

COMMERCIAL TERMS AND CONDITIONS

This Master Services Agreement shall govern the Services provided to You (hereinafter “**you**” or “**Customer**”) by Fidium or a Fidium affiliate (“**we**” or “**Fidium**”) and along with the Service Order and any applicable product addendum(s), constitutes the agreement (the “**Agreement**”) for the provision of the services and products specified on each Service Order (as defined below) (each, a “**Service**” and collectively, the “**Services**”). These terms are binding on you and Fidium as of the Effective Date of the Service Order (the

“**Effective Date**”). This Agreement will continue in force for so long as any Service is provided by Fidium to Customer. If you ordered Services pursuant to a written agreement prior to September 22, 2025 and those Services have not been renewed since the date of such agreement, the terms of the prior written agreement will control over any conflicting terms in this Agreement as to those Services until the date of any renewal of those Services. Following renewal, this Agreement will apply exclusively to any renewed Services.

1. Provision of Services.

1.1. Subject to Section 1.2 we will provide Fidium’s services to you pursuant to this Agreement and as set forth in one or more Service Orders executed by you and us from time to time and which shall be incorporated by reference (collectively, the “**Service Orders**”, with each service set forth therein being a “**Service**” and collectively the “**Services**”). Each Service Order will identify the scope of the Services that is the subject of such Service Order. Additionally, one or more addendum(s) with service-specific terms and conditions may be incorporated into the Service Order (each, an “**Addendum**”). Each such Addendum will be governed by and incorporated into the Service Order and therefore this Agreement. You will remain primarily liable for any Service Order executed by any of your subsidiaries or affiliated entities.

1.2. Our obligation to provide the Services is subject to authorization to operate in the jurisdiction(s) where the Services are requested. Our obligation to provide Service is in all cases dependent upon the ability to provide, procure, construct and/or maintain the facilities that are required to meet your order as reflected in the applicable Service Order. We will make all commercially reasonable efforts to secure the necessary facilities, provided such facilities are reasonably available and the provision of the Services will not adversely affect our other services or the offering of the Service to other customers. However, if we reasonably determine that we are unable to secure the necessary facilities or are unable to provide the Services as required, we may cancel the applicable order or Service Order without further liability or obligation hereunder.

1.3. You acknowledge that we may elect to perform under this Agreement through one or more Fidium affiliates or other entities and that the applicable Fidium affiliate to this Agreement is located in the state in which the Service(s) are being provided as referenced at <https://www.fidiumbusiness.com/business-terms-policies/affiliates>.

2. Term. This Agreement is legally binding and enforceable as of the Effective Date. The initial term for each Service Order will commence (each, a “**Service Commencement Date**”) on that date upon which the last Service element in a Service Order is made available by Fidium for use by you. Billing for each Service element within a Service Order will commence on (i) that date upon which the Service is made available by Fidium for use by you, or (ii) the date Fidium notifies Customer that the Service would have been available but for a delay caused by Customer. Such delays may include failure to provide access, information, equipment readiness, or other required cooperation. We will use commercially reasonable efforts to install the Service(s) on the estimated delivery date agreed by the parties, provided that we do not guarantee that Services will be installed and provided on the estimated delivery date. Upon expiration of the initial term for each Service Order, the Service Order shall continue thereafter on a month to month basis and any discounted or promotional pricing will expire and be adjusted to

reflect our then-current rates for the Services. During any month to month renewal term, we may discontinue or modify the Service or increase Service charges at any time with thirty (30) days’ prior notice to you. This Agreement will remain in effect as long as the term for any Service Order is ongoing or any Service continues to be provided to you. This agreement will automatically terminate when the Services provided under the last effective Service Order are terminated by either party by providing advance written notice of termination or are otherwise terminated in accordance with the terms of this Agreement. However, the termination of this Agreement will not affect the rights or obligations of any party hereto with respect to any payment for services rendered prior to the date of termination or pursuant to any other provisions of this Agreement that, by their sense and context, are intended to survive termination of this Agreement.

3. Early Termination Fee. If you cancel the Agreement or any Service after the Effective Date but before the date that the Service is first made available to you, or if installation fails because of your action or inaction, and is not later completed, you agree to pay to us a cancellation charge equal to four (4) months of MRCs, plus all costs incurred by us in connection with the extension of facilities to your location, including both our costs and third-party costs. The cancellation charge will be paid to us not later than the later of any due date identified on the invoice or thirty (30) days after the date Service is terminated. If we have provided any equipment to you, the equipment must be returned to us in good condition or you will be responsible for its cost. If you terminate any Service after the Service is first made available to you and before the end of the applicable term for any reason not permitted by this Agreement, or if we terminate any Service or this Agreement for your breach, you are responsible for an early termination charge equal to 100% of the MRCs for each affected Service for each of the remaining months in the term. In addition to the applicable early termination charge, we reserve the right to charge you for the following ancillary costs related to your Service in the event of an early termination: (i) any recurring Service charges that are due or that become due and that are unpaid as of termination; (ii) any non-recurring charges (including any non-recurring charges that were waived by us at the time the Services were ordered) that are due or that become due and that are unpaid as of termination; (iii) any unrecovered costs of installation including, without limitation, fiber build and similar costs; (iv) all costs incurred by us, including costs with a third party, for any service, equipment or access rights procured in order to install a Service and/or to serve you; and (v) all taxes, fees and assessments. You agree that the early termination charge and the ancillary costs described above are a fair estimate of the damages to us in connection with your early termination and are not a penalty. Early termination charges may be waived if you upgrade a service for a term at least as long as the remaining term on this Agreement. Your cancellation or termination of a Service must be provided in writing to us via the Service Disconnection Form on our website, available at: <https://www.fidiumbusiness.com/contact-us/disconnect>. In the event of an early termination, we will have up to 30 days from receipt of your termination

notice to complete the disconnection of the Service. The cancellation charge or early termination fee and all unpaid charges for the terminated Service(s) through the termination date are due in full upon cancellation or termination of the applicable Service(s).

4. Service Order Procedures. From time to time, you may submit a request to us for certain additional Services (i.e., a new circuit, additional features only) via electronic submission or customer service. Services not included in the aforementioned will be quoted and provided to you in the form of an additional Service Order. Any such additional Service Order will also be governed by the terms and conditions of this Agreement, including with respect to the Service Commencement Date and renewal term provisions herein.

5. Use of Services. You are responsible to pay for all use of Service, including others' use of your Service and/or use of your equipment. We encourage you to investigate and implement available security options such as call blocking to protect yourself from fraud. Services are provided to you for your own use and cannot be resold by you unless specifically agreed to in writing by us. You agree to comply with all Federal, state and local laws, rules, regulations and ordinances applicable to the Services or their use. We reserve the right to suspend a Service if we determine that the use being made of that Service is or is likely to be in violation of applicable law or regulation. Our current Acceptable Use Policy (AUP) is available at <https://www.fidiumbusiness.com/business-terms-policies/internet-acceptable-use-policy> and is expressly incorporated into this Agreement. We may update our AUP or other online terms and conditions of use applicable to the Service at any time. You also agree not to interfere with the use of our services by other customers or authorized users or the operation of our network or equipment; or open or otherwise tamper with any of the equipment installed or provided by us. In any instance in which we believe in good faith that there is a breach of these use of Services requirements, we may immediately restrict, suspend or discontinue providing Services or prevent the display or transmission of content provided as part of the Services, without liability to us, and then notify you of the action that we have taken and the reason for such action. You will also reimburse us for damages to our equipment or facilities caused by your negligence or willful acts or omissions, or those of your agents, contractors or users, or resulting from your or their improper use of the Services.

6. Charges and Payment. The Monthly Recurring Charges (MRCs) commence for each Service element as set forth in Section 2 of this Agreement. One-time, Non-Recurring Charges (NRCs) will be due in full on the applicable Service Commencement Date. MRCs for all Services will be billed one month in advance. Usage-based charges, including without limitation long distance charges, will be invoiced each month in arrears. If a tariff governs a Service, the terms of the tariff will take precedence over this Agreement. You agree to pay for all Services on time and at the applicable rates and charges, plus all applicable Taxes and Fees (as defined below), without any deduction or setoff. You agree to pay all amounts stated on the invoice by the due date in the Service Order, or if there is no date stated, within 30 days of the date of our invoice to you (the "Due Date"). All pricing is exclusive of any non-recurring charges, including charges related to any needed extension of facilities or additional work necessary to provide the Services. These charges may include after-hours installation charges for requested installations between 5:00 p.m. and 6:59 a.m. Monday through Thursday or weekend installation charges for requested installations between 5:01 p.m. Friday and 6:59 a.m. Monday. All extension or installation work will only be performed upon your agreement to pay the associated charges, and

if you do not agree to pay such charges, this Agreement (or any applicable Service) will be subject to cancellation by us. Pricing is also exclusive of: (i) any usage or variable charges, (ii) all taxes and fees, and (iii) all charges incurred in connection with governmental or quasi-governmental assessments, all of which are payable by you. We reserve the right to adjust monthly service rates due to increases in tariffed services that are outside of our control, or where third-party vendors increase rates for third-party services, and you will not be entitled to terminate this Agreement as a result of any such increase. Notwithstanding any other terms in this Agreement, pricing is good only in areas where the Service is commercially available. You understand that the Service selected may not be commercially available at the rates, speeds or bandwidth set forth herein in your area, and that the Service Order is subject to cancellation prior to installation at our discretion. During the initial term, we may make changes to the Services, including by adding to or modifying the features associated with the Services, but we will not materially reduce your Service functionality. In some cases, new or modified Service features may require your payment of additional charges. If a new or modified Service feature requires your payment of an additional charge, we will notify you and will provide an opt-out period during which you will be able to opt-out of the applicable feature and the corresponding charge. If you do not opt-out during the opt-out period, your continued use of the Service following the opt-out period signifies your acceptance of the new or modified Service feature and your agreement to pay the corresponding charge. If you do not timely pay your bill, you will be responsible to pay late charges applied to the amount unpaid of one and one-half percent (1.5%) of such amounts from the Due Date until paid in full (or the greatest amount allowed by applicable laws, if less). If your check is returned unpaid, or your payment does not clear, you will be billed our then-applicable fee for such occurrence. If you do not pay all undisputed amounts by the Due Date, we may elect to suspend or to disconnect any Service(s) until your account is brought current, including interest and late charges. A reactivation fee will apply.

6.1 Bill Disputes. If you dispute any charges stated on an invoice, you are required to notify us in writing within thirty (30) days of the date of the disputed invoice. Regardless of the basis of the dispute and unless prohibited by applicable law, if you fail to provide to us a written dispute notice as set forth above within thirty (30) days after the date of the affected invoice in which the disputed charge initially appears, you waive the right to dispute the charge and the invoice will become final and not subject to dispute for any purpose. Your dispute notice must identify the specific charge(s) that you dispute and provide a reasonable explanation of the basis for the dispute. Notification of disputed charges will not excuse payment of the remainder of the invoice, and you agree to pay all other invoiced charges not disputed in accordance with this section by the Due Date. Upon our resolution of a dispute, you will either be credited for disputed amounts resolved in your favor or must pay the disputed amounts found to be due.

7. Taxes and Fees. You will pay all federal, state and locally mandated or allowed taxes (collectively, "Taxes"), and any surcharges, fees, user's fees and universal service contributions (collectively, "Fees") in connection with: (i) the sale and delivery of the Services and/or the use of the Services provided to you; or (ii) your delivery of the Services hereunder to third parties, if permitted by us. Fidium may, from time to time, apply a discretionary surcharge or recovery fee, either as a flat rate or percentage-based charge, to reflect changes in operational costs or market conditions. Such charges, while not government-mandated, will be communicated to Customer in advance and will be reasonable in nature. If you resell any Services with our

permission pursuant to Section 5 above or are otherwise exempt from Taxes, you will provide us with a reseller's certificate or other appropriate exemption document for Taxes for each applicable jurisdiction. You acknowledge that even if you may be exempt from Taxes, you will not be exempt from paying Fees. You will indemnify, defend and hold us harmless from all Taxes and Fees that may be assessed to us for disallowed exempt sales.

8. Equipment, Wiring and Software. We may provide you with equipment and/or inside wiring. Unless otherwise expressly provided in this Agreement or in an applicable Service Order, you obtain no property right or interest in any equipment or facilities provided by us, and all right, title and interest to such items will remain solely with the applicable Service provider, as appropriate. We may at any time substitute the equipment and facilities used to provide the Services. As to all Fidium provided equipment, unless purchased by you and paid in full, you will: (i) keep all the equipment free and clear of any levies, liens and security interests and will provide prompt notice of any attachment or other judicial process affecting any item of the equipment; (ii) safeguard the equipment from loss and damage; and (iii) maintain full responsibility for the equipment if any damage or injury occurs and pay for all repairs, or for the replacement of the equipment if it is irreparable, lost or stolen. You are responsible for all wiring maintenance on your side of the demarcation point. Additional charges based on time and materials may apply if an optical handoff is required for Ethernet delivery. You may not move any Fidium equipment without our written consent and, unless purchased by you and paid in full, you must return all Fidium provided equipment to us within thirty (30) days of when the associated Service is terminated, in the same condition as when installed, reasonable wear and tear excepted, and consistent with any requirement of law. If we provide you with any software, you are only permitted to use the software in object code form on the hardware on which it is installed for the sole purpose of enabling use of the Services, and you agree not to: (i) disclose or make available to third parties any portion of the software without our advance written permission; (ii) further copy or duplicate the software; (iii) reverse engineer, decompile or disassemble such software; (iv) make derivative works from such software; (v) modify such software; or (vi) use the software in a credit bureau capacity. Additionally, to the extent any such software is third party software, the third-party software may be governed by separate license provisions found or identified in documentation or on other media delivered with the third-party software or otherwise provided to you, all of which are incorporated herein by reference.

9. Network Addresses. Any and all network addresses provided to you will at all times remain our property and are non-transferable. We grant you a license to use such network addresses during the term but only for the purposes and as contemplated by this Agreement. You will have no right to such network addresses upon expiration or termination of the applicable Services. You also agree that your license to use such network addresses during the term is revocable and is for non-portable network address space. Network addresses may be re-numbered as and when we deem necessary. All customers applying for IP address space from Fidium must complete an IP address form provided by us, the terms of which will be deemed incorporated herein.

10. Third Party Providers. We may, when authorized by you and agreed to by us, act as your agent for ordering and providing equipment, software and/or facilities provided by third-party providers as needed to allow such connection of your locations to our network, to the network of an underlying network service provider, or to a Service. You are responsible for all charges billed by such third-party providers in connection with your use of Services.

You agree that the Services are subject to the terms, conditions and restrictions contained in any applicable agreements (including software or other license agreements, acceptable use policies, etc.) between us and our third-party providers, all of which, to the extent applicable, will be provided to you and are incorporated herein by reference.

11. Customer-Provided Equipment. You will provide, at your sole cost and expense, any and all additional electronic equipment and other facilities necessary for your use of the Services other than those provided by us. Unless otherwise agreed in writing, we will have no obligations with respect to the provision, installation or maintenance of any customer-provided equipment. You will pay the cost of interfacing to our demarcation point. You are fully responsible for ensuring that all customer-provided equipment is properly interfaced with the Services and emits signals that: (i) are of the proper mode, bandwidth, power, data speed and signal level for your intended use; (ii) are fully compliant with the generally accepted minimum protective standards of the telecommunications industry as endorsed by the Federal Communications Commission (FCC); and (iii) do not damage, harm, degrade or interfere with proper operation of the Services or our equipment and facilities. We assume no responsibility for the quality of the signal generated by any customer-provided equipment and will only be required to use commercially reasonable efforts to deliver the signal to the receiving location in the same format and condition as generated by such equipment. If you fail to maintain and operate your equipment properly, with resulting or imminent interference, degradation or harm to or with the proper operation of our services, equipment or facilities, or with injury or imminent injury to our personnel, we may immediately suspend the Services without liability or require the use of protective interface equipment at your expense.

12. Customer Responsibilities. You are responsible for canceling any existing services not provided by us that will be replaced by the Services on or after the applicable Service Commencement Date. You will at all times cooperate with us and comply with the following customer-site preparation requirements:

12.1. You are responsible for promptly responding to requests for information we deem necessary for the performance of Services. You will designate a contact person with authority to act on your behalf to work with us in the performance of Services. You will be responsible for communicating with your own users of the Services and for responding to all service issues and trouble reports made by such users.

12.2. You are responsible at your own expense for all site preparation and maintenance activities necessary for or prerequisite to the provision of Services at any of your premises and must make all necessary arrangements so that we will have access to such locations at reasonable times for installation of the Service. Prior to installation, you must take all steps necessary to interconnect the Services at the location, including the payment of associated interconnection costs, securing necessary rights-of-way and furnishing of electrical power (AC or DC, as designated by us), heating, ventilation and cooling. We will have the right on a 24-hour-per-day seven-day-per-week basis, but upon reasonable advance notice to you where practicable, to inspect all facilities and equipment to ensure proper functioning of the Service and your proper usage of the Service or to otherwise access your premises for the purposes of installing, testing, repairing, maintaining or removing the Service equipment and facilities.

12.3. You must notify us of any Service interruption. Before giving such notice, you will ascertain that the trouble is not being caused by any of your actions

or omissions and is not a result of or being caused by a defect, malfunction or misconfiguration in any customer-provided equipment. You are also responsible for promptly notifying us of events at your premises that may affect the performance of Services, including all Force Majeure Events described in Section 17.1 below.

12.4. You are responsible to pay us at our then-prevailing rates for labor and materials supplied by us as a result of: (i) changes to the Service demarcation point or the termination point on your network; (ii) software or hardware changes made by you which cause degradation or outages to the Services and necessitates our corrective actions; or (iii) moves, additions, changes or modifications to equipment or network facilities as requested by you.

12.5. If you are purchasing managed Services, you are responsible for (i) providing us with a list of persons authorized to initiate trouble reports on your behalf and to access network performance information via web application or other form of communication, (ii) allowing us unblocked access through the network and firewall for all managed devices, and (iii) providing one (1) business day advance notice to us of any customer-initiated maintenance such as location or network device configuration changes.

12.6. At all times, you are solely responsible for the security of your network. We do not supply features or capabilities to detect, deny or hinder in any way others from trying to gain access to your network. You are responsible to ensure reasonable security practices are implemented whenever your network will interface with our network.

12.7. You are responsible to safeguard your network against unauthorized access to long distance services, to monitor and maintain policies regarding toll usage or 900 calls, to ensure the effectiveness of any restrictions put in place as part of the Services and to pay for any toll or 900 call charges. You will not tamper with or reconfigure any equipment or software to falsify your caller ID by data or voice. Falsifications may violate state and federal laws.

13. Maintenance and Service Issues. The information located at <https://www.fidiumbusiness.com/contact-us/trouble-reporting> is made available to you for reporting service problems, making requests for repair status, escalating individual circuit problems and scheduling maintenance. We also reserve the right to perform network upgrades, maintenance, updates and modifications at such times as are determined by us as required to maintain the Service performance, and any maintenance notices to you will be provided in accordance with the applicable Addendum and prevailing Fidium state practices. We will use commercially reasonable efforts to perform all scheduled maintenance in a manner that minimizes any system interruption and will typically endeavor to perform scheduled maintenance between 12:00 a.m. and 6:00 a.m. local time. Each party will maintain communication with the other party throughout the status of any customer-specific trouble resolution. Your sole remedy for failure of the Services to meet any applicable performance specifications and for any Service interruptions as described in any Addendum will be for us to grant you the credits described in the applicable Addendum, if any. To be eligible for a credit, you must be under term as to the affected Service (must not be month-to-month), must be in good financial standing with Fidium and must open a trouble ticket with us for the Service issue. To receive a credit, you must request the credit in writing within 30 days after the end of the month in which the credit-generating event occurred or you will waive your right to any credit or other remedy for such event. Credit requests must include your name, contact information, billing account number, circuit ID (if applicable), the date of the outage, trouble ticket number(s) and any other information requested

by us. All credit requests are subject to our review and approval, and credits will only be applied in the billing cycle following our approval. Credits are not cumulative (only the highest applicable credit will apply to any one credit-generating event) and will not exceed 50% of the MRC for the affected Service(s) in the aggregate unless otherwise provided in an applicable Addendum. If there are no Addenda or the applicable Addendum does not specifically provide for credits, credits will only apply in our sole discretion. Services provided pursuant to filed state or federal tariff are subject to terms and conditions contained in such tariff and not any Addendum. In no event will you be entitled to credits or other remedies for Service issues caused by you or resulting from Force Majeure Events (described below) or our planned maintenance.

14. Limitation of Warranties. We will perform all installation and other work at the location where Services are provided in a competent manner, and any damage to such location will be promptly repaired or corrected. Additionally, in the event you are permitted to purchase any equipment or third-party software licenses as set forth in this Agreement, we will use commercially reasonable efforts to pass through (or to cause its applicable vendor to pass through) the manufacturer's end-user warranty for the purchased equipment or software licenses. OTHERWISE, ALL SERVICES, EQUIPMENT, FACILITIES AND SOFTWARE ARE PROVIDED ON AN "AS-IS" AND "AS AVAILABLE" BASIS, AND WE SPECIFICALLY DISCLAIM ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE. WE DO NOT WARRANT UNINTERRUPTED AND/OR ERROR-FREE OPERATION OF ANY FACILITY, EQUIPMENT OR SERVICE UNLESS THAT IS UNAMBIGUOUSLY DESCRIBED AS SUCH IN THIS AGREEMENT. WE DO NOT WARRANT OR GUARANTEE SPECIFIC INTERNET UPLOAD OR DOWNLOAD SPEEDS OR DATA OR VOICE QUALITY. WE COMPLY WITH APPLICABLE RELATED RULES, BUT SPEEDS ARE SUBJECT TO FACTORS OUTSIDE OF OUR CONTROL. ADVICE OR INFORMATION GIVEN BY FIDIUM OR ITS CUSTOMER SUPPORT OR OTHER REPRESENTATIVES WILL NOT CREATE A WARRANTY OF ANY NATURE OR TYPE WHATSOEVER.

15. Remedies; Limits of Liability.

15.1. Your remedies for any failure, interruption, degradation, outage, non-delivery or non-performance of any Services, including related equipment and facilities, and any loss of data, or for any breach by us of this Agreement, are limited to (i) the applicable service credits or other remedies provided for under an applicable Addendum or (ii) if no Addendum is applicable, one or more of the following as elected by us: (a) repair of the Service, facilities, equipment or wiring; (b) re-performance of work, where that can be done; (c) cancellation or termination of any Service not remedied by repair or re-performance, with no cancellation or early termination charge; and/or (d) an adjustment or credit to your bill.

15.2. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE COMBINED LIABILITY OF FIDIUM AND ANY FIDIUM AFFILIATE TO YOU WILL BE LIMITED TO THE APPLICABLE REMEDY IDENTIFIED ABOVE AND WILL IN NO EVENT EXCEED PROVEN DIRECT DAMAGES, NOT TO EXCEED THE TOTAL YOU HAVE PAID FOR ALL SERVICES FOR THE 12-MONTH PERIOD PRIOR TO THE TRIGGERING EVENT. HOWEVER, THIS LIMITATION WILL NOT APPLY TO BODILY INJURY, DEATH OR DAMAGE TO REAL PROPERTY DIRECTLY CAUSED BY OUR GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER YOU

NOR FIDIUM OR ANY FIDIUM AFFILIATE WILL BE RESPONSIBLE FOR ANY PUNITIVE, ENHANCED COMPENSATORY, INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING ANY LOSS OF BUSINESS, REVENUE OR PROFITS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LOSS, AND WITHOUT REGARD TO THE THEORY OF RECOVERY. To the maximum extent permitted by applicable law and except as otherwise expressly provided in this Agreement, neither Fidium, any Fidium affiliates nor any person or entity utilized by us to provide the Services will be liable for any of the following: (i) any information or content that Fidium or an affiliate transports or provides, and any and all claims related to such information or content; (ii) any unauthorized access to or use of your Services or equipment, or of any equipment or facilities related to such Services; (iii) any access, alteration, theft, damage, destruction or loss of any of your records, data or other information; (iv) any claims for damage for which you are responsible, whether in whole or in part, whether through action or inaction, and regardless of degree; and (v) claims against you by any person or entity not a party to this Agreement. Some jurisdictions may not permit the exclusion of certain warranties and/or damages as set forth above. In these jurisdictions, the foregoing will serve to limit Fidium's liability to the maximum extent permitted by applicable laws.

15.3. No cause of action, regardless of form, arising out of this Agreement, may be brought by either party more than one (1) year after the cause of action has arisen or, in the case of non-payment, more than one (1) year from the date the last payment was due.

16. Breach; Remedies.

16.1. Customer Breach and Provider Remedies. You will be in breach of this Agreement: (i) if you fail to timely pay any undisputed amount due to us under this Agreement within 10 days of the date that it is due; (ii) immediately if you fail to comply with Section 5 of above; (iii) if you fail to perform any other obligation under this Agreement, and such failure continues for more than 30 days after written notice from us; (iv) if you cancel or repudiate this Agreement or any Service commitment; or (v) if you are subject to voluntary or involuntary bankruptcy proceedings, make an assignment for the benefit of creditors, cease to operate as a going business, or become insolvent or seek protection from creditors. Upon the occurrence of a breach not cured within Fidium's 30-day written notice, we may elect to suspend or terminate any Services and/or this Agreement on written notice to you. If we take action to collect amounts due, or to address any other breach, we will be entitled to reasonable attorneys' fees and costs. You can terminate this Agreement and/or a Service at any time on written notice to us, subject to payment of all applicable cancellation or early termination charges set forth in any applicable Service Orders.

16.2. Provider Default and Customer Remedies. We will only be in breach of this Agreement if we fail to perform an obligation under this Agreement and if after 30 days' written notice from you such failure continues or, in the case of failures that cannot be reasonably cured within 30 days, if we have failed to commence taking reasonable steps to cure the failure within such 30-day period. Upon the occurrence of our breach, you may elect to terminate any Services and/or this Agreement on written notice to us and your obligations to make payments to us for terminated Services not yet performed will cease upon delivery of such written notice. THIS SECTION 16.2 IS YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF THIS AGREEMENT BY FIDIUM. In addition, you hereby irrevocably waive any and all rights you may have to assert any claims against us except for those expressly contemplated and permitted herein.

17. Force Majeure.

17.1. Events of Force Majeure. Other than payments for amounts due hereunder, neither party will be responsible for performance if delayed or hindered by any action, inaction or event that is outside of their reasonable control (a Force Majeure Event). This includes but is not limited to fire, flood, severe weather, any other Acts of God, acts of government, civil unrest, terrorist or similar acts, any strike or labor stoppage, embargo, war, cable cuts, power outages or failures, action or inaction by any third party, or any unavailability of necessary facilities, software, hardware or equipment.

17.2. Termination. Notwithstanding anything herein to the contrary, if the Force Majeure delay continues for 30 days or more, either party may terminate the affected Services upon written notice to the other party, without penalty or liability for early termination.

18. Indemnification. You hereby agree to indemnify, defend and hold Fidium and any Fidium affiliate harmless from and against any damages, costs, liabilities and attorneys' fees (and costs) we may incur from any claim arising from: (i) your use of the Service, or the use of your Service by others, including without limitation, violation of the copyrights, trademarks or other intellectual property rights of others, your combination of any Service with other products or services not provided by us, or any modification of the Service; (ii) your breach of the terms and conditions contained herein or any other terms and conditions of use applicable to the Service; or (iii) your negligence or willful misconduct. In such event, you agree to defend and control any such litigation, including the payment of any settlement thereof. You agree not to acquiesce to any judgment or enter into any settlement that adversely affects our rights or interests without our prior written consent, such consent to be exercised in our sole discretion. We hereby agree to give you prompt notice of all claims and to cooperate in defending against the claim. You may not settle any claim under this Section which includes an admission of criminal liability or the payment of a settlement amount without our prior written consent, such consent to be exercised in our sole discretion.

19. Assignment and Transfer. You may not assign or transfer this Agreement, any Service or any of your rights or obligations under this Agreement without our prior written consent. Notwithstanding this provision, you may assign or transfer this Agreement and all Services to an entity that is successor to all or substantially all of your assets or capital stock on written notice to us if the successor entity agrees in writing to perform all terms and conditions applicable to the Services and is reasonably capable of doing so. We may assign this Agreement in whole or in part at any time subject to the requirements of applicable law. New customers are subject to credit review. An assignment or transfer in violation of this Section will be void. This Agreement is binding upon execution, and will inure to the benefit of each of the parties and their respective successors and permitted assigns.

20. Notices. Fidium may provide notice of change of address via email or regular mail to the contact person set forth on the signature page of this agreement, or to any subsequent contact person identified by you. All other legal notices to you will be sent to the contact person and address set forth on the signature page of this Agreement. All other legal notices must be in writing and will be mailed by certified or registered mail, postage prepaid, return receipt requested and will be deemed given on the third (3rd) business day after the date of posting in a United States Post Office or one day after delivery to a nationally recognized overnight carrier. All legal notices to us must be sent to: **Fidium Enterprise Services, LLC**, Attn: Legal Department, 2116 South 17th Street, Mattoon, IL 69138. Except as otherwise agreed upon

by you and Fidium, you can change your notice address on written notice to Fidium in accordance with this section.

21. Governing Law; Venue; Waiver of Jury Trial and Certain Claims.

This Agreement, its formation, construction and interpretation will be governed by and construed in accordance with the laws of the State of New York, without regard to its conflicts of law provisions. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. For the purpose of resolving any dispute regarding this Agreement, its formation, construction and interpretation, to the fullest extent allowed by law, the parties agree to submit to jurisdiction and to bring such action in a U.S. District Court, or absent federal court jurisdiction, in a state court of competent jurisdiction, where the original party defendant is domiciled. THE PARTIES KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THEIR RIGHT TO A JURY TRIAL AND ANY RIGHT TO PURSUE ANY CLAIM RELATED TO THIS AGREEMENT ON A CLASS OR CONSOLIDATED BASIS OR IN A REPRESENTATIVE CAPACITY, TO THE EXTENT PERMITTED BY LAW.

22. Miscellaneous.

22.1. Authorization; Amendments; Waiver; Severability; Entire Agreement. The person signing each Service Order subject to this Agreement for you represents and warrants that he/she is authorized to execute the Service Order on Customer's behalf. For certain Service changes, a person authorized on your account may request the change via an email to your account representative or a Fidium customer service representative. The failure of either party to insist on strict performance of any provision of this Agreement is not a general waiver of that provision or of any future performance. If any part of this Agreement is found to be invalid or unenforceable, the rest of the Agreement remains enforceable. This Agreement constitutes the entire agreement of the parties.

22.2. Relationship between Parties. Each party hereto is an independent contractor under this Agreement, and no license, joint venture or partnership, express or implied, is granted, created or intended. Neither party has the authority to bind the other party, or act for the other party, in any manner or capacity.

22.3. Confidentiality; Cooperation with Law Enforcement. "Confidential Information" means information not generally known to outside persons, which is proprietary to the party, including trade-secret information about processes, methods, products, systems, pricing, technology, prototypes, plans, drawings, designs, configurations, models, samples, blueprints, know-how, business plans, financing, agents, suppliers and customers. All such information about a party will be presumed to be Confidential Information, regardless of whether it is so marked or identified. Notwithstanding the foregoing, the following will not be considered Confidential Information:

- a. Any information that a party can demonstrate was in its legitimate possession prior to the time of disclosure by the other party;
- b. Any information that was in the public domain prior to disclosure by a party to the other party, or that comes into the public domain through no fault of the other party;
- c. Any information which is disclosed to a party by a third party who has legitimate possession thereof and the right to make such disclosure; and

- d. Any information that a party is required to disclose by a court or government body.

Each party agrees to keep this Agreement and the other party's Confidential Information strictly confidential, and not to appropriate the other party's Confidential Information for its own use or disclose the other party's Confidential Information to anyone other than its employees on a need-to-know basis, and only then if such persons agree to maintain its confidentiality. Upon termination of this Agreement, each party will return to the other party all of the other party's Confidential Information which it has in its possession, including all copies, reproductions and excerpts.

Notwithstanding the foregoing, we may cooperate with law enforcement authorities and national security authorities to the full extent required or permitted by applicable laws in matters related to the Services provided by it under this Agreement, including the production of records, the establishment of new lines or the installation of new services on an existing line in order to support law enforcement and/or national security operations, the installation of wiretaps, trap-and-trace facilities and equipment, and dialed-number recording facilities and equipment. We do not have the obligation to inform you of actions taken in cooperating with law enforcement or national security authorities, except to the extent required by applicable law.

22.4. Dispute Resolution. In the event of any unresolved claim, controversy or dispute between the parties under this Agreement, the parties will first use commercially reasonable efforts to resolve such dispute informally, pursuant to the procedures set forth in this Section 22.4. The persons directly responsible for the administration of this Agreement will first attempt to resolve any dispute informally. If such dispute is not resolved within 30 days, the dispute will be escalated to the management or officers of the parties having final authority to resolve such dispute. If the management or officers are unable to resolve the dispute within 30 days after escalation (or such longer period as mutually agreed in writing by the parties), then the informal dispute resolution process will be deemed exhausted and either party may thereafter seek any remedies available to such party pursuant to the terms and conditions of this Agreement.

22.5. Resolution of Inconsistencies. In the event of any inconsistency regarding any of the terms of this Agreement, the terms and conditions contained in a Service Order or an applicable Addendum will govern and control with respect to the applicable Service.

22.6 Our Right to Update the Agreement. Unless otherwise prohibited by law, we may update the terms of this Agreement at any time by giving you thirty (30) days' notice by bill message, bill insert, e-mail, or other notice, including posting the updated version of this Agreement. If specified in the notice, the updated terms will only apply to Services renewed and/or ordered after the effective date of the updated Agreement. Otherwise, you accept the terms of the updated Agreement if you pay for or use the Services after the effective date of the updated Agreement as specified in the notice. Except as provided by the foregoing, terms and conditions of this Agreement can only be amended by a writing signed by both parties.

23. Consent to Share Information. You give us your consent to: (i) share information with our affiliates and others where sharing can assist in initiating, providing, billing and collecting for Services, establishing and managing billing records, responding to Service issues and resolving payment questions; and (ii) provide information on other Fidium Services.