

SLA GENERAL TERMS AND CONDITIONS

1. OFFER AND ACCEPTANCE

NET TEL ONE COMMUNICATIONS ("NET TEL"), 15 Braintree Hill Office Park Suite 100, Braintree, MA 02184, ("SERVICER"), by its acceptance of this Agreement, agrees to provide ("CUSTOMER") with the services specified in this Agreement in accordance with the terms and conditions set forth herein. This Agreement, when signed by CUSTOMER and submitted to SERVICER together with payment in full of the charges specified on the face hereof constitutes an offer by CUSTOMER to purchase such services from SERVICER in accordance with such terms and conditions. Payments for monthly service coverage agreements will be paid monthly as invoiced.

2. SERVICES PROVIDED

In accordance with the service terms on Order Form, Net Tel will provide service to you within the time frames and rates as stated during regular business hours. Regular business hours are defined as Monday through Friday 9am to 5pm excluding recognized state of Massachusetts holidays. This service shall only be applicable to equipment covered as described in Service and Maintenance Agreement.

In the event the Customer wants Net Tel to service a product not listed on Order Form, Net Tel can provide service if they choose but will not be bound by stated response times.

If indicated on Order Form, Net Tel may also provide a pre-paid service agreement for limited service and support. All support and services above and beyond the pre-paid agreement shall be billed at a separate rate as set for on Order Form. Additional services provided by Net Tel may include remote programming support and alarm monitoring. If said service is contracted for, it shall be the Customer's responsibility to maintain the remote access lines.

(a) SERVICER will, during the terms of this Agreement, in accordance with the terms and conditions herein, cause any component part of the equipment covered hereunder (located at the equipment location specified on the face hereof) which malfunctions to be repaired or replaced, as deemed necessary by SERVICER.

(b) CUSTOMER shall have the responsibility of determining when the equipment requires service. CUSTOMER shall then call the telephone number 781-843-3733 (or such other number as SERVICER may from time to time designate) during SERVICER's normal service hours and

provide the information which will then be requested. Arrangements for service during normal SERVICER service hours will then be made based on the type of service specified on the face of this Agreement.

(c) During the term of this Agreement, and any renewals thereof, CUSTOMER agrees to maintain a suitable operating environment for the equipment in accordance with the specifications of the manufacturer thereof and, when service is required, to provide SERVICER and/or its agents with full, free, and safe access to the equipment during SERVICER's normal service hours. CUSTOMER further agrees to provide SERVICER's service personnel with such assistance as they may require for servicing the equipment, including the use of copies of CUSTOMER programs and data.

(d) ForS the performance of the service specified in this Agreement, SERVICER will, as SERVICER deems necessary, cause CUSTOMER's equipment to be (1) serviced at the Equipment Location specified on the face of this Agreement, or (2) transported to a service center, serviced, and returned to the specified Equipment Location. Malfunctioning components, parts, or machines will be repaired or replaced on an exchange basis with parts, components, or machines which are in good working order. Such replaced parts, components, or machines shall become the property of SERVICER.

(e) If SERVICER elects to have CUSTOMER equipment serviced at a service center, CUSTOMER will be provided with comparable equipment to use at the Equipment Location until such time as CUSTOMER's equipment is serviced and returned to the Equipment Location. At that time, such "loaner equipment" will be surrendered in good order to SERVICER. It is understood and agreed that SERVICER retains all right, title, and interest in the "loaner equipment" and CUSTOMER shall take all necessary steps to protect SERVICER's interest in the "loaner equipment."

(f) CUSTOMER UNDERSTANDS AND AGREES THAT IT IS CUSTOMER'S RESPONSIBILITY TO (1) PROVIDE THE PROPER ENVIRONMENT, ELECTRICAL AND TELECOMMUNICATIONS CONNECTIONS, (2) PROVIDE ACCESS AND WORKSPACE, (3) MAINTAIN A PROCEDURAL EXTERNAL TO THE SOFTWARE PROGRAMS AND HOST COMPUTER FOR RECONSTRUCTION OR LOSS OF ALTERED FILES, DATA, PROGRAMS OR BACK-UPS (4) IMPLEMENT APPROPRIATE PROCEDURES TO PROTECT AND SAFEGUARD ITS PROGRAMS AND DATA FROM BEING DESTROYED THROUGH OPERATOR ERROR, EQUIPMENT MALFUNCTION, OR OTHERWISE, AND ENSURE CUSTOMER'S ABILITY TO RECREATE CUSTOMER'S PROGRAMS AND DATA AS NECESSARY AND (5) REMOVE ALL PROGRAMS AND DATA FROM THE EQUIPMENT BEING SERVICED PRIOR TO THE PERFORMANCE OF SUCH SERVICE.

(g) If Remote monitoring and service is desired customer must designate modem or IP lines for system maintenance and/or moves, adds or changes only. You are responsible for notifying NET TEL of the presence of any hazardous material (e.g., asbestos) on your premises prior to the commencement of any Services. You are also responsible for removal of any such hazardous material or correction of any hazardous condition that affects Net Tel's performance

of Services. Services will be delayed until you remove or correct the hazardous condition; Net Tel shall not be liable to you as a result of such delays. Prior to the period covered by the Maintenance Agreement, Net Tel will identify and test all equipment and attach as Covered equipment (Service and Maintenance Terms). All peripherals and property covered by the Maintenance Agreement must have been obtained from a legal source. Any items found to be illegally obtained are not covered by this service agreement and will be removed from warranty coverage.

3. TERM

3.1 Term of the Agreement. The Agreement will be in effect from the Date that services are started until the last month of the term as defined by the Order Form, or for as long as Customer takes service from NTO, whichever date is later (the "Term"). Notwithstanding any other provision of this Section 4.1, NTO may elect in its sole discretion to terminate these TOS and any or all outstanding Order Form(s) upon providing Customer with written notice of such election. In such event, the effective date of termination shall be thirty (30) days from the date of such notice.

3.2 Term of Services Requested in Order Form. Following the term specified on the Order Form (the "Initial Service Term"), then with respect to said Services furnished under such Order Form the Order Form shall automatically renew for consecutive additional periods of one (1) year (each, a "Renewal Service Term") unless terminated by either Party in writing at least sixty (60) days prior to the expiration of the Initial Term or the Renewal Term then in effect (as applicable). The Initial Service Term and any applicable Renewal Service Term(s) shall hereafter be referred to collectively as the "Service Term". If no Term is specified in the applicable Order Form, then either Party may terminate the Service(s) furnished under such Order Form by giving the other Party sixty (60) days prior written notice to such effect. The automatic renewal provision of this Section 4 shall not apply to any lease of Equipment, as hereafter defined, (if any) under this Agreement.

3.3 Term of Additional Services Requested by Customer. In any case in which a Service Term is specified in an Order Form, if Customer shall order additional services under such Order Form the Service Term for such additional Services shall end on the later to occur of (a) the expiration date of the Service Term of the Service first furnished to Customer under such Order Form or (b) one (1) year from the date on which NTO accepts the order for the additional Services. In any case in which no Service Term is specified in an Order Form and in which Customer shall order additional services under such Order Form, then, subject to Section 5.6 below, either Party may terminate any of such additional Services by giving the other Party sixty (60) days written notice to such effect.

4. CHARGES

(a) NTO shall bill Customer for Services at the rates stated in the applicable Order Form. All fees and other charges will be due, in U.S. dollars, upon Customer's receipt of NTO's invoice. Invoiced amounts that remain unpaid after the last day of the calendar month in which the invoice for such amounts was rendered to Customer will accrue interest at a rate of one and one-half percent (1.5%) per month, or the highest rate allowed by applicable law, whichever is lower. Customer understands that NTO shall begin to requisition all equipment and begin to facilitate the provision of said services upon the Effective Date of the applicable Order Form and relies upon the execution of said Order Form for those purposes. Therefore, the initial payment is, under any circumstances, non-refundable to Customer unless NTO is unable or unwilling to provide the Services ordered in conjunction with this Agreement.

(b) Any service or product provided to CUSTOMER by SERVICER which is not included under this Agreement will be charged to CUSTOMER at SERVICER's then applicable rates and terms thereof. CUSTOMER will be informed in advance of charges for services and products not covered by this Agreement and CUSTOMER must agree in writing to these charges prior to action by SERVICER. SERVICER's failure to obtain written authorization shall not preclude him from collecting for any additional services provided. SERVICER will have no obligation to perform any service required of SERVICER under this Agreement unless all charges, fees, and taxes for services and products rendered under this Agreement are paid in full by CUSTOMER when due. Customer will be billed at month's end and payment must be remitted within fifteen (15) days. Interest for payments received after the due date will accrue interest at the rate of 18% per annum

(c) If CUSTOMER makes a request for service, and SERVICER determines that (1) no equipment malfunction exists, (2) involved a or move, add or change, or (3) such request involves the performance by SERVICER of any service which is excluded under Paragraph 6 of this Agreement, CUSTOMER agrees to pay SERVICER a service charge based on SERVICER's then current rates and terms therefor;. Customer will be billed at month's end and payment must be remitted within fifteen (15) days. Interest for payments received after the due date will accrue interest at the rate of 18% per annum.

5. EXCLUSIONS

(a) The following services are excluded from services which SERVICER provides under this Agreement:

(1) Repair or replacement of damaged or malfunctioning equipment, or any increase in service time or costs, caused by accident, misuse, disaster, abuse, neglect, supplies, alterations, attachments, non-SERVICER provided parts or repairs, failure to provide a suitable operating environment, or use of the equipment for purposes other than intended; and

(2) Maintenance or support of operating systems or application software, or hardware malfunctions caused by or related to defects in software.

(3) For on site service, When CUSTOMER facility dose not provide free parking any parking charges will be billed to the customer no matter what the service is.

(4) Unless noted by SERVICER all equipment shipping, processing and dealer charges will be billed to the customer.

(5) Any and all other fees not identified herein.

(b)CUSTOMER agrees that any items including programs, data, storage media, or non-SERVICER provided parts, options, attachments, or alterations left with the equipment at the time of service will be deemed to have been discarded by CUSTOMER.

EXCEPT AS STATED IN THIS AGREEMENT NET TEL, ITS SUBSIDIARIES AND THEIR AFFILIATES, SUBCONTRACTORS AND SUPPLIERS, MAKE NO WARRANTIES EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIM ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

The warranty provided in this Maintenance Service Agreement does not cover repair for damages, or malfunctions, or performance characteristics caused by: (1) your failure to follow manufacturer's installation, operation or maintenance instructions, including your failure to permit NET TEL timely remote access to your Product(s); (2) failure or malfunction of equipment, software, or facilities not serviced by NET TEL; (3) actions of non-NET TEL personnel; or (4) force majeure conditions as stated in this Agreement, (5) Products that have been improperly installed or improperly repaired prior to NET TEL's warranty period;. NET TEL does not warrant uninterrupted or error free operation of the Product(s). In addition, NET TEL is not obligated to provide Maintenance Agreement service if you modify the Product(s) or if work is done on the product by anyone other than NET TEL during the contract period. If you request, NET TEL will perform repair or other services not covered by this Agreement to your NET TEL Product(s) at NET TEL's standard rates for such service.

Although Products are designed to be reasonably secure, NET TEL makes no express or implied warranty that Products are immune from or prevent fraudulent intrusion, unauthorized use or disclosure or loss of proprietary information. Certain features, if purchased, such as Password Reset, Conference Mailbox, Skip Password and Monitor Mailbox, when enabled, could be improperly used in violation of privacy laws. By ordering Products with these features or separately ordering such features, you assume all responsibility for assuring their proper and lawful use.

You agree to notify NET TEL prior to moving a Product. Additional charges may apply if NET TEL incurs additional costs in providing Maintenance Agreement services as a result of a move of a Product.

If the Product supports Telephony or Transmission Control Protocol/Internet Protocol (TCP/IP) facilities, you may experience certain compromises in performance, reliability and security, even when the Product performs as warranted. These compromises may become more acute if you fail to follow NET TEL's recommendations for configuration, operation and use of the Product. YOU ACKNOWLEDGE THAT YOU ARE AWARE OF THESE RISKS AND THAT YOU HAVE DETERMINED THEY ARE ACCEPTABLE FOR YOUR APPLICATION OF THE PRODUCT. YOU ALSO ACKNOWLEDGE THAT, UNLESS EXPRESSLY PROVIDED IN ANOTHER AGREEMENT, YOU ARE SOLELY RESPONSIBLE FOR (1) ENSURING THAT YOUR NETWORKS AND SYSTEMS ARE ADEQUATELY SECURED AGAINST UNAUTHORIZED INTRUSION, AND (2) BACKING UP YOUR DATA AND FILES. Unless service agreement has been included in Service and Maintenance Terms, moves, adds, and changes are billable at standard rates.

7. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY

(a) SERVICER MAKES NO WARRANTIES OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OR MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

(b) IN NO EVENT WILL SERVICER BE LIABLE FOR ANY DAMAGES, LOST SAVINGS, OR OTHER ACTUAL, DIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES ARISING FROM THE USE, LOSS OF USE, OR PERFORMANCE OF THE EQUIPMENT AND ATTACHMENTS THERETO, EVEN IF SERVICER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM AGAINST CUSTOMER OR SERVICER BY ANY OTHER PARTY ARISING HEREUNDER.

(c) CUSTOMER SHALL INDEMNIFY AND HOLD SERVICER HARMLESS FROM AND AGAINST ANY AND ALL SUCH ACTIONS OR CLAIMS.

(d) SERVICER'S LIABILITY HEREUNDER FOR DAMAGES FROM ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF ACTION, INCLUDING NEGLIGENCE, SHALL BE LIMITED TO MONIES ACTUALLY PAID BY CUSTOMER TO SERVICER FOR SERVICES HEREUNDER.

(e) If a Product covered by the maintenance portion of this Agreement does not operate as intended by the manufacturer during the Maintenance Agreement period, you must promptly notify NET TEL. NET TEL, at its option, will either repair or replace that Product without charge. NET TEL may reimburse to the customer an amount equal to the current fair market value of the Product in lieu of repair or replacement and that shall be the customer's sole and exclusive remedy in the event of the inability to repair or replace the product.

(f) Any new equipment purchased by the Customer that includes a Manufacturer's warranty will be honored. This may require removal of the equipment for return to manufacturer for any servicing or replacement. No substitute equipment will be provided during the manufacturer's warranty servicing. Net Tel maintains no control over the amount of time the equipment will be out of Customer's possession during manufacturer's warranty repairs. Customer shall have the option, at an additional cost, to lease additional equipment from Net Tel during the period of time the Customer is without the equipment.

8. SERVICE/MAINTENANCE

For Products listed as covered by Maintenance Warranty on Service and Maintenance Agreement section of Order Form that fail to operate as intended by the manufacturer will be replaced free of charge with in one (1) business day from the point that NET TEL deems the product as non repairable. NET TEL will track all original serial numbers in there database.

If indicated on Service and Maintenance Terms, Net Tel will provide free software upgrades and software patches when required if provided free of charge to us by the manufacturer.

Customers may have equipment that is not supported by the newest software and it will then become the option of the customer to purchase new equipment or discontinue the upgrades.

NET TEL will provide Services during the Contract Period in accordance with NET TEL's standard specifications subject to the exclusions set forth in this Agreement. NET TEL provides various maintenance Services dependent upon the product and option selected by the Customer and indicated on Service and Maintenance Terms.

Maintenance Agreement service includes preventive maintenance as deemed appropriate by NET TEL and remedial maintenance, including replacement parts required for Products used under normal operating conditions.

If you subsequently purchase additional products ("Added Products") from NET TEL and co-locate those products with the existing ones, those Added Products purchased from NET TEL are subject to certification by NET TEL at NET TEL's then current rates for such certification; Maintenance Agreement service coverage will be effective immediately after NET TEL certifies the Added Products.

PURCHASED OR REPLACEMENT PARTS AND PRODUCTS MAY BE NEW, REMANUFACTURED OR REFURBISHED. Any removed parts and/or Products will become the property of NET TEL.

POWER SURGES – If you have a listed approved Uninterruptible power supply listed on Service and Maintenance Terms, during NET TEL’s Maintenance Agreement service periods, NET TEL is responsible for damage to listed equipment (excluding loss or corruption of data records and/or recordings).

NET TEL may, at its discretion, electronically monitor your system for the sole purpose of collecting and recording the configuration of and the number and kinds of products in your system. Such monitoring will serve two (2) principal purposes: (a) the information will permit more accurate remote diagnostics and corrective actions; and (b) the information will be used once a year, before the renewal date of any Service Agreement, or the annual anniversary date of a multi-year Agreement, to determine applicable charges. Products identified in a periodic data collection will be treated as Added Products under this Agreement and will be subject to certification before being added to such service agreement with an additional premium. You will cooperate with NET TEL in such data collection, including making remote access available to NET TEL for this purpose. NET TEL’s obligation under this service agreement shall be to provide service between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday excluding holidays.. In the event of a systems failure affecting 25% or more of active voice ports NET TEL will classify this as a Major outage and will use their best effort to implement a repair or temporary fix in lieu of equipment replacement within 4 hours of original call, twenty-four (24) hour, seven (7) day a week service shall be available if the customer wishes at an additional surcharge by NET TEL. In the event that any service work extends beyond 5:00 p.m. on any given day or must be performed before 9:00 a.m. or on a weekend or holiday, NET TEL shall have the right to charge the customer at its usual hourly rate but will be required to verbally inform customer that additional charges may apply before commencing. All devices and materials which are warranted under this Maintenance Agreement will be repaired or replaced as soon as is reasonably possible. NET TEL will use its best efforts to repair or replace such items as soon as is reasonably possible subject to the availability of parts, the cooperation of the customer and any other exclusions within this service agreement.

SERVICER will, during the terms of this Agreement, in accordance with the terms and conditions herein, cause any component part of the equipment covered hereunder (located at the equipment location specified on the face hereof) which malfunctions to be repaired or replaced, as deemed necessary by SERVICER

If SERVICER elects to have CUSTOMER equipment serviced at a service center, CUSTOMER will be provided with comparable equipment to use at the Equipment Location until such time as CUSTOMER's equipment is serviced and returned to the Equipment Location. At that time, such “loaner equipment” will be surrendered in good order to SERVICER. It is understood and agreed that SERVICER retains all right, title, and interest in the “loaner equipment” and CUSTOMER shall take all necessary steps to protect SERVICER's interest in the “loaner equipment.”

9. PRICE AND PAYMENT

NTO shall bill Customer for Services at the rates stated in the applicable Order Form. All fees and other charges will be due, in U.S. dollars, upon Customer's receipt of NTO's invoice. Invoiced amounts that remain unpaid after the last day of the calendar month in which the invoice for such amounts was rendered to Customer will accrue interest at a rate of one and one-half percent (1.5%) per month, or the highest rate allowed by applicable law, whichever is lower. Customer understands that NTO shall begin to requisition all equipment and begin to facilitate the provision of said services upon the Effective Date of the applicable Order Form and relies upon the execution of said Order Form for those purposes. Therefore, the initial payment is, under any circumstances, non-refundable to Customer unless NTO is unable or unwilling to provide the Services ordered in conjunction with this Agreement.

10. FORCE MAJEURE

NET TEL shall have no liability for delays, failure in performance or damages due to: fire, explosion, power failures, pest damages, lightning or power surges (except as provided in herein), strikes or labor disputes, water, acts of God, the elements, war, civil disturbances, the elements, war, civil disturbances, acts of civil or military authorities or the public enemy, inability to secure raw materials, transportation facilities, fuel or energy shortages, performance or availability of communications services or network facilities, unauthorized use of the Products, or other causes beyond NET TEL's control whether or not similar to the foregoing

11. ASSIGNMENT AND SUBCONTRACTING

NTO may freely transfer, assign or otherwise manner encumber this Agreement and its rights and obligations hereunder. Customer may not assign its rights or delegate its duties under the Agreement either in whole or in part without the prior written consent of NTO, which consent may be withheld in NTO's sole discretion, except to a party that acquires all or substantially all of Customer's assets as part of a corporate merger or acquisition. Any attempted assignment or delegation without such consent will be void. The Agreement will bind and inure to the benefit of each Party's successors and permitted assigns (and will in addition inure to the benefit of each person or entity specified in any other part of the Agreement as a person or entity to the benefit of whom or which the Agreement shall inure).

NET TEL may subcontract work to be performed under this agreement, but shall retain responsibility for the work.

12. MODIFICATIONS

Any supplement, modification or waiver of any provision of this Agreement must be in writing and signed by authorized representatives of both parties

If either party fails to enforce any right or remedy available under this Agreement, that failure shall not be construed as a waiver of any right or remedy with respect to any other breach or failure by the other party.

You certify that the Services acquired hereunder are intended for your use in the ordinary course of your business and not for the purpose of resale.

THIS AGREEMENT AND THE SOSP AND/OR THE SPP DOCUMENTS (AS APPLICABLE) ARE THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE PRODUCTS AND SERVICES PROVIDED HEREUNDER AND SUPERCEDES ALL PRIOR AGREEMENTS PROPOSALS, COMMUNICATIONS BETWEEN THE PARTIES AND UNDERSTANDINGS, WHETHER WRITTEN OR ORAL.

13. THIRD PARTY EQUIPMENT AND SERVICES:

If customer purchases a manufacturer's or 3rd party service plan or warranty, the customer understands that said plan or warrantee terms are **NOT** the responsibility of NET TEL. It will have it's own terms and will have no bearing on this agreement or will Net Tel One be responsible for the actions of the manufacture and or 3rd party.

If said equipment is covered under the service section of Service and Maintenance Terms then Net Tel One will open and monitor service orders pertaining to said equipment.

14. GENERAL

(a) All notices to be given under this Agreement shall be mailed to the parties at their respective addresses as set forth on the face of this Agreement, or to such other addresses as either party may advise the other party in writing.

(b) CUSTOMER shall not assign, transfer, or delegate any of its rights, duties, or obligations hereunder without the expressed prior written consent of SERVICER. Any attempt to do so is void

(c) CUSTOMER shall not make any deduction from nor assert any right of set-off against payments due to SERVICER.

(d) This Agreement shall be binding upon CUSTOMER, its successors and assigns, and shall inure to the benefit of SERVICER and its successors and assigns.

(e) Paragraph headings are for reference purposes only and shall not affect the meaning, construction, or effect of this Agreement.

(f) Except as otherwise provided in this Agreement, this Agreement can only be modified by a written agreement that is signed by CUSTOMER and accepted in writing by SERVICER.

(g) SERVICER may, for the performance of any of the various services required of SERVICER under this Agreement, utilize the services of independent contractors selected by SERVICER.

(h) CUSTOMER may not terminate this Agreement at any time.

(i) SERVICER may terminate, or withdraw any equipment from, this Agreement upon written notice to CUSTOMER:

(1) effective upon any Renewal Date with one (1) month's written notice thereof; or

(2) effective at any time (and in addition to any other legal remedy which SERVICER may have) if CUSTOMER fails to comply with any of the terms and conditions of this Agreement; or

(3) effective at any time if, in SERVICER's judgment, the equipment rendered unserviceable due to an unsuitable operating environment, use of equipment for other than purposes intended, or use of non-SERVICER approved parts, repairs, alterations, attachments, accessories, or supplies.

(j) No failure on the part of SERVICER to give notice of default or to exercise (or delay in exercising) any right or remedy available to SERVICER shall operate as a waiver by SERVICER. No waiver by SERVICER of any right, remedy, or of any provision of this Agreement shall imply or constitute a waiver of any other right, remedy, or provision.

(k) All damages, costs, and expenses, including reasonable attorneys fees, incurred by SERVICER as a result of any litigation arising in any manner associated with this Agreement shall be paid by CUSTOMER if SERVICER is finally adjudicated not to have liability.

(l) No action, whatever its form, which arises out of this Agreement may be brought by either party more than one (1) year after the cause of action has arisen.

(m) Should any provision of this Agreement be declared void as against public policy or for any other reason, that provision shall not affect the validity of any other provision.

(n) SERVICER will not be responsible for failure to perform, or delays in performing, any services required of SERVICER under this Agreement due to acts of God, governmental actions, fire, floods, riots, strikes, war, delays in transportation, failure by CUSTOMER to discharge CUSTOMER's obligations under this Agreement on a timely basis, failure of performance by subcontractors, inability to secure parts or services from usual sources of supply, or any other causes beyond the control of SERVICE

(o) CUSTOMER represents and warrants that (1) CUSTOMER is the owner of the equipment covered under this Agreement, or, if not, CUSTOMER has authority from the owner to include the equipment under this Agreement, and (2) there will be no outstanding encumbrances held by any third party on equipment being serviced under this Agreement, or, if such encumbrances do exist, that any such third party has consented to such service.

(p) This Agreement and all of the rights and obligations under this Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts

(q) The parties agree that this Agreement is the complete and exclusive statement of the agreement between the parties and supersedes all proposals or prior agreements, oral or written, and all other communications between the parties relating to the subject matter of this Agreement.

(r) EXCLUSIVE REMEDIES AND LIMITATIONS OF LIABILITY – A. THE ENTIRE LIABILITY OF NET TEL AND ITS SUBSIDIARIES, AFFILIATES AND SUBCONTRACTORS, (AND THE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, SUBCONTRACTORS AND SUPPLIERS OF ALL OF THEM) AND YOUR EXCLUSIVE REMEDIES FOR ANY DAMAGES CAUSED BY ANY PRODUCT DEFECT OR FAILURE, OR ARISING FROM THE PERFORMANCE OR NON-PERFORMANCE OF ANY WORK OR SERVICE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT INCLUDING NEGLIGENCE, STRICT LIABILITY OR OTHERWISE SHALL BE:

(1) FOR FAILURE OF PRODUCTS DURING THE EXTENDED WARRANTY PERIOD, THE REMEDIES STATE IN THIS AGREEMENT;

(2) FOR NET TEL'S FAILURE TO PERFORM ANY MATERIAL TERM OF THIS AGREEMENT (E.G., NET TEL'S MAINTENANCE AGREEMENT SERVICE OBLIGATIONS), YOUR SOLE REMEDY SHALL BE TO CANCEL THIS AGREEMENT WITHOUT INCURRING CANCELLATION CHARGES IF NET TEL FAILS TO CORRECT SUCH FAILURES WITHIN THIRTY (30) DAYS OF RECEIPT OF YOUR WRITTEN NOTICE;

(3) FOR DAMAGES TO REAL OR TANGIBLE PERSONAL PROPERTY OR FOR BODILY INJURY OR DEATH TO ANY PERSON FOR WHICH NET TEL'S SOLE NEGLIGENCE WAS THE PROXIMATE CAUSE, YOUR RIGHT TO PROVEN DAMAGES TO PROPERTY OR PERSON; AND

(4) FOR CLAIMS OTHER THAN SET FORTH ABOVE, NET TEL'S LIABILITY SHALL BE LIMITED TO PROVEN DIRECT DAMAGES IN AN AMOUNT NOT TO EXCEED THE PRICE OF SERVICE GIVING RISE TO THE LIABILITY OR \$100,000, WHICHEVER IS LESS. NET TEL'S RESPONSIBILITY IN THE EVENT OF NEGLIGENT DAMAGE TO PRODUCTS COVERED BY THIS CONTRACT SHALL BE LIMITED TO REPAIR OR REPLACEMENT OF SUCH PRODUCT OR PAYMENT TO THE CUSTOMER OF THE CURRENT FAIR MARKET VALUE AT THE DISCRETION OF NET TEL. IN THE EVENT OF DAMAGE TO PRODUCTS NOT COVERED BY THIS CONTRACT RESULTING FROM NET TEL'S NEGLIGENCE, NET TEL'S RESPONSIBILITY SHALL BE LIMITED TO THE REPAIR OR REPLACEMENT OF THE DEVICE SO DAMAGED ONLY OR PAYMENT TO THE CUSTOMER OF THE FAIR MARKET VALUE OF THE DEVICE, AT THE DISCRETION OF NET TEL. NET TEL SHALL NOT BE LIABLE FOR ANY DAMAGE FOR CONSEQUENTIAL DAMAGES RESULTING FROM THE DAMAGE TO SAID DEVICE. THE WORD "DEVICE" AS USED HEREIN SHALL BE INTENDED TO REFER ONLY TO A PRODUCT IN THE NATURE OF HARDWARE AND SHALL SPECIFICALLY EXCLUDE ITEMS COMMONLY REFERRED TO AS SOFTWARE, DATA OR LOSS OF THE USE OF THE DEVICE FOR THE PURPOSES INTENDED. B. EXCEPT TO THE EXTENT PROVIDED IN THIS AGREEMENT, NET TEL SHALL NOT BE LIABLE FOR THE FOLLOWING TYPES OF DAMAGES: (a) INDIRECT OR INCIDENTAL DAMAGES, AND (b) SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO: LOST PROFITS, SAVINGS OR REVENUES OF ANY KIND, LOST, CORRUPTED, MISDIRECTED OR MISAPPROPRIATED DATA OR MESSAGES; AND CHARGES FOR COMMON CARRIER TELECOMMUNICATION SERVICES OR FACILITIES ACCESSED THROUGH OR CONNECTED TO PRODUCTS ("TOLL FRAUD"). NET TEL SHALL NOT BE LIABLE FOR THE TYPES OF DAMAGES ENUMERATED ABOVE WHETHER OR NOT NET TEL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS PARAGRAPH SHALL SURVIVE THE FAILURE OF ANY EXCLUSIVE REMEDY. ANY DAMAGE THAT IS CAUSED BY THE CUSTOMER'S ABUSE OF THE SYSTEM, WORK BY ANY OTHER INDIVIDUAL OR COMPANY DURING THE PERIOD OF THE MAINTENANCE AGREEMENT, MISUSE OF THE SYSTEM OR DAMAGE BY ANY THIRD PARTY WILL BE CONSIDERED UNWARRANTED WORK AND WILL BE BILLED AT CURRENT ONGOING RATES, INCLUDING TRAVEL TIME, DOOR TO DOOR

(s) Any Dispute you have against NET TEL with respect to this Agreement must be brought in accordance with this Agreement within ONE (1) year after the cause of action arises.

(t) If you fail to perform any material term or condition of this Agreement (e.g., fail to pay any charge when due) and such failure continues for thirty (30) days after invoice due date, you shall be in default and NET TEL may terminate this Agreement and exercise any available rights. Upon termination by NET TEL, you shall be liable for cancellation and/or termination charges and any other applicable charge, including but not limited to reasonable attorneys' fees and costs incurred by NET TEL in enforcing this contract.

(u) Any controversy or claim, whether based on contract, tort, strict liability, fraud, misrepresentation, or any other legal theory, related directly or indirectly to this Agreement (“Dispute”) shall be resolved solely in accordance with the terms of this Agreement.

(v) If a Dispute arises, the parties will endeavor to resolve the dispute through good faith negotiation within forty-five (45) days of notification of the Dispute. If the Dispute cannot be settled through good faith negotiation, NET TEL and you will submit the Dispute to non-binding mediation to a mutually acceptable alternate dispute resolution organization. Each party shall bear its own expenses but those related to the compensation of the mediator shall be borne equally. The parties, their representatives, other participants and the mediator (and arbitrator, if any) shall hold the existence, content and result of mediation in confidence. If the Dispute is not resolved through mediation, claims may be brought in a state or federal court of competent jurisdiction or resolved through binding arbitration.

(w) After commencement of any initial or renewal term of post-warranty service, you may terminate Service coverage upon thirty (30) days written notice. If you provide notice of your intent to terminate during the first thirty (30) days of coverage, you will only be responsible for the charges for the period of coverage up until the effective date of termination. After the first thirty (30) days of coverage, you may provide notice to terminate the Agreement subject to a termination charge equal to the monthly charges for the period remaining. For prepaid agreements, NET TEL will refund or credit the pro rata price of the remaining term less the applicable termination charge.