for all such taxes from the date Customer's tax-exempt certification became invalid. Tax exemption will only apply to Taxes incurred after the date 46 Labs receives the updated Tax Exempt Document.
- 4.5.3 Cost Recovery. 46 Labs may impose recovery fees in order to recover costs associated with regulatory compliance, administrative and network facilities costs.

- 4.5.4 Set-up, Installation and Disconnect Fees. Customer shall pay all applicable installation and disconnect fees, service upgrade or relocation fees, which will be invoiced on a Non-Recurring Charge basis and are non-refundable. Quoted installation fees contemplate installations in normal locations under normal working conditions during regular business hours. Any installations under other circumstances including, but not limited to hazardous locations, an expedited basis outside of standard installation intervals will be subject to additional charges.
- 4.5.5 Third Party Service Charges. If an entity other than 46 Labs imposes charges on 46 Labs in connection with the provisioning of Service to Customer such charges will be invoiced by 46 Labs on a pass-through cost basis.
- 4.6 Effect of Termination. If service is terminated for any reason, Customer will pay 46 Labs for (a) Services that Customer has used through the date that 46 Labs or Customer terminates the Services, (b) any outstanding balance for NRCs or MUCs, and (c) all charges that may still be due or may be incurred for early termination including ETL. Customer's obligation to pay applicable taxes and all other fees due and owing for Service shall survive Termination
- 4.7 Early Termination Liability. Except as may be mutually agreed upon in writing, such as in the SO, in the event Customer terminates the Service or the Agreement or any SO is after submission of an order but before the end of the applicable term, the Customer shall pay to 46 Labs on demand, as liquidated damages and not as a penalty, an Early Termination Liability charge. In the event of Customer's early termination, 46 Labs' actual damages would be impractical and/or extremely difficult to ascertain, so the parties agree the ETL set forth above is a reasonable estimate of actual damages. With respect to Customer terminating the Agreement after the submission of paperwork but prior to the Start of Service Date, the number of months remaining in the term shall be the total number of months for which the Customer has contracted. Assessment of an ETL does not relieve Customer of Customer's obligation to pay any non-recurring charges or any undisputed past due charges and interest thereon.
- 4.8 Recovery of Collection Costs. Unless otherwise prohibited by law, Customer shall reimburse 46 Labs for any costs incurred by 46 Labs in undertaking any collection activity, including, but not limited to, the reimbursement of reasonable attorneys' fees. Reasonable attorney's fees shall include the time and costs associated with 46 Labs' in-house legal staff efforts related to the collection activity. For purposes of calculating the time and costs, the Parties stipulate that 46 Labs' in-house legal staff's time shall be billed at \$250.00 per hour.
- 4.9 Right of Offset. If Customer defaults on any payment obligation owed 46 Labs under any agreement for more than thirty (30) days and 46 Labs has funds that are owed the defaulting Customer, 46 Labs may offset that which it is owed by first applying such funds to the full balance due by the defaulting Customer. Any amount remaining following the offset shall be remitted to Customer in the normal course of business.
- 4.10 No Rollover. Unused Monthly base capacities do not rollover into subsequent months.

5. Billing Disputes.

5.1. Customer Obligation. Any invoices issued to Customer shall be deemed correct and binding on the Customer unless Customer files a dispute according to the provisions of this Section 5. Customer shall timely pay the full amount invoiced subject to Billing Disputes described in this Section 5, even if Customer expects a portion of the invoiced amount to be paid or reimbursed in the future by a third party.

5.2. Requirements for Valid Dispute. An invoiced charge will be deemed disputed by Customer if, and only if: (a) Customer believes in good faith that the charge was invoiced in error; (b) Customer provides 46 Labs written notice of the disputed charge no later than ten (10) days from the date of the invoice on which the charge first appeared; and (c) Customer's notice of the disputed charge includes the amount of the disputed charge, the reason the charge is disputed, and documentation supporting the dispute, and (d) Customer provides all documents supporting each dispute. Customer shall not have the right to withhold any amount not properly disputed. If Customer does not dispute a charge(s) on the invoice within ten (10) days from the date of the invoice, then the invoice will be deemed to be correct.

5.3. Resolution of Disputed Charges. 46 Labs shall have the right to determine, in good faith, the merit of each dispute and Customer's associated payment obligation. 46 Labs will investigate all billing disputes and notify Customer in writing that: (a) a credit will be issued to reverse any amount that 46 Labs determines was incorrectly billed, or (b) 46 Labs has determined that the disputed charge was invoiced correctly. After a billing dispute is resolved, if the dispute is resolved in 46 Labs' favor, Customer will, within five (5) business days of such resolution, remit to 46 Labs any required payment, plus interest at the lower of one and one-half percent (1.5%) per month or the maximum rate permissible under applicable state law, calculated from the due date until the date payment is received by 46 Labs. Failure to pay such amount in full within such five (5) day period shall be a breach of the Agreement and shall entitle 46 Labs, in addition to its other remedies at law or equity, to terminate all Services to Customer without notice and without liability of any kind or amount. If the dispute is resolved in Customer's favor, and Customer withheld payment of the disputed amount, then 46 Labs will issue a credit to reverse the amount incorrectly billed. If the dispute is resolved in Customer's favor and Customer previously paid the disputed amount, then 46 Labs will issue a credit to reverse the amount incorrectly billed and apply such credit against Customer's next invoice(s). If Customer is no longer being invoiced by 46 Labs, 46 Labs will remit to Customer the amount of the credit within forty-five (45) days of the date of such credit.

6 Services and Equipment.

6.1 Products and Customer Equipment Supplied by 46 Labs.

6.1.1 License to Products. 46 Labs grants to Customer a personal, limited, non-transferable, non-exclusive, license, without the right to sublicense, transfer, copy or create derivative works, to use the Products during the term of the appropriate SO solely for use with the Service specified in such SO and in accordance with the Agreement.

6.1.2 Ownership of Products. Either 46 Labs or other third-parties own and will continue to own the Products used to provide Services. Customer may not decompile, reverse engineer or otherwise use any software code from any Products provided by 46 Labs or its suppliers. Some software necessary to fully utilize the full functionality of the Services may require Customer to accept additional terms and conditions required by the third-

party providers of such Products. If Customer has purchased or leased Equipment from 46 Labs or its certified third-party leasing company, then the Customer must install Equipment in accordance with instructions provided by 46 Labs (or its third party vendor). Customer may not change the settings on any equipment supplied by 46 Labs or its agents without 46 Labs' express written consent. In addition, 46 Labs-provided equipment must be used solely for the purpose of Service utilization. 46 Labs will use commercially reasonable efforts to supply and configure the Products to allow Customer to use the Services, unless Customer is supplying its own equipment or purchasing it from a third party (including a 46 Labs authorized dealer or fulfillment partner). For any Product that Customer purchases directly through 46 Labs, 46 Labs may supply a new, refurbished or recertified Product. On new and recertified Product purchased by Customer through 46 Labs, Customer understands that any Product it purchases through 46 Labs, a recommended dealer or fulfillment partner is only designed to work with 46 Labs' Services. If Customer or 46 Labs terminates Services for ANY REASON, Customer will NOT be eligible for a refund, either full or partial, for any fees paid by Customer for a Product, or for third party-supplied equipment.

- 6.1.3 Return of Products. Customer agrees to return all Products provided 46 Labs or third party vendors within thirty (30) days of (a) the termination of Services for any reason or (b) upon receiving replacement Products for a non-functioning Product or as part of a Service upgrade. Customers may receive a prepaid shipping label by emailing the request to shipping@46labs.com. Please include your company name, address and telephone number in the request. If Customer fails to return all of the Products within thirty (30) day period, 46 Labs shall invoice Customer for the current replacement cost of any Products not returned, plus taxes. The Products must be returned in the same condition as received, normal wear and tear excepted.
- 6.1.4 Warranty, Maintenance, Support, and Repair of Products. All equipment provided to Customer by 46 Labs is subject to the terms and conditions set forth in the manufacturer's or publisher's warranty, end-user license, or agreement applicable to such Products, with no additional warranty of any kind from 46 Labs. If Customer purchases equipment from 46 Labs, an authorized dealer or fulfillment partner, Customer must address any issues or warranty concerns relating to that equipment with the manufacturer of such equipment or the authorized dealer or fulfillment partner. 46 Labs will not repair, replace or warranty such purchased equipment. Customer shall reimburse 46 Labs for the entire cost, including direct labor costs at 46 Labs' current rates, to either repair or replace or both, any Product in the event that Product requires replacement due to (a) misuse or abuse, (b) failure to exercise reasonable care, (c) altering original 46 Labs configuration, (d) damage, (e) theft, or (f) disaster. If a replacement Product is requested for a 46 Labs-supplied non-purchased Product, 46 Labs will ship preconfigured replacements to Customer. Customer shall return any non-purchased faulty Product to 46 Labs within thirty (30) days of receiving the replacement Product or pay for such Product. Customer will not receive compensation for downtime associated with Product failure, replacement or repair. 46 Labs' liability is strictly limited to the pro-rata reduction of 46 Labs' monthly recurring charges. Any Product supplied by 46 Labs as a replacement Product will carry the remainder of any manufacturer

warranty. 46 Labs may also provide any Product upgrades at no expense to Customer, and Customer shall use all such upgrades provided by 46 Labs.

6.1.5 Product Maintenance. 46 Labs shall not replace, and the Customer shall be responsible for the full cost of replacement of Product in the event of damage: (a) to consumable parts, such as batteries, or protective coatings designed to diminish over time unless failure has occurred due to a defect in materials or workmanship; (b) to cosmetic damage, including but not limited to scratches, dents, and broken plastic on ports; (c) to damage caused by use with other products; (d) to damage caused by accident, abuse, misuse, liquid contact, fire, earthquake or other external causes; (e) to damage caused by operating the product outside the permitted or intended uses described by 46 Labs; (f) to damage caused by service (including upgrades and expansions) performed by anyone who is not a representative of 46 Labs; (g) to a product or part that has been modified to alter functionality or capability without the written permission of 46 Labs; (h) to defects caused by excessive wear and tear or otherwise due to the excessive aging of the product or (i) if any serial number has been removed or defaced. 46 Labs and its suppliers shall have no obligation or liability in connection with any equipment not purchased through 46 Labs even if configured by 46 Labs, or for any abuse, misuse or reconfiguration, including, but not limited to, the addition of software or other devices, of any equipment by any party other than 46 Labs.

6.2 Customer Provided Equipment, Warranties, Limitations.

6.2.1 NO WARRANTY FOR CPE. IN ADDITION TO THE WARRANTY DISCLAIMERS ELSEWHERE IN THIS AGREEMENT, 46 LABS EXPLICITLY DISCLAIMS ANY AND ALL WARRANTY OR MAINTENANCE RESPONSIBILITY FOR CPE. ANY WARRANTY CLAIMS, MAINTENANCE, OR REPAIRS FOR CPE WILL BE THE SOLE RESPONSIBILITY OF THE CUSTOMER.

6.2.2 Use of Customer CPE. 46 Labs is not responsible for the configuration of, maintenance or support of, Customer's personal computers, network, telecommunications or other telephony equipment that may be necessary to make CPE compatible with the Service. Customer may not use CPE that 46 Labs has not certified for use with the Services. Customer is solely responsible for ensuring that CPE complies with the compatibility guidelines published by 46 Labs. If Customer or a third party changes the settings with respect to CPE at Customer's location that 46 Labs uses to provide Service, including, but not limited to the addition of software or other devices on the local area network, then Customer assumes the risk that the Service may not work. Customer is solely responsible for ensuring the proper functioning of CPE. 46 Labs will not provide any assistance in the setup or configuration of CPE at the time of installation. Customer is solely responsible for the management of CPE. 46 Labs' will not provide any support with the configuration or maintenance of CPE. If 46 Labs dispatches a technician in response to a trouble ticket ultimately determined by 46 Labs to be the result of issues with the CPE, 46 Labs will charge Customer for the costs to dispatch the technician.

6.2.3 SLA Credit Limitations. Customer will not receive SLA credits if 46 Labs determines that CPE contributed to a support event for which Customer is requesting a credit. Customer will not receive SLA credits if 46 Labs determines that CPE contributed to the event for which Customer is requesting.

6.3 Customer Cooperation. Provisioning and maintaining Service will require Customer's cooperation, including allowing 46 Labs or its third-party contractors, reasonable and safe access to Customer's premises to activate and support the Service.

7 **Confidentiality, Publicity.**

7.1 Confidentiality Obligation, Notice. Customer shall maintain the confidentiality of the Confidential Information and shall use the same level of care, but in no event less than a reasonable standard of care, as it uses to maintain the confidentiality of its own confidential information. Customer shall take reasonable steps to ensure that Customer's personnel, subcontractors, and personnel of such subcontractors, if any, comply with this Section 7.1, which steps shall include obtaining enforceable written agreements from Customer's personnel and subcontractors and requiring enforceable written agreements from personnel of subcontractors binding such entities and individuals to obligations of confidentiality no less restrictive than those set forth in this Agreement. Customer agrees that if it is required by law to disclose the Confidential Information, Customer shall first give written notice of such required disclosure to 46 Labs and 46 Labs shall have a reasonable opportunity to prevent or limit the third-party disclosure. Customer acknowledges that monetary damages may not be sufficient remedy for unauthorized disclosure or use of Confidential Information and that 46 Labs may seek without waiving any other rights or remedies, such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction. The confidentiality obligations under this Agreement shall remain in effect during the term of this Agreement and for a period of five (5) years after termination.

7.2 Customer Confidential Information. 46 Labs' confidentiality obligations to Customer are described in the PP.

7.3 Passwords. Customer will be asked to create a password in order to gain access to Customer's account information on-line or when contacting a 46 Labs agent by phone. Customer agrees to keep all passwords and account information confidential and Customer is solely responsible for any liability or damages resulting from Customer's failure to maintain that confidentiality, and for all activities that occur under Customer's password. Customer must immediately notify 46 Labs if Customer suspects any breach of security such as loss, or unauthorized disclosure or use of Customer's password and account.

7.4 Non-Disclosure and Publicity. Neither party shall disclose to any third party either the existence of or the terms of the Agreement without the prior written consent of the other Party.

8 **Representations and Warranties.**

8.1 Customer Representations and Warranties.

8.1.1 Customer warrants and represents that (a) it has full power and authority to enter into this Agreement; (b) the signatory to this Agreement possesses all necessary authority to enter into this Agreement in all respects and render it effective; (c) that it shall comply with all applicable federal, state, and local laws, ordinances, regulations and codes in its use of the Services. The laws and regulations include United States export control laws. Customer shall adhere to the laws of foreign countries, particularly if traveling

internationally, with a device used in conjunction with the Service. Customer represents that the address provided to 46 Labs for billing purposes is either Customer's residential or business street address.

- 8.1.2 Federal Laws and Regulations. Customer further warrants and represents that it will adhere to all federal, state, and local laws, ordinances, regulations, and codes applicable to telemarketing. These laws include, but are not limited to the TSR, the TCPA, U.S. Federal Do Not Call rules (set forth in 47 C.F.R. section 64.1200 and 16 C.F.R. Part 310) and the federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. This list of laws and regulations is not intended to provide Customer with a complete list of all applicable law. It is Customer's responsibility to consult with its own attorney regarding the applicable law for its use of the Service. Customer has sole responsibility for ensuring Customer checks the U.S. national Do Not Call Registry as prescribed by law, and is not calling any party on the registry. Customer is solely responsible for determining any and all lead lists, contact lists, automatic dialing lists it uses do not violate these laws, rules, or regulations. 46 Labs assumes no liability for any equipment or malfunction of any CPE or Product used to upload, download, block, or dial telephone numbers called by or on behalf of Customer. Regardless of whether or not 46 Labs takes action to mitigate or correct a violation of a regulation or law from Customer's use of the Service, Customer shall bear all responsibility and be fully liable for a violation of this Section 8.1.
- 8.1.3 Call Recording and Monitoring. Customer warrants and represents that it will adhere to all federal, state, and local laws, ordinances, regulations, and codes applicable to telephone call monitoring and recording. Customer acknowledges and understands that there are federal and state statutes governing the electronic recording of telephone conversations and that 46 Labs will not be liable for any illegal use of the service. It is the Customer's sole responsibility (a) to determine if the electronic recordings are legal under the applicable federal and state statutes and regulations, and (b) to fully comply with all applicable federal and state statutes and regulations. 46 Labs expressly disclaims all liability with respect to Customer's recording or monitoring of telephone conversations. 46 Labs is not responsible for any misinterpretation, lack of understanding or lack of knowledge regarding the use of electronic recordings or monitoring conversations or the use of its products by Customer whether legal or illegal. Customer shall fully hold 46 Labs harmless and indemnify 46 Labs from all damages and/or liabilities or potential liabilities arising from or related to Customer's unlawful recording or monitoring of any telephone conversation using 46 Labs' service.
- 8.1.4 CPN or Pseudo CPN Requirements for Telemarketers. Per the Federal Trade Commission, telemarketers are required to transmit their telephone number to Caller ID services. Customer warrants that it will provide CPN or pseudo-CPN information in compliance with federal rules.
- 8.2 46 Labs Representations and Warranties.
- 8.2.1 46 Labs warrants that (a) 46 Labs has full power and authority to enter into this Agreement and convey the rights conveyed herein; and (b) the signatory to this Agreement possesses all necessary authority to enter into this Agreement with 46 Labs in all respects and render it effective.

8.2.2 Warranty Disclaimer. 46 LABS SPECIFICALLY AND EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS, IMPLIED ORAL OR WRITTEN, WITH RESPECT TO THE SERVICES PROVIDED HEREUNDER OR THE FACILITIES AND EQUIPMENT FURNISHED PURSUANT TO THE AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE. IN NO EVENT SHALL 46 LABS OR ANY AFFILIATED PERSON OR ENTITY BE LIABLE TO CUSTOMER OR ANY AFFILIATED PERSON OR ENTITY FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, RELIANCE, COST OF COVER, SPECIAL, PUNITIVE OR SIMILAR OR ADDITIONAL DAMAGES, UNDER ANY THEORY OF TORT, CONTRACT, WARRANTY, STRICT LIABILITY OR NEGLIGENCE, INCURRED OR SUFFERED AS A RESULT OF UNAVAILABILITY, PERFORMANCE, NON-PERFORMANCE, TERMINATION, BREACH, OR OTHER ACTION OR INACTION UNDER THE AGREEMENT, INCLUDING BUT NOT LIMITED TO LOST REVENUES OR PROFITS, LOSS OF ABILITY TO PERFORM, LOST CONTRACTS, COSTS OF THIRD-PARTY REPAIR OR REPLACEMENT, OR FAILURE OF 911 OR OTHER FEATURES, EVEN IF CUSTOMER OR ANY AFFILIATED PERSON OR ENTITY ADVISES 46 LABS OR ANY AFFILIATED PERSON OR ENTITY OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. IN THE EVENT A VENDOR(S) IS EMPLOYED ON BEHALF OF THE CUSTOMER, THE CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR PAYMENT TO THE VENDOR EMPLOYED WITHOUT CLAIM TO 46 LABS. 46 LABS SHALL NOT BE RESPONSIBLE FOR PAYMENT OF ANY VENDOR CHARGES INCURRED BY CUSTOMER OR ANY OTHER PARTY, WHETHER OR NOT SUCH CHARGES ARE AS A RESULT OF ERROR OR OMISSION BY 46 LABS OR ANY OTHER THIRD PARTY. IN THE EVENT 46 LABS DISPATCHES A VENDOR, LOCAL EXCHANGE CARRIER OR OTHER TECHNICIAN ON BEHALF OF CUSTOMER, AND IT IS DETERMINED THAT THE DISPATCH WAS DUE TO A CUSTOMER, CPE, WIRING, EQUIPMENT OR OTHER CUSTOMER RELATED ISSUE, THEN THE CUSTOMER WILL BE RESPONSIBLE FOR PAYMENT OF COSTS INCURRED BY 46 LABS FOR THE DISPATCH. 46 LABS SHALL NOT BE RESPONSIBLE FOR DAMAGE TO PROPERTY OR FOR INJURY TO ANY PERSON ARISING FROM THE INSTALLATION, MAINTENANCE OR REMOVAL OF EQUIPMENT OR THE PROVISIONING OF SERVICES, AND CUSTOMER HEREBY INDEMNIFIES AND HOLDS HARMLESS 46 LABS FROM AND AGAINST ANY LIABILITIES INCLUDING ATTORNEY'S FEES ARISING OUT OF SUCH DAMAGE OR INJURY. 46 LABS MAKES NO REPRESENTATIONS OR WARRANTIES THAT THE SERVICES ARE FREE OF RIGHTFUL CLAIMS BY ANY THIRD PARTY FOR INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY OR OTHER PROPRIETARY RIGHTS. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY CUSTOMER FROM 46 LABS, OR ITS EMPLOYEES, CONTRACTORS, OR AGENTS, REGARDING THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT. CUSTOMER'S REMEDIES FOR CLAIMS UNDER THIS AGREEMENT SHALL BE LIMITED TO OUTAGE CREDITS AS DESCRIBED HEREIN.

8.2.3 Third-party Sites, Information and Content. For certain 46 Labs Services, including but not limited to dedicated Internet access and wireless data service, Customer will be communicating with and receiving information or data to or from independently owned and operated content providers or service providers. 46 LABS IS NOT A PUBLISHER OF THIRD-PARTY INFORMATION, APPLICATIONS, OR OTHER CONTENT AND IS NOT RESPONSIBLE FOR ANY OPINIONS, ADVICE, STATEMENTS, OR OTHER INFORMATION, SERVICES OR GOODS PROVIDED BY THIRD PARTIES. Third-party content or information providers may impose additional charges. They may have differing terms of use and differing policies than those of 46 Labs. Customer is solely responsible for all charges from such third-party content or information providers and is solely responsible for adhering to the terms and conditions and policies of such third parties. Delays or omission of information or data may occur with respect to third party content or information providers. Neither 46 Labs nor its content providers, service providers, affiliates, or other third parties shall be liable for any loss or injury arising out of or caused, in whole or party, by Customer's use of any information, application or content acquired through any 46 Labs Service.

9 Indemnification.

9.1 46 Labs' Indemnification of Customer.

9.1.1 Misconduct. 46 Labs will defend and indemnify Customer, its employees, directors, officers and agents, from and against any suit, proceeding or other claim that is brought by a third-party and is caused by, arises from, or relates to damage to real or tangible personal property or personal injuries including death due to the gross negligence or willful act or omission of 46 Labs in the provision of Service by 46 Labs. This indemnification shall not apply to any entity who is a party to or an affiliate of a party to this Agreement.

9.1.2 Intellectual Property. If a Service provided by 46 Labs becomes, or if 46 Labs reasonably believes a Service it is providing may become, the subject of a suit, proceeding or other claim by an third party alleging the Service directly infringes the U.S. patent, trademark, trade secret or copyright rights of such entity, 46 Labs shall, at its own expense and option may seek to remedy the allegations through any combination of the following: (a) procure the right for 46 Labs to continue to provide the Service; (b) modify or replace the Service with a different service that has substantially similar functionality; (c) discontinue providing or direct the cessation of any use of the Service and refund to Customer a prorated portion of any charges paid for the affected Service through the date of Service discontinuation or cessation. Additionally, if the Service is determined by a court of competent jurisdiction to have directly infringed on an entity's Intellectual Property rights, or if such claim is settled, 46 Labs shall indemnify Customer for its reasonable legal fees incurred to defend itself against such claim up to and including the time of final disposition or settlement of such claim and any payment required to be made by Customer pursuant to such judgment or settlement.

9.2 Customer's Indemnification of 46 Labs

9.2.1 Customer will defend and indemnify 46 Labs, its employees, directors, officers and agents, from and against any damages, penalties, interest, expenses, liabilities, suit, proceeding or other claim asserted, threatened, or brought by an entity that is caused

by, arises from, or relates to: (a) damage to real or tangible personal property, personal injuries including death arising out of the gross negligence or willful act or omission of Customer in the use of the Service; (b) any fraud arising from Customer's use of the Service; (c) any failure of Customer to properly collect or remit taxes of services ordered hereunder; (d) representations regarding the nature of Customer's traffic and any use, operation or resale of Service by Customer in contravention of this Agreement, (e) claims of libel or slander arising from Customer's use of the Service; or (e) Customer's engagement of, or relationship or interaction with, any third party service provider.

- 9.2.2 Truth in Caller ID Act Indemnification. Customer shall forever indemnify, defend and hold 46 Labs harmless from any demand, claim, action, proceeding, fine, penalty or assessment brought or initiated by third parties, in their individual capacity, or regulatory agencies or authorities including, but not limited to, the Federal Communications Commission, State Attorneys General, Federal Trade Commission, state regulatory authorities where concurrent jurisdiction exists for any alleged or actual violation by Customer or its affiliates of the TCIA. This specific indemnity shall be a blanket indemnification for all consequences, whether known or unknown on the part of 46 Labs or Customer that may befall 46 Labs as a result of any such actual or alleged violation by Customer of the TCIA. This indemnification shall include, but not be limited to, any cost of defense incurred response required or documentation requested of 46 Labs due to any such violation of the TCIA by Customer. In the event parties other than Customer shall have use of the telecommunications services provided by 46 Labs through Customer, then the Customer agrees to forever indemnify and hold 46 Labs and any third party provider or operator of facilities employed in provision of telecommunications services provided by 46 Labs harmless from and against any and all claims, demands, suits, actions, losses, damages, assessments or payments which those parties may assert relating to any violation of the TCIA. Customer agrees to reimburse 46 Labs for all reasonable costs and expenses incurred by 46 Labs due to 46 Labs' direct participation in any administrative, regulatory, criminal or civil proceeding concerning Customer if 46 Labs' involvement in the proceedings is based upon Customer's actions or inactions resulting in a violation of the TCIA.
- 9.3 Indemnification Notification, Procedure. The Indemnified Party will promptly notify the Indemnifying Party in writing no later than sixty (60) days after receipt of such notification of a potential claim. The Indemnifying Party may assume sole control of the defense of such claim and all related settlement negotiations. The Indemnified Party will provide the assistance, information and authority necessary to assist the Indemnifying Party in its obligations. Neither party may settle any such matter without the consent of the other as to any settlement that imposes an obligation on, or requires any admission by, the other party. Failure of the Indemnified Party to promptly notify the other will not relieve the Indemnifying Party of its obligations except to the limited extent such delay prejudices the Indemnifying Party.
- 9.4 911 Call Limitation and Indemnification. Neither 46 Labs nor its underlying carriers, or any other third parties involved in the routing, handling, delivery, or answering of emergency services or in responding to emergency calls, nor their officers or employees, may be held liable for any claim, damage, loss, fine, penalty or cost (including, without limitation,

attorneys' fees), and Customer hereby waives any and all such claims or causes of action, arising from or relating to the provision of all types of emergency services to Customer. Customer further indemnifies and holds 46 Labs harmless from any claim or action for any caller placing such a call without regard to whether the caller is an employee of the Customer. Customer holds harmless and indemnifies 46 Labs from any claim or action arising out of mis-routes of any 911 calls, or whether local emergency response centers or national emergency calling centers answer a 911 call or how the 911 calls are handled by any emergency operator, including operators of the national call center. These limitations apply to all claims regardless of whether they are based on breach of contract, breach of warranty, product liability, tort or any other theories of liability.

10 Limitations on Liability.

- 10.1 Underlying Carriers. 46 Labs is not liable for any act or omission by any other company or companies furnishing a portion of the Services to Customer.
- 10.2 Limitation of 46 Labs Liability for Direct Damages. 46 Labs' liability to Customer for any damage, including but not limited to property damage to Customer premises, service outages or problems, and personal injury, shall in no event be greater than an amount equal to the sum of the payments made by Customer to 46 Labs during the three (3) months immediately preceding the event for which losses or damages are claimed. By entering into an Agreement and remaining a Customer, Customer manifests its acceptance of this limitation on direct damages as fair and reasonable.
- 10.3 Indirect or Consequential Damages. Neither 46 Labs nor Customer shall be liable to the other for any indirect, incidental, exemplary, punitive or consequential damages, whether or not foreseeable, including, but not limited to, damages from the loss of data, business goodwill or profits, savings or revenue, harm to business, whether under contract, tort, including negligence, strict liability or any other theory of liability. A party's out-of-pocket costs for damages recovered by a third party shall be deemed to be indirect damages suffered by such party, except to the extent such damages are part of a claim for which indemnification is due under Section 9.
- 10.4 Service Interruptions. 46 Labs' sole liability under this Agreement for interruption of Service or failure of equipment shall be limited to that amount of 46 Labs' actual fixed charges incurred by Customer during the period of such interruption for all services provided. 46 Labs shall not be liable for any interruption caused by the negligence or willful act or omission of Customer or any third party furnishing any portion of the Services. Customer's sole and exclusive remedy for any Service related claim will be set forth in service related SLA.
- 10.5 Delays. 46 Labs shall not be liable to Customer for losses or damages resulting from its inability to provide Service or from any delay in meeting a scheduled Start of Service Date or a scheduled change in the Start of Service Date.
- 10.6 Force Majeure Events. In no event shall either party have any claim or right against the other party for any failure of performance, except for 46 Labs' right to seek payment of all accrued charges, due to causes beyond that party's reasonable control, including, but not limited to: acts of God, earthquake, fire, explosion, vandalism, fiber optic cable cut, storm, flood or other similar catastrophes; any law, order, regulation, direction, action or request

of the United States Government, or of any other government, including state and local governments having or claiming jurisdiction over either of the Parties or of any department, agency, commission, court, bureau, corporation, or other instrumentality of any one or more said governments, or of any civil or military authority; national emergencies; unavailability of materials or rights-of-way; insurrections; acts of terrorism; riots; wars; strikes; lock-outs, work stoppages or other labor difficulties; actions or inactions of third party providers or suppliers; or supplier failures, shortages, breaches or delays.

- 10.7 Facilities, Services, Equipment or Systems of Others. 46 Labs shall not be liable for the unavailability, or deficient performance, of any CPE, facilities, services, equipment or systems used in connection with the provision of Services that are under the control of Customer or any third party, even if 46 Labs has acted as the Customer's agent in procuring such facilities, services, equipment or systems from third parties. Customer's rights with regard to the unavailability or deficient performance of such facilities, services, equipment or systems not provided by 46 Labs shall be strictly as established by the supplying entity. In all instances, the Customer shall be responsible for the security of its facilities, services, network equipment or systems interconnected, with 46 Labs' Service. Customer shall be liable to 46 Labs for any loss, theft, or damage to any of 46 Labs' equipment located on Customer's premises, however caused.
- 10.8 Electronic Recording. 46 Labs expressly disclaims all liability with respect to Customer's recording or monitoring of telephone conversations. 46 Labs is not responsible for any misinterpretation, lack of understanding or lack of knowledge regarding the use of electronic recordings or monitoring conversations or the use of its products by Customer whether legal or illegal. Customer shall fully hold 46 Labs harmless and indemnify 46 Labs from all damages and/or liabilities or potential liabilities arising from or related to Customer's unlawful recording or monitoring of any telephone conversation using 46 Labs' service.
- 10.9 Customer's Failure to Fulfill Obligations. 46 Labs shall not be liable to Customer or any third party for Customer's failure to fulfill its obligations, including, without limitation, Customer: (a) obtaining, installing and maintaining all necessary equipment, materials, and supplies for interconnecting Customer or third party facilities, services, equipment or systems to Services; (b) securing all licenses, permits, approvals, rights-of-way, access rights, including ingress and egress from buildings, and other arrangements necessary to install, receive and use Services; (c) ensuring that Customer or third-party facilities, services, equipment or systems interface properly with Services; (d) that the signals delivered to 46 Labs' Service are fully compliant with industry standards and that such signals do not damage 46 Labs property or personnel, or degrade Service to other Customers of 46 Labs; and (e) Customer use of non-approved Services.
- 10.10 Misuse of Service. 46 Labs shall neither provide credit allowances nor otherwise be liable for the use, misuse or abuse of Services by Customer, its agents, employees or any third parties including, without limitation, members of the public. If 46 Labs co-operates with Customer by recommending potential solutions to reduce or eliminate the unauthorized use of the Service, 46 Labs' recommendation shall not be deemed to be promises or guarantees by 46 Labs that the unauthorized use of Services will be reduced or

eliminated, and in no event shall 46 Labs incur any liability in connection with those undertakings to Customer or any third party.

- 10.11 Billing Errors. 46 Labs' obligation with respect to any errors resulting in Customer overpayments for Service is limited to granting invoice credits equal to the dollar amounts erroneously billed. Under no circumstances will any billing error affect the Customer's obligation to pay for Services rendered and used.
- 10.12 Third Party. Customer is solely responsible for its interaction and relationship with any third-party provider that it may engage for any purpose. If Customer has a dispute with a third-party service provider, Customer agrees that 46 Labs is not liable for any claims or damages arising out of or connected with such dispute. 46 Labs reserves the right, but has no obligation, to monitor any such dispute.

11 Term, Termination, Notice.

- 11.1 Term. The Term of the Agreement shall commence on the Start of Service Date and shall continue for the initial Service Order Term as set forth in the Customer's initial SO. After such initial term, the Agreement shall automatically renew for successive one (1) year terms unless terminated in writing by 46 Labs or by Customer via mail pursuant to this Agreement. This Agreement shall terminate only upon the completion or termination of all associated SOs. At the sole discretion of 46 Labs, an individual SO may be terminated without terminating the Agreement.
- 11.2 Termination. 46 Labs may elect in its sole discretion to terminate this Agreement and any outstanding SO(s) immediately for any reason enumerated under Section 3.4. 46 Labs may terminate this Agreement or any SOs, at its option upon providing Customer with written notice of such election. In such event, the effective date of the termination shall be thirty (30) days from the date of such notice. 46 Labs shall not be liable to Customer or any third party for any reason for terminating or suspending Customer's use of or access to the Services. Customer may cancel the Service by emailing 46 Labs at support@46labs.com, AND by giving written notice to 46 Labs as provided in Section 11.3, with the words "Attention: Service Disconnection Request" prominently written on the outside of the envelope or in the subject line of the email, no less than forty-five (45) days prior to the effective date of such cancellation. 46 Labs shall begin the disconnection process upon receipt of notification from the Customer. Charges shall continue until 46 Labs and any underlying carriers complete the disconnection process, or forty-five (45) days, whichever is later. 46 Labs recommends Customer ensures any replacement services are operational before requesting disconnection, as 46 Labs is not responsible for any interruption or failure of service once disconnection has been requested by Customer. Once disconnection has been requested, service may disconnect at any time after forty-five (45) days without prior notice to Customer.
- 11.3 Notice. All notices, demands, consents, requests, approvals, Customer name and address changes, billing inquiries and requests, authorizations, or other communication which Customer is required or desires to give or make to 46 Labs shall be in writing and shall be effective (a) immediately upon hand delivery, (b) on the next business day if sent by a generally recognized overnight delivery service (subject to confirmation of receipt from the service), or (c) on the date received if sent by United States certified or registered mail,

return receipt requested or email. Any faxed notice must be followed up with a written notice which is either hand-delivered; mailed either certified or registered mail; or delivered by a reputable overnight carrier, as per the above. Such Notices shall be sent to the address or fax number of 46 Labs as set forth below:

By Mail to:

46 Labs
Attn: Legal
1503 E. 19th St.
Edmond, OK 73013

By Fax to:

46 Labs
Attn: Legal
1-405-340-1001

By E-mail to:

46 Labs
support@46labs.com

Notices to Customer shall be sent to the email or billing mailing address on file in the 46 Labs billing system.

Rate change notices may be delivered by 46 Labs to Customer by email or facsimile and shall be deemed to be delivered when received by Customer.

12 Miscellaneous Provisions.

- 12.1 Entire Agreement. This Agreement, including any associated SOs, any supplemental product terms and conditions, AUPs, PP, SLAs, and SSAs, shall constitute the entire agreement between the Parties with respect to the subject matter of this Agreement and supersede all prior statements, agreements, discussions, proposals, representations or warranties, whether written or oral, on this subject matter, and there are no representations or promises which are not expressly set forth herein. No statement, representation or warranty made by any agent or representative of 46 Labs regarding the Services, facilities or equipment to be provided hereunder or the rates therefore shall be binding upon 46 Labs unless expressly included herein.
- 12.2 Compliance with Law. In conjunction with the Agreement, each Party shall at all times comply with all applicable federal, state, and local statutes, ordinances, regulations and orders of any commission or other government body.
- 12.3 Change of Contact Information. Customer acknowledges that it is Customer's sole responsibility to supply immediate notice to 46 Labs if Customer changes any of its contact information. If at any time Customer's name or billing information changes from that which is set forth below, Customer shall have five (5) days to inform 46 Labs of such changes in accordance with the notice provisions set forth in the Agreement.
- 12.4 Relationship of Parties. Neither the Agreement nor the provision of Service hereunder shall be deemed to create any joint venture, partnership or agency between 46 Labs and Customer; the Parties are independent contractors and shall not be deemed to have any other relationship. Neither Party, nor any agent or representative of either Party, shall

have, or hold itself out as having the power or authority to bind or create liability for the other Party by its intentional or negligent act and no claimed act of authority shall have any binding effect.

- 12.5 Amendment. Except as otherwise provided in this Agreement, the terms and conditions of this Agreement may not be modified or amended other than by a document that expressly states its intention to modify this Agreement, and such document is signed by hand in ink or by commercially recognized electronic signature service by both Parties.
- 12.6 Service Order, Signatures. 46 Labs shall not be bound by the terms of the Agreement, any associated SO, SLA, SSA or AUP or any supplemental document or agreement of any kind, unless the Agreement and associated SOs are signed by hand in ink or by commercially recognized electronic signature service by an officer of the Customer.
- 12.7 Survivability. Sections 2, 7, 8, 9, 10, 11.3, 12.8 and 12.9 shall survive the completion of those performances and the Agreement's termination. These include, without limitation, the making of payments due under the Agreement.
- 12.8 Governing Law, Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Oklahoma without reference to its principles of conflicts of laws. The United Nations Convention on Contracts for the International Sale of Goods ("CISG") shall not apply. Customer and 46 Labs both hereby irrevocably agree that any suit brought by either Party arising out of or relating to this Agreement shall be brought exclusively in the United States District Court for the Western District of Oklahoma, and Customer and 46 Labs both hereby submit to the personal jurisdiction of such courts. The Parties both hereby irrevocably waive, to the fullest extent permitted by applicable law, any objection which either Party may raise now, or hereafter have to the laying of the venue of any such suit, action or proceeding brought in such a court and any claim that any such suit, action or proceeding brought in such a court has been brought in an inconvenient forum. THE PARTIES HEREBY EXPRESSLY WAIVE THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT BY A PARTY AGAINST THE OTHER PARTY RELATING TO THIS AGREEMENT. In the event an action is brought or an attorney is retained by either Party to enforce the terms of this Agreement or to collect any money due hereunder, the prevailing Party will be entitled to recover, in addition to any other remedy, reimbursement for reasonable attorney's fees, court costs, reasonable costs of investigation and other related expenses incurred in connection therewith.
- 12.9 No Waiver. Neither 46 Labs' nor the Customer's failure, at any time, to enforce any right or remedy of the Agreement will be interpreted as a waiver of such Party's right to enforce each and every provision of the Agreement in the future. No waiver of any provision of this Agreement, or any rights or obligations of either Party under this Agreement, shall be effective, except pursuant to a written instrument signed by the Parties waiving compliance, and any such waiver shall be effective only in that specific instance and for the specific purpose stated in such writing.
- 12.10 Severability. In the event any provision of this Agreement conflicts with the law under which this Agreement is to be construed or if any such provision is held invalid, illegal or unenforceable by a court with jurisdiction over the Parties to this Agreement, such provision shall be deemed to be restated to reflect as nearly as possible the original

intention of the Parties in accordance with the applicable law, and the remainder of this Agreement shall remain in full force and effect. The illegality or unenforceability of any provision of this Agreement does not affect the legality or enforceability of any other provision or portion of this Agreement.

- 12.11 Assignment. 46 Labs may assign in whole or in part its rights or duties under the Agreement without prior notice to Customer and upon such assignment 46 Labs shall be released from all liability hereunder. Customer may assign the Agreement only with 46 Labs' prior written consent. Subject to these restrictions, the Agreement shall inure to the benefit of and be binding upon the heirs, successors, subcontractors, and assigns of the respective Parties.
- 12.12 No Third-Party Beneficiaries. Except to the extent explicitly provided, this Agreement and any associated SO is being executed for the sole and exclusive benefit of 46 Labs and Customer and is not for the benefit of any third parties. The execution of the Agreement and any associated SO shall not create any obligations or confirm any rights on any person or entity other than the Parties hereto.
- 12.13 Interpretation. Neither this Agreement nor any SO may be construed or interpreted for or against 46 Labs because 46 Labs drafted any of its provisions.
- 12.14 Headings. Headings contained herein are provided for reference and convenience only. Headings do not affect or limit the interpretation, contents or terms of this Agreement.
- 12.15 Execution in Counterparts and by Facsimile. The Parties hereby acknowledge that any document requiring a signature under this Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same instrument. The Parties intend that any counterpart copy signed and exchanged (including signed counterparts exchanged via facsimile or email) shall be fully binding as an original handwritten executed copy and all such copies together shall constitute one instrument.