

## Carrier Notices and Disclosures

### DEFINITIONS AND DEFINED TERMS:

Santa Monica Systems, herein known as “PROVIDER” is in the business of providing telecommunications services. Client desires to purchase from PROVIDER, and PROVIDER desires to sell to Client, telecommunication services, in accordance with the terms and conditions set forth in this Disclosure.

“Service” shall mean those telecommunication services described in the attached Current Charges and Rates Attachment(s) incorporated herein by reference.

“Service Date” shall mean the date of completion of provisioning and testing of the Services; which date will be notified promptly in writing to the Client by PROVIDER.

**1. DESCRIPTION OF SERVICES.** PROVIDER, either directly or through its affiliates or underlying Clients, shall provide the Services, and Client shall purchase and utilize the Services per the terms and conditions of this Disclosure. The Parties may, by mutual written Disclosure, add and incorporate additional services by executing additional Attachment(s) and incorporating them herein.

**2. TERM.** This Disclosure shall commence on the Effective Date and shall continue for an initial term (“Term”) of thirty (30) days from the Service Date and thereafter shall automatically renew for equivalent successive renewal Terms unless terminated by either Party pursuant to this Disclosure. The term of each specific Service shall be set forth in the attached relevant Attachment(s) hereto but in any event it is understood and agreed that the terms of this Disclosure shall at all times govern the provision of Services by PROVIDER. Client remains responsible for the remainder of charges, including but not limited to local loop charges, equipment lease and other related to Client connection to PROVIDER network.

**3. OPERATIONAL MATTERS.** Where applicable, the Client shall be responsible to connect to PROVIDER network at one of PROVIDER network interconnection locations, and the Client shall be responsible to procure, at its own expense, the necessary facilities or equipment required to interconnect to such locations. PROVIDER shall use best efforts to provide the Services on the Service Date and the Client shall be solely responsible to coordinate the provisioning of its respective matching facilities and/or equipment (where applicable) by the Service Date. The Parties shall coordinate the management of their respective system facilities, with each Party being responsible for providing and operating, at its own expense, its respective network facilities. The Parties also shall interface on a 24 hours/7 days a week basis to assist each other with the isolation and repair of any facility faults in their respective networks. The service is provided to Client on “As Is” basis. The parties agree that notwithstanding anything contained in this Disclosure to the contrary, no warranty, express or implied, is made concerning the Services or PROVIDER’s systems, including without limitation, the implied warranties of merchantability and fitness for a particular purpose. PROVIDER does not warrant that the functions contained in the Services or in PROVIDER’s systems will meet Client’s requirements, or will operate in the manner desired by Client, or that the Services or PROVIDER’s systems will be error free, or free from unauthorized intrusion.

**4. PRICING, BILLING and CAPS.** For the Services provided pursuant to this Disclosure, Client shall pay PROVIDER per the pricing and provisions set forth in the relevant Attachment (Current Charges and Rates). PROVIDER, in its sole discretion may amend the Attachment(s) from time to time and such amendments shall become effective twenty-four (24) hours after receipt of written notice to Client. PROVIDER shall provide a weekly or monthly invoice for the Services and the invoiced amounts shall be due and payable by Client in U.S. Dollars in immediately available funds within the time stated in the relevant Attachment(s) hereto. Terms are on a prepaid basis only, payment is due as services are rendered. In no event shall PROVIDER be liable for the fraudulent or illegal use of the Services by any Clients or end-users of Client, or for any amounts that Client is unable to collect from its customers, end users or others. Client shall defend Provider against all claims of participation, involvement, acquiescence or supposed knowledge in fraudulent or illegal or improper use of Provider’s services or products including the use of telephone numbers provided to Client. If Client in good faith disputes

any invoiced amount, it shall submit to PROVIDER within ten (10) days following receipt of such disputed invoice the written documentation identifying the disputed invoiced amounts. The Parties shall investigate the disputed invoiced amounts and upon mutual Disclosure, PROVIDER shall issue a credit against future invoices. Failure to contest a charge within ten (10) days of the date of Client's receipt of the invoice will create an irrefutable presumption of the correctness of the charge, absent manifest error. Any amounts due hereunder that are not paid when due shall accrue interest at the rate of one and one-half percent (1.5%) per month or the maximum amount allowable by law, compounded daily, beginning with the day following the date on which payment was due, and continuing until paid in full. Further, PROVIDER shall have the right to set off any amounts due hereunder which are not paid when due against any amounts owed to Client by PROVIDER or any of its affiliates pursuant to any other Disclosure or arrangement. All international calls sent to PROVIDER destinations not specified in the Termination Schedule will be rated \$1.00 per minute.

**5. TAXES.** All Services pricing and other charges due hereunder are exclusive of all applicable taxes, including value added tax, sales taxes, and duties or levies imposed by any authority, government or government agency, the payment of which shall be the sole responsibility of Client, and Client agrees to indemnify and hold PROVIDER harmless from any liability therefore. Payment of any income or similar taxes imposed by any authority, government or government agency resulting from PROVIDER's receipt of payments from Client hereunder shall be the sole responsibility of PROVIDER, and PROVIDER agrees to indemnify and hold Client harmless from any applicable income or similar tax liabilities arising from or appurtenant to amounts paid PROVIDER hereunder by Client.

**6. TERMINATION.** In addition to any other rights at law or in equity, PROVIDER may immediately suspend the delivery of Services and/or terminate this Disclosure in the event that Client (i) fails to provide any Deposit if required in this Disclosure; (ii) fails to make payment for prepaid domestic US service by first of each month without any notice or fails to make payment for other measured services when due and to remedy such nonpayment within one (1) business day after receipt of written notice thereof from PROVIDER; (iii) becomes insolvent or bankrupt or ceases paying its debts generally as they mature; or (iv) commits a breach of any of the material terms of this Disclosure (other than a breach of the Deposit or payment obligation as addressed in (i) and (ii) above) and fails to remedy such breach within fifteen (15) days after receipt of written notice thereof from PROVIDER. In the event of any termination of this Disclosure, Client shall pay PROVIDER for all Services rendered through and including the date of termination. In the case of early termination of the fixed term pursuant to this Disclosure prior to the expiration of the Term either by PROVIDER pursuant to this Paragraph or by Client for any reason other than a material breach solely attributable to PROVIDER, Client shall remain liable to pay PROVIDER for the monthly charges or minimum commitments defined in the relevant Attachment hereto for the remainder of the then-current Term. Client understands and agrees that any breach by Client of its obligations under this Disclosure shall also be deemed a breach by Client of its obligations under any other Disclosures it has entered into with PROVIDER and/or its affiliates and understands and agrees that such breach shall authorize PROVIDER and/or any of its affiliates to immediately suspend performance under, and/or terminate, said Disclosures with Client for default if such breach(s) have not been cured within the time provided for in this Disclosure.

**7. LIMITATION OF LIABILITY.** Client acknowledges that PROVIDER has no control over how a foreign administration or third party Client establishes its own rules and conditions pertaining to international telecommunications services. Client agrees that absent willful misconduct by PROVIDER, its directors, officers, employees and agents, PROVIDER, its directors, officers, employees and agents shall not be liable for any loss or damage sustained by Client, its interconnecting Clients, its customers or its end-users due to any failure in or breakdown of the communication facilities associated with providing the Services, for any delay, interruption or degradation of the Services whatsoever shall be the cause or duration thereof, or for any other cause or claim whatsoever arising under this Disclosure. In no event shall either Party be liable to the other Party for consequential, special or indirect losses or damages sustained by Client or any third parties in using the Service howsoever arising and whether under contract, tort or otherwise (including, without limitation, third party claims, loss of profits, loss of Clients or damage to reputation or goodwill).

**8. ASSIGNMENT.** This Disclosure is personal to the Parties and may not be assigned or transferred by either Party without the prior written consent of the other Party which consent shall not be unreasonably withheld,

conditioned, or delayed; except that PROVIDER may assign this Disclosure without consent to any affiliated entity or to any successor in interest whether by merger, reorganization or transfer of all or substantially all of its assets or otherwise. Except as provided herein, any assignment in contravention of the above shall be void and ineffective.

**9. TELEMARKETING OR OUTBOUND CALL CENTER TRAFFIC.** PROVIDER or Provider's affiliates do not accept for termination any traffic of such origin, without express written permission. Absent express permission, any such traffic in excess of 20% of the Client's traffic under this Disclosure, may be billed at a 10% surcharge and/or discontinued at any time by PROVIDER without liability to PROVIDER.

**10. CALLING PARTY NUMBER.** The Client must pass a valid and correct US or Canada number as Caller ID (CLID) or ANI. PROVIDER reserves the right to refuse service if such ANI is not passed.

**11. FORCE MAJEURE.** No failure or omission by either Party to carry out or observe any of the terms and conditions of this Disclosure (other than any payment obligation) shall give rise to any claim against such Party or be deemed a breach of this Disclosure if such failure or omission arises from an act of God, an act of Government, any cause reasonably beyond the control of a Party, or any other circumstance commonly known as force majeure.

**12. DISCLOSURE.** Without obtaining the prior written consent of the other Party hereto, a Party shall not (i) refer to itself as an authorized representative of the other Party in promotional, advertising or other materials; (ii) use the other Party's logos, trade marks, service marks, or any variations thereof in any of its promotional, advertising, or other materials, or (iii) release any public announcements referring to the other Party or this Disclosure without first having obtained said Party's prior written consent.

**13. NOTICES.** All notices, requests or other communications hereunder shall be in writing, addressed to the Parties at the address indicated in the caption of this Disclosure or as otherwise stated in the relevant Attachment hereto. Notices mailed by registered or certified mail shall be deemed to have been received by the addressee on the fifth business day following the mailing or sending thereof. Notices sent by telex, facsimile or electronic mail shall be conclusively deemed to have been received when the delivery confirmation is received. Any notice of change of address shall be deemed to be received only when actually received.

**14. COMPLIANCE WITH LAWS.** This Disclosure and its continuance hereof is contingent upon the obtaining and the continuance of such approvals, consents, governmental and regulatory authorizations, licenses and permits as may be required or deemed necessary by the Parties, and the Parties shall use commercially reasonable efforts to obtain and continue same in full force and effect throughout the term of this Disclosure. Client shall not use the Services in any manner or for any purpose, which constitutes a violation of applicable laws in any jurisdiction in which the Services are being provided and each Party shall indemnify the other against any such unlawful use of the Services arising from its use or provision of the Services (as applicable). The Parties acknowledge that Services provided pursuant to this Disclosure are subject to the Communications Act as amended, and that the terms set forth in any relevant PROVIDER tariff on file with the FCC and any state public utilities or services commission or comparable body (herein collectively referred to as the "Tariffs") are incorporated herein by reference and shall supplement the terms of this Disclosure where applicable.

**15. SEVERABILITY AND WAIVER.** If any part or any provision of this Disclosure is or becomes illegal, invalid or unenforceable, that part or provision shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the validity or enforceability of the remaining parts of said provision or the remaining provisions of this Disclosure. No waiver by either Party to any provisions of this Disclosure shall be binding unless made in writing. No waiver by either Party to any provision(s) of or failure to perform under this Disclosure shall be deemed a waiver of any other or future provision(s) of and/or failure to perform under this Disclosure.

**16. RELATIONSHIP OF THE PARTIES.** The relationship between the Parties shall not be that of partners, and nothing herein contained shall be deemed to constitute a partnership between them, a joint venture, or a

merger of their assets or their fiscal or other liabilities or undertakings. Neither Party shall have the right to bind the other Party, except as expressly provided for herein. This Disclosure is non-exclusive. Nothing in this Disclosure shall be deemed to prevent either Party from entering into an Disclosure or negotiation of any kind or nature with third parties. All persons employed by either Party in connection with the Services provided under this Disclosure shall be considered employees or agents of such party only, and shall in no way, either directly or indirectly, be considered employees or agents of the other Party.

**17. GOVERNING LAW.** This Disclosure shall be governed by the laws of the State of California, without reference to its principles of conflict of laws. Client irrevocably consents and submits to personal jurisdiction in the courts of Los Angeles County, California for all matters arising under this Disclosure. In the event an action is brought or an attorney is retained by any part to this Disclosure to enforce the terms of this Disclosure or to collect any moneys 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.

**18. WAIVER OF TRIAL BY JURY.** The Parties hereto hereby knowingly, irrevocably, voluntarily and intentionally waive any rights to a trial by jury in respect of any action, proceeding or counterclaim based on this Disclosure or arising out of, under, or in connection with this Disclosure or any document or instrument executed in connection with this Disclosure, or any course of conduct, course of dealing, statements (whether verbal or written) or action of any Party hereto. This provision is a material inducement for PROVIDER and Client entering into the subject transaction.

**19. DID NUMBERS.** PROVIDER will make available to Client all reasonably requested DID (telephone numbers) where PROVIDER has access to such numbers. Subject to conditions, CLIENT has the right to port the assigned numbers or will surrender all rights to those telephone numbers after termination of this Disclosure. It is understood it is a Client responsibility to test the numbers assigned before activating them and delivering the service to Client's end-user.

**20. 911/E911 and CALEA.** Client acknowledges awareness of various pending state and federal regulatory actions which may affect the nature and treatment of VoIP traffic including the determination as to the appropriate obligations of VoIP Providers with regard to 911/E911 and CALEA obligations. Client further recognizes that additional governmental action, ruling, or interpretation thereof, including but not limited to legislative action, might be taken to address the public safety obligations of VoIP Providers. Client agrees to immediately conform this Attachment and the resulting network service arrangements in order to comply with any regulatory or governmental law, action, order or ruling, or the interpretation or application thereof related to such obligations.

**21. 911/E911** Client agrees that it will provide all of its end-users with notice that Client's VoIP services may not be 911/E911 compliant and Client shall obtain from its end-users adequate waivers releasing Client and PROVIDER of any and all liabilities that may arise out of claims that could be brought related to 911/E911 issues. Client agrees that PROVIDER's sole responsibility with regard to the provision of 911/E911 services for Client's end-users is only the obligation to ensure that the interconnection arrangements are 911/E911 compatible. CLIENT bears sole responsibility for the provisioning of 911/E911 or Alternative 911 services to its end-users and for any costs associated with the provisioning of these services including but not limited to interconnecting with the appropriate 911 Public Service Access Point ("PSAP") and the payment of any governmental fees or assessments related to 911/E911 or Alternative 911 services. Client agrees to indemnify and hold PROVIDER and all of its affiliates, subsidiaries, employees, shareholders, agents, vendors and representatives harmless for any and all claims, damages (direct and indirect), suits, costs, charges or fees (including attorney's fees and court costs) arising from or related to the provision of 911/E911 services associated with the provision of Client's Origination Services described herein.

**22. CALEA.** Client understands and agrees that there is uncertainty regarding the obligations of VoIP Providers as it relates to compliance with CALEA obligations. Nonetheless, PROVIDER and Client agree to put forth their best efforts in order to respond within the requested parameters to any legally authorized CALEA law enforcement intercept request presented, related to the Services offered pursuant to this Disclosure or to

services that Client may be providing utilizing Origination Services set forth in this Disclosure.

Notwithstanding the forgoing, Client agrees that it bears the sole responsibility with regard to compliance with CALEA obligations and any requests that may be presented related to Origination Services provided under this Attachment. Client agrees to indemnify and hold PROVIDER and all of its affiliates, subsidiaries, employees, shareholders, agents, vendors and representatives harmless for any and all claims, damages (direct and indirect), suits, costs, charges or fees (including reasonable attorney's fees and court costs) arising from or related to compliance with CALEA obligations that arise from the provision of any Services described herein.

**23. LOCAL NUMBER PORTABILITY (a) Porting In.** Customer may elect to port an existing number/ANI to PROVIDER ("Port-In") for use of PROVIDER Origination service. PROVIDER will support all valid requests and will cooperate with Client to perform any Port-In in accordance with Client's reasonable directions and PROVIDER's standard operating procedures and charges. In order to accomplish any Port-In, Client will be required to provide PROVIDER with Letter of Agency on behalf of the number subscriber in form and substance as reasonably requested by PROVIDER. Client hereby represents and warrants to PROVIDER that Client has all necessary rights and authority necessary for any Port-In, and Client hereby agrees to indemnify, defend and hold harmless PROVIDER, its Affiliates and their officers, directors, employees and agents from and against any third party claim related to or arising out of any Port-In (or request for Port-In). **(b) Porting Out.** Client acknowledges and agrees that PROVIDER may receive requests by Client, Client's end-user/customer or a third-party Provider acting as agent on behalf of Client or such end-user/customer ("Requesting Party") to port a number currently assigned to Client, to a third party Provider ("Port-Out"). The parties agree that PROVIDER will support all such requests and will cooperate with the Requesting Party to perform any Port-Out in accordance with the Requesting Party's reasonable directions and PROVIDER's standard operating procedures. In the event of any Port-Out, Client agrees that until such time as the Port-Out is complete and no further traffic for such ANI traverses the PROVIDER network, Client shall remain bound by the terms of this Disclosure for any and all traffic related to that number. Accounts subject to Port-Out requests must be current. Port-Outs will incur a charge which must be paid by Client.

**24. ENTIRE DISCLOSURE.** This Disclosure, including the relevant Current Charges and Rates Attachments thereto represents the entire understanding between the Parties in relation to the matters herein and supersedes all previous Disclosures whether oral or written made between the Parties in relation to the subject matter hereof. Except as otherwise agreed herein, this Disclosure may only be modified by a writing signed by authorized representatives of both Parties. The headings in this Disclosure are for convenience of reference and shall not affect its construction or interpretation. In the event of any conflict, inconsistency or ambiguity between the provisions of this Disclosure, any Attachment and/or the Tariffs, the interpretation shall be resolved by giving precedence to such documents in the following descending order: (a) the Attachments; (b) the Disclosure; (c) the Tariffs.