

SDS Wireless, Inc.
Master Service Agreement
Effective _____, 2019

This Master Service Agreement (“Service Agreement”) is entered into as of the date set forth on the Service Level Agreement attached hereto as Exhibit A (“SLA”), by and between SDS Wireless, Inc. (“SDS,” “we,” “our,” “us,” or “its”) and the individual or entity named on the SLA (“Customer,” “you,” or “your”). This Service Agreement sets forth the terms and conditions under which SDS will provide the Services (as defined below) to you.

By using the Services, you agree to be bound by the terms of this Service Agreement and all documents incorporated by reference herein (collectively, “Additional Terms”), including the SLA, the SDS Privacy Policy, the SDS Website Terms of Use Agreement, the SDS Open Internet Policy, the SDS DMCA Copyright Infringement Policy, and the SDS Minimum Customer Equipment Specifications, as each may be amended from time to time. If there is a conflict between this Service Agreement and any Additional Terms, the Additional Terms shall govern.

PLEASE READ THIS SERVICE AGREEMENT CAREFULLY TO ENSURE THAT YOU UNDERSTAND EACH PROVISION. THIS SERVICE AGREEMENT REQUIRES THE USE OF ARBITRATION¹ ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTION LAWSUITS, AND ALSO LIMITS THE REMEDIES AVAILABLE TO CUSTOMERS IN THE EVENT OF A DISPUTE. IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS, DO NOT USE THE SERVICES.

SDS regularly updates and amends this Service Agreement and the Additional Terms. SDS will communicate any such updates or amendments to Customer in accordance with Section 18(i). Customer may obtain, at no charge, a copy of the current Service Agreement and Additional Terms by accessing the SDS customer service platform through the SDS website or by contacting SDS.²

1. GENERAL OVERVIEW. For purposes of this Service Agreement, “Services” means each of the following, individually and in any bundled combination:

(a) Standard Internet Access Service (“SIAS”). SIAS is high-speed Internet broadband service for residential and small business Customers using bandwidth that is shared with other users on the SDS Network³. SIAS can be accessed via various devices and internal networks and includes bandwidth plans ranging from up to 3 Mbps to up to 50 Mbps download speeds.

(b) Premium Internet Access Service (“PIAS”). PIAS is high-speed Internet broadband service for Premium Business Customers using dedicated bandwidth that is not shared with other users on the SDS Network. PIAS can be accessed via various devices and internal networks and has customizable upload and download speeds per the SLA. “Premium Business Customer” means any Customer that requires high traffic, high volume, customized, dedicated Services.

(c) Voice Over Internet Protocol Phone Service (“VoIP Service”). VoIP Service is the transmission of voice and multimedia content over Internet Protocol networks (instead of

¹ Please confirm SDS wants to use arbitration. Document will need to be revised if not.

² Please ensure you place all documents on the website.

³ “SDS Network” is not defined. How would you define it?

the traditional circuit transmissions of the public switched telephone network) using a combination of hardware and software. This service is not currently available through SDS, but SDS intends to add this service in the future.

2. TERM OF SERVICE AGREEMENT.

(a) SIAS Term. The initial term of the SIAS is (1) year from the date of installation (“SIAS Term”).⁴ At the expiration of the SIAS Term unless Customer signs a new SLA, this Service Agreement will automatically renew on a monthly basis starting on the date of the month that the SIAS Service was installed (“SIAS Renewal Term”). In order for Customer to terminate the SLA, Customer shall follow the termination procedures described in Section 18.

(b) PIAS Term. The initial term of the PIAS is three (3) years ⁵from the date of installation (“PIAS Term”). At the expiration of the PIAS Term, unless Customer signs a new SLA, this Service Agreement will automatically renew on an annual basis starting on the date of the month that the PIAS was installed (“PIAS Renewal Term”). In order for Customer to terminate the SLA, Customer shall follow the termination procedures described in the SLA.

(c) VoIP Service Term. For Customers bundling PIAS with VoIP Service, the initial service term for the VoIP Service is three (3) years from the date of installation (“Premium VoIP Service Term”). At the expiration of the Premium VoIP Service Term, unless Customer signs a new SLA, this Service Agreement will automatically renew on an annual basis starting on the date of the month that the PIAS was installed (“Premium VoIP Renewal Term”). In order for Customer to terminate the SLA, Customer shall follow the termination procedures described in the Customer’s SLA. For Customers bundling SIAS with VoIP Service or VoIP Service alone, the initial service term for the VoIP Service is one (1) year from the date of installation (“Standard VoIP Service Term”). At the expiration of the Standard VoIP Service Term, unless Customer signs a new SLA, this Service Agreement will automatically renew on a monthly basis starting on the date of the month that the Service was installed (“Standard VoIP Renewal Term”). In order for Customer to terminate the SLA, Customer shall follow the termination procedures described in Section 18.

3. EQUIPMENT AND REQUIREMENTS FOR PROVISION OF SERVICES.

(a) Customer Equipment. To use the Services, Customer must have a personal computer or other similar device and other equipment necessary to connect to the Services meeting SDS’s most recent Minimum Customer Equipment Specifications.⁶ The Minimum Customer Equipment Specifications may vary depending on whether you have the PIAS, SIAS, or VoIP and may change over time. SDS may make reasonable efforts to support previously acceptable configurations; however, you understand, acknowledge and agree that SDS is not obligated to continue to provide such support. Although SDS is under no obligation to do so, SDS may, and Customer authorizes SDS to, perform any updates or changes to Customer’s equipment, on-site or remotely, from time to time as SDS deems necessary, in SDS’s sole discretion. Customer will direct

⁴ What is the initial term for standard service? Month to month?

⁵ What is the initial term for premium service?

⁶ Do you have a Minimum Customer Equipment Specifications document? If so, please confirm that it is on the website.

any questions concerning third-party hardware or software to the manufacturer. SDS has no responsibility for the operation, support, maintenance or repair of any equipment, software or services that Customer elects to use in connection with the Services, nor is SDS responsible for any damage that the SDS Equipment (as defined below) or Services may or will cause to Customer's own equipment. **As set forth below and in the Open Internet Policy, Customer is not permitted to connect any harmful equipment to the SDS Equipment. Customer understands that failure to comply with this restriction may cause damage to SDS's network and subject Customer to liability for damages and other liability. Customer agrees to not service, alter, modify or tamper with the SDS Equipment or the Service, or to permit, encourage or solicit any other person to do the same, unless such person has been authorized to do so by SDS.**

(b) SDS Equipment. Customer acknowledges that at the time of installation of the Service, the equipment listed on the SLA (the "SDS Equipment") was installed. Customer further acknowledges that the SDS Equipment may, at SDS' sole discretion, be refurbished or used equipment. Customer agrees that the SDS Equipment was installed at a location and in a manner authorized by Customer. The SDS Equipment is and shall remain the exclusive property of SDS, and Customer shall acquire no interest in the SDS Equipment by virtue of the payments provided for in this Service Agreement or the attachment of any portion of the SDS Equipment to Customer's premises or otherwise deemed part of Customer's realty. Customer and SDS expressly understand, acknowledge and agree that the SDS Equipment is not and shall not be considered a fixture to Customer's premises. SDS reserves the right to make such filings as to be necessary by SDS in its sole discretion to evidence SDS's ownership rights in the SDS Equipment, and Customer agrees to execute all documents as SDS determines is necessary for SDS to make such filings.

(i) Items of SDS Equipment. SDS Equipment for PIAS includes wireless routers, modems, wired Ethernet hardware, point-to-point links, internal wiring and Software, as defined in Section 10 of this Service Agreement. SDS Equipment for SIAS includes wired Ethernet hardware, routers, point-to-point links, internal wiring and Software, as defined in Section 10 herein. SDS Equipment for VoIP Service includes the equipment set forth on the SLA (if applicable).

(ii) Equipment Rental Fee. Customer will pay SDS an Equipment Rental Fee for each item of leased SDS Equipment activated on Customer's account. For PIAS Customer will pay SDS an Equipment Rental Fee pursuant to the terms of and in the amount stated in the SLA. For SIAS the Customer will pay SDS an Equipment Rental Fee pursuant to the terms of and in the amount stated in the SLA. Alternatively, Customer may purchase equipment from SDS or a third party, provided that equipment purchased from a third party is subject to the approval of SDS.

(iii) Damage to SDS Equipment. Customer will not cause or allow any enhancements, alterations or tampering with SDS Equipment on Customer's premises at any time. Customer will not attach any electrical or other devices to, or otherwise alter, any SDS Equipment without SDS' prior written consent. Customer is responsible for preventing the loss or destruction of SDS Equipment, and SDS recommends that the SDS Equipment be covered by Customer's homeowner's, renter's, or other insurance policy. Customer will notify SDS promptly of any defect in, damage to or accident involving the SDS Equipment. All maintenance and repair of the SDS Equipment will be performed by SDS or SDS' designee. SDS may charge Customer for any repairs or replacements that are necessitated by any damage to, destruction of, or misuse of the SDS Equipment.

(iv) Return of SDS Equipment for PIAS. For PIAS, upon termination of this Service Agreement, Customer will return the SDS Equipment to SDS within thirty (30)⁷ days to the address designated in the SLA in the same condition it was received (ordinary wear and tear excepted) and in accordance with SDS's then-current return procedures. If Customer does not return the SDS Equipment within the time set forth above, or if the SDS Equipment is damaged, destroyed, lost or stolen while in Customer's possession, Customer will pay the applicable "Equipment Replacement Fee" listed in the SLA for each piece of SDS Equipment without any deduction for depreciation, wear and tear or physical condition of such SDS Equipment.

(v) Return of SDS Equipment for SIAS. For SIAS, upon termination of this Service Agreement, Customer will return the SDS Equipment to SDS within fifteen (15)⁸ days to the address designated in the SLA in the same condition it was received (ordinary wear and tear excepted) and in accordance with SDS's then-current return procedures. If Customer does not return the SDS Equipment within the time period set forth above, or if the SDS Equipment is damaged, destroyed, lost or stolen in Customer's possession, Customer will pay the applicable "Equipment Replacement Fee"⁹ listed in the SLA for each piece of SDS Equipment without any deduction for depreciation, wear and tear or physical condition of such SDS Equipment.

(c) Access to Customer's Premises. Customer grants SDS and its Affiliates (as defined below), and their respective employees, contractors and agents the right to enter Customer's property and premises at any time for the purpose of operating or maintaining the SDS Equipment or SDS' network, retrieving SDS Equipment or fulfilling its obligations or exercising its rights under this Service Agreement. SDS will provide Customer with reasonable advance notice of any such planned access, except when, in the reasonable opinion of SDS, an emergency or other exigent circumstance exists that would require SDS to immediately enter Customer's property and premises to prevent imminent injury to persons or property. "Affiliate" means an entity that controls, is controlled by or is under common control with another entity or person. SDS is not responsible for the condition of Customer's home or business wiring system. Wiring in the home or business that needs to be repaired or corrected in order to offer the Service will be billed to Customer separately.

(d) Customer's Obligation to Maintain Power to SDS Equipment. Customer understands, acknowledges and agrees that: (i) Customer must provide electrical power and a continuous connection from the power grid to SDS Equipment at all times (including when Customer is not using the Service) and (ii) Customer's failure to provide such power and continuous connection may result in damage to the SDS Equipment or to Customer's computer, equipment, property or premises, for which damage Customer will be solely responsible.

(e) Replacement and Upgrade of SDS Equipment.

(i) Customer will be solely liable for, and SDS shall have no obligation to repair, replace or otherwise upgrade, any SDS Equipment that has been, as determined by SDS in its sole discretion, damaged or otherwise requires repair, replacement or upgrade as a result of damage or disruption caused by misuse or neglect of Customer,

⁷ Is this an acceptable time period?

⁸ Is this an acceptable time period?

⁹ Will you charge an Equipment Replacement Fee?

including damage or disruption caused by Customer's failure to comply with Sections 3(a) and 3(d) of this Service Agreement.

(ii) SDS's ability to provide an appropriate quality of Service to Customer and the other customers on the SDS Network may require upgrades or replacement of the SDS Equipment. At such time as SDS determines, in its sole discretion, that the SDS Equipment needs to be upgraded or replaced for Customer's current Service plan, or if Customer upgrades Customer's Service plan such that an equipment upgrade is necessary, Customer will pay SDS the then-applicable "Equipment Upgrade Fee" as established from time to time by SDS.¹⁰

(f) Customer's Data. Prior to SDS servicing any Customer equipment or SDS Equipment under contract with Customer, it is Customer's responsibility to: (i) back-up the data, software, information or other files stored on Customer's computer or other device including disk drives, peripherals, MP3 players, DVD players, camcorders, digital cameras and any other electronic storage devices; and (ii) remove all videotapes, compact disks, floppy disks, laser disks, cassettes, DVDs, film or other means from Customer's equipment. Customer agrees that whether or not Customer requests back-up services from SDS or its Operational Service Providers¹¹, neither SDS nor its Operational Service Providers shall be liable under any circumstances for any loss, disclosure, alteration or corruption of any data, software, information, files, videotapes, compact disks, floppy disks, laser disks, cassettes, DVDs, film or other means.

(g) Use of the Services for Emergency Purposes. Customer understands that SDS does not recommend Customer rely on wireless Internet or VoIP for emergency contacts (such as 911 calls), and SDS cannot guarantee, and hereby expressly renounces, the reliability of such wireless Internet services.¹²

4. CUSTOMER'S REPRESENTATIONS, RESPONSIBILITIES AND WARRANTIES.

(a) Legal Authority. If Customer is an individual, Customer represents and warrants that he/she is at least the age of majority in his/her state of residence and has legal authority to execute this Service Agreement. If Customer is a business or commercial entity, the individual executing this Service Agreement represents and warrants he/she has legal authority to execute this Service Agreement on behalf of Customer.

(b) No Assignment or Sublicense. Customer agrees that the Service is personal to Customer and agrees not to assign, transfer, resell or sublicense Customer's rights under this Service Agreement unless specifically permitted by the terms of this Service Agreement. For residential customers, Customer agrees that the Services and the SDS Equipment shall be used only by Customer and by members of Customer's immediate household living with Customer at the same address and their visitors. For business Customers, Customer agrees that the Services and the SDS Equipment shall be used only by Customer and authorized employees at Customer's business located at the same address and by visitors, patrons, vendors, or clients of Customer. Customer will not redistribute or share the Services with any others or transmit the Services over a wireless or other network that is not secured. Customer acknowledges that Customer is executing this Service Agreement on behalf of all persons who use the Services by

¹⁰ Will you charge upgrade fees?

¹¹ "Operational Service Providers" is not defined. How would you define it?

¹² Is this accurate?

means of the SDS Equipment. Customer agrees that Customer is solely responsible and liable for any and all breaches of the terms and conditions of this Service Agreement and any other documents incorporated by reference in this Service Agreement, whether such breach results from Customer's use of the Services or by another using Customer's Equipment or the SDS Equipment.

(c) Use of Services. Customer represents and warrants that Customer will not use the Services in a manner that (i) infringes or violates the intellectual property rights or proprietary rights, rights of publicity or privacy, or other rights of any third party; (ii) violates any local, state, federal or international statute, rule, ordinance or regulation (collectively "Applicable Law"); (iii) is harmful, fraudulent, deceptive, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous or otherwise objectionable; (iv) accesses, discloses, uses or disposes of any personally identifiable information ("Personal Information") as defined by the Federal Trade Commission without proper authorization or impersonates any person or entity, including any employee or representative of SDS or its Affiliates; or (v) transmits any virus, trojan horse, worm, time bomb or other harmful computer code, file or program. SDS reserves the right to suspend Customer's access the Services at any time upon receipt of claims or allegations from third parties or authorities or if SDS is concerned that Customer may have breached this Service Agreement. Customer remains solely responsible for Customer's use of the Services and any material transmitted through or via the Services, and Customer warrants that Customer possess all rights necessary to transmit such material.

(d) Customer Information. Customer represents and warrants that the Personal Information Customer provided and will provide to SDS during the term of this Service Agreement, including Customer's legal name, email address for communications with SDS (such email address, as the same may be modified from time to time by Customer upon notice to SDS, the "Account Email Address"), service address, billing address, telephone numbers and payment data (including information provided when authorizing Automated Clearing House payments or other recurring payments) and non-personal information, such as but not limited to the number of computers on which the Services are being accessed (collectively, "Non-Personal Information") for purposes of this Service Agreement is accurate, complete and current. (In the Privacy Policy, Non-Personal Information may also be classified as Personal Information if it is directly associated with or reasonably linked to Customer's account, computer or device.) Customer agrees to promptly notify SDS, in accordance with the terms of this Service Agreement, upon the occurrence of any change in the status of Customer's account (including the creation or removal of an Authorized User (as defined below)) or if there is any change in the Personal Information or the Non-Personal Information (collectively, the "Customer Information"). Customer's failure to provide and maintain accurate Customer Information with SDS constitutes a breach of this Service Agreement.

(e) Use by Third Parties. Customer agrees that Customer is responsible for anyone using the SDS Equipment, Customer's computer system, password, name or Customer name in connection with the Services (with or without Customer's knowledge or consent) and for ensuring that anyone who uses the Services through the SDS Equipment, Customer's equipment or access to the Services, does so in accordance with the terms and conditions of this Service Agreement. Customer agrees to take all reasonable measures necessary to ensure that the Services are not used by another person without Customer's consent. Customer understands, acknowledges and agrees that Customer is responsible for all use of the Services and Customer's account whether Customer or someone else uses Customer's account (with or without Customer's permission).

(f) Software Updates and Anti-Virus and Firewall Software. Customer is responsible for procuring and installing patches, any and all anti-virus and firewall software and hardware and operating system patches, updates or supplements that may be necessary for (i) the protection and maximum functionality of Customer's computer and related equipment and the SDS Equipment and (ii) the protection of the SDS Network and other customers. SDS and its Affiliates, Operational Service Providers, agents, representatives, shareholders, third party licensors and suppliers and their respective members, officers, directors, shareholders, employees, agents, representatives and contractors, and each of their successors and assigns (collectively, the "SDS Related Entities") hereby disclaim any and all responsibility and liability for any damages that may arise from Customer's failure to procure or install the aforementioned security or other software and hardware.

(g) No Restrictions on Installation. Customer represents that there are no legal, contractual or similar restrictions on the installation of the SDS Equipment in the locations and in the manner authorized by Customer. Customer is responsible for ensuring compliance with all Applicable Laws and applicable building codes, zoning ordinances, homeowners' association rules, covenants, conditions or other restrictions related to the installation of the SDS Equipment and Services, for paying any fees or other charges and obtaining any permits or authorizations necessary for the installation of the SDS Equipment and provision of the Services (collectively, "Legal Requirements"). Customer is solely responsible for any fines or similar charges for violation of any applicable Legal Requirements.

(h) Data Backup. Customer is responsible for regularly backing up the data on Customer's computers and networks, and SDS shall have no liability whatsoever for any loss of data.

(i) Terms of Use of Services. Customer agrees to comply with the following terms and conditions for the use of the Services:

(i) The Services are provided for use in conformance with this Service Agreement. SDS reserves the right to investigate suspected violations of the Service Agreement. When SDS becomes aware of possible violations, SDS may initiate investigations which may include gathering information from Customer or Customers involved and the complaining party, if any, and examination of anything installed by Customer on SDS' servers not provided by SDS (collectively, "Customer Material"). Customer Material includes any software, computer programs, applications, data, photographs, video and audio content, text, files, emails, address book information, web storage content and other information.

(ii) During an investigation, SDS may, at its option, suspend the account or accounts involved and remove Customer's Material involved from its servers. If SDS believes a violation of this Service Agreement has occurred, it may take responsive action at its sole discretion. Such action may include temporary or permanent removal of Customer's Material from SDS's servers, warnings to the Customer responsible, and the suspension or termination of the account or accounts responsible. SDS, in its sole discretion, will determine what action will be taken in response to a violation on a case-by-case basis. Violations of this Service Agreement could also subject the Customer to criminal and civil liability.

(j) Terms of Use of Customer Materials. Customer agrees to comply with the following terms for the use and conditions of Customer Materials:

(i) Lawful content in the public domain (e.g., images, video, audio, text, data, and programs) may be downloaded or uploaded using the Services. Customer may redistribute content in the public domain. Customer assumes all risks regarding the determination of whether content is in the public domain.

(ii) Customer will not store, distribute or transmit any unlawful content through the Services. Examples of unlawful content include direct threats of physical harm, child pornography and copyrighted, trademarked and other proprietary material used without proper authorization. Customer will not post, upload, transmit, broadcast or otherwise distribute copyrighted content without the consent of the copyright holder. The storage, distribution or transmission of unlawful content could subject Customer to criminal as well as civil liability, in addition to the actions outlined in Section 4(i) above. Customer understands, acknowledges and agrees that SDS may remove any content at any time that is alleged to infringe on a third party's copyrights upon receiving a notice of infringement under the Digital Millennium Copyright Act. Please see the SDS Website Terms of Use Agreement and the DMCA Copyright Infringement Policy for details.

(iii) Customer will not store or distribute certain other types of material on SDS' servers and via the SDS Network including software, applications and programs containing viruses, Trojans and other tools or technology that would compromise the security of the SDS Network or others.

(iv) Customer represents that when Customer transmits, uploads, posts, or submits any Customer Material using the Services, Customer has the legal right to do so and that Customer's use of such Customer Material does not violate any copyright or trademark laws or any other third party rights.

(v) Customer agrees that if Customer's Service is terminated for any reason, SDS has the right to immediately delete all Customer Material, stored in or for Customer's account, including personal websites and email, without further notice to Customer.

5. THE SERVICE AND PRIVACY.

(a) Privacy Policy. SDS's Privacy Policy governs SDS's collection, use, disclosure, management and security related to the Customer Information. Customer agrees that Customer received a copy of the then-in-effect Privacy Policy at the time Customer executed this Service Agreement. Subject to the notice provisions in Section 18(h) of this Service Agreement, SDS may update or amend the Privacy Policy at any time without Customer's prior consent. SDS will, however, provide notice of any such changes or amendments as stated in SDS' Privacy Policy. Customer understands, acknowledges and agrees that Customer's continued use of the Service after notice of any changes or amendments have been provided will indicate Customer's acceptance of such changes, except where further steps are required by applicable law. All such updates or amendments shall be deemed to be incorporated by reference into this Service Agreement.

(b) Monitoring of Content. SDS has no obligation to monitor content transmitted by use of, or other information related in any way to the provision or receipt of, the Services. However, Customer agrees that SDS has the right to monitor the Services and any and all information or Customer Material transmitted through the Services or by use of the SDS Equipment and information available to SDS regarding Customer's computer and other equipment in accordance with this Service Agreement. SDS has the right at all times and without notice to remove, restrict access to or make unavailable any

information or content residing on SDS's or its Affiliates' or Operational Service Providers' servers. SDS has the right to monitor, review, retain or disclose any content or other information in SDS's possession about or related to Customer (including Customer Information), Customer's use of the Services, or otherwise, as necessary to satisfy any applicable law, or otherwise as SDS deems necessary or appropriate in SDS's sole discretion.

(c) Customer's Credit Information. Customer authorizes SDS to seek and acquire credit and related Customer information from reporting agencies furnishing such information for the purpose of ascertaining Customer's credit and payment history. SDS will use the information acquired about Customer's credit history from others and to utilize such information in its decision regarding its provision of the Services to Customer.

(d) Username and Password. SDS may require that Customer use a username and password combination or other reasonable procedures to confirm Customer's identity when requesting or otherwise accessing account information, making changes to the Services or performing other functions related to the Services through SDS's authorized Customer service channels. Premium Business Customers may also choose to designate an authorized employee or management personnel of Customer (an "Authorized User"), who will be permitted to access Customer's account information and make certain changes to Customer's account. Customer will be solely liable for any and all action or inaction by any Authorized User.

6. **PASSWORDS.**

(a) Residential accounts are for individual and personal use only. Business accounts are for authorized personnel only.

(b) Residential Customers shall not share passwords or accounts with others. Business Customers shall only provide passwords to authorized personnel.

(c) SDS shall provide or obtain passwords to protect Customer's account and Services. In the event that the security of a Customer's account or Services are compromised, SDS shall provide Customer with a new password.

(d) SDS may monitor the security of Customer's passwords at any time. A Customer with an insecure password may be directed to change the password to one which complies with SDS's security requirements. Customers who repeatedly choose insecure passwords may be assigned a password by SDS; continued failure to maintain password security may be grounds for account termination.

7. **SYSTEM SECURITY.**

(a) Customer is solely responsible for maintaining the security of Customer's system. SDS strongly recommends the use and appropriate updating of commercial anti-virus, anti-spyware, firewall software, and encryption of data, to the extent feasible.

(b) Customer is prohibited from utilizing the Services to compromise the security or tamper with SDS's system resources or accounts on the SDS Network or any other equipment at SDS or at any other site. Use or distribution of tools designed for compromising security is prohibited. Examples of the tools include password guessing programs, cracking tools, and network probing tools.

(c) SDS reserves the right to release the Customer's login names of and account information involved in violating system security to system administrators at other sites and law enforcement, in order to assist them in resolving security incidents. SDS will also fully cooperate with law enforcement authorities in investigating suspected lawbreakers, subject to SDS's Privacy Policy and Applicable Law.

8. ACCEPTABLE USAGE AND PROHIBITED INTERNET SERVICE ACTIVITIES.

(a) "Acceptable Usage of Internet Service" is hereby defined as the normal activities associated with the use of the Internet, including usage of SDS's systems and network facilities for accessing the World Wide Web, Internet Relay Chat, USENET Newsgroups, Email, and other Internet features. Depending on the account type, this may include file storage on SDS's servers for Customer's own personal web page and file access area (FTP).¹³ **Please Refer to the Attached Custom Service Level Agreement for Details Regarding Additional Permitted Uses For Premium Services.**

(b) "Prohibited Internet Service Activities" specifically prohibited by SDS include the following:¹⁴

(i) Background or server-type applications, including IRC bots, HTTP servers, MUDs, and any other process which is initiated by the Customer that continues execution on the system upon Customer logout;

(ii) Long term storage of data or files which are not used regularly in an account for an extended period of time is prohibited, including programs such as shareware programs which Customer may download to their account for purposes of transferring to their home computers and devices, all of which should be removed at such time as they are successfully transferred to the Customer's personal system, but excluding FCC Authorized smart home and other Internet of Things related devices;

(iii) Flooding or abuse of other users ("Flooding"), including ICMP flooding, mail bombing (sending large amounts of email repeatedly to a person for purposes of harassment), phishing, mass mailings to multiple addresses via bulk email (the same or similar email messages sent to more than twenty-five (25) recipients) not in compliance with the CAN-SPAM Act, MSG/CTCP flooding on IRC, as well as other, less common methods;

(iv) Programs such as packet sniffers, password crack programs, and similar utilities used in attempts to compromise system or network security which are found to be running from Customer's account, including attempts to hack into non-SDS systems;

(v) Sharing Customer's Internet Service with another party for purposes of avoiding payment for a second Service is strictly prohibited, provided that Customer may connect multiple computers and devices within a single location to Customer's modem, router or radio to access the Internet Service, but only through a single SDS-issued IP address;

¹³ For premium service customers are there any other "Acceptable Usages" you would like expressly enumerated? We typically recommend putting them in the Service Level Agreement.

¹⁴ Are there any others that are specifically prohibited?

(vi) Attempts by a Customer to emulate PPP/SLIP emulation service¹⁵ by software rather than subscribing to the service through SDS, which software will be removed from Customer's account by SDS immediately when found;

(vii) Bulk broadcast data, including flood ping, broadcast ping, multicast, or IGMP use outside of the private network;

(viii) Port scanning;

(ix) Excessive use of system resources, including the continued use of programs or commands which take a large amount of system resources, be that processor time, memory, network bandwidth, or drive space on the host system;

(x) Resale of the Services by Customer;

(xi) Email abuse, including the transfer of a message to unsolicited individuals not in compliance with the CAN-SPAM Act, the sending of harassing or threatening messages to other users, and the forging of email addresses so as to make the email appear to be from another user;

(xii) USENET news abuse, including forging of addresses, harassment, threats, the posting of the same message to multiple newsgroups (spamming), as well as the posting of information in groups where it is not relevant and unwanted;

(xiii) Pyramid/money-making schemes, including the transfer of information or solicitation of persons via the Internet in an attempt to extort money or other valuables or the use of pyramid/chain letters;

(xiv) Pirated software, or the illegal exchange of software for the purpose of avoiding the purchase of said software by the individuals involved, including the unauthorized copying of copyrighted material including digitization and distribution of photographs from magazines, books, or other copyrighted sources and copyrighted software; and

(xv) Exportation of software or technical information in violation of U.S. export control laws.

(c) High-traffic websites – Residential internet service is intended to provide access to individuals only. As most individuals primarily download content, rather than upload it, the performance for everybody on the systems is optimal. However, some individuals occasionally choose to host content on their account that could degrade performance for other users. Due to such circumstances, SDS may have to implement certain limitations on the amount of web hosting traffic an individual Customer's residential account can receive.

9. PENALTIES FOR VIOLATIONS OF SERVICE AGREEMENT.

(a) Violations of the Service Agreement may be subject to immediate termination of Customer's account and any and all criminal and civil penalties available under the law. However, if the offense is severe, SDS reserves the right to disable the Services and terminate the account immediately without advanced notice. Accounts which have been

¹⁵ Does SDS offer this? If not, delete this paragraph.

terminated for abuse and violation of Sections 4(i), 4(j) and 8 herein will not be re-opened. It is vital for SDS to provide a quality service for all Customers and it is important for SDS to have a non-intrusive presence to the rest of the Internet, and thus prohibit activities that adversely affect customers on other service providers and their associated networks. To this end, SDS reserves the right to modify or disable Services and terminate Customer's account at any such time Customer violates this Service Agreement.

(b) Customer understands, acknowledges, and agrees that SDS will not refund Monthly Fees or other fees to Customer when Service has been suspended, disabled or terminated due to violations of this Service Agreement.

(c) All accounts sixty (60) days ¹⁶or more past due will be turned over to collections and Services discontinued permanently. If Service is disconnected for non-payment, SDS is not obligated to re-connect Customer's Service. However, if Customer desires re-connection, and SDS agrees to do so, Customer agrees to pay a one time "Service Re-Connection Fee" plus any amount past due under the SLA. The amount of the Service Re-Connection Fee is set forth on the SLA.

(d) Customer will also be charged a one-time Equipment Re-installation Fee of up to two-hundred dollars **\$200.00** if the Customer's equipment is disconnected due to non-payment. This Equipment Re-installation Fee is for standard connection during normal business hours.¹⁷

10. SOFTWARE LICENSES AND THIRD PARTY SERVICES.

(a) SDS may provide Customer software for use in connection with the Service which is owned by SDS or its third party licensors, third party suppliers, and Operational Service Providers ("Software"). Software may be subject to an additional fee. SDS reserves the right periodically to update, upgrade, or change the Software remotely or otherwise and to make related changes to the settings and Software on Customer's computer, device or Equipment, and Customer agrees to permit such changes and access to Customer's computer, device and Equipment. Customer may use the Software only in connection with the Service and for no other purpose.

(b) Certain Software may be accompanied by an end user license agreement ("EULA") from SDS or a third party. SDS's use of the Software is governed by the terms of that EULA and by this Service Agreement, where applicable. Customer may not install or use any Software that is accompanied by or includes a EULA unless Customer first agrees to the terms of the EULA.

(c) For Software not accompanied by a EULA, Customer is granted a revocable, non-exclusive, non-assignable non-transferable license by SDS or its applicable third party licensors or Operational Service Provider to use the Software (and any corrections, updates and upgrades thereto). Customer may not make any copies of the Software. Customer agrees that the Software is confidential information of SDS or its third party licensors/Operational Service Providers and that Customer will not disclose or use the Software except as expressly permitted herein. The Software contains copyrighted material, trade secrets, patents, and proprietary information owned by SDS or its third party licensors/Operational Service Providers. Customer may not de-compile, reverse

¹⁶ Is this an acceptable time period?

¹⁷ Higher fee for Premium Service Customers is recommended.

engineer, disassemble, attempt to discover any source code or underlying ideas or algorithms of the Software, otherwise reduce the Software to a human readable form, modify, sell, rent, lease, loan, use for timesharing or service bureau purposes, reproduce, sublicense or distribute copies of the Software, or otherwise transfer the Software to any third party. Customer may not remove or alter any trademark, trade name, copyright or other proprietary notices, legends, symbols, or labels appearing on or in copies of the Software. Customer is not granted any title or rights of ownership in the Software. Customer acknowledges that this license is not a sale of intellectual property and that SDS or its third party licensors/Operational Service Providers continue to own all right, title and interest, including all copyright, patent, trademark, trade secret, and moral rights, to the Software and related documentation, as well as any corrections, updates and upgrades to it. The Software may be used in the United States only, and any export of the Software is strictly prohibited.

11. **CUSTOMER'S PAYMENT OBLIGATIONS**¹⁸. Failure to fulfill any payment obligations in a timely manner as provided herein will be a violation of this Service Agreement and Customer's SLA.

[Note: please review this payment section and we can revise accordingly]

(a) Initial Payment for PIAS. At the time of installation of the PIAS, Customer is required to pay the "Activation Fee," "First Month Payment," "Equipment Rental Fee," "Premium Installation Fee,"¹⁹ and any Additional Service Fees, as set forth in the SLA. The First Month Payment is the "Monthly Service Fee" set forth in the SLA, for a full month of Premium Internet Access Service regardless of where the "Installation Date" falls in the calendar month; at the end of the term the First Month Payment will be prorated and any credit will be applied to Customer's final payment. Together, the Activation Fee, Premium Installation Fee, First Month Payment, any Equipment Rental Fee and any Additional Service Fees constitute the "Initial Payment." Customer agrees that the Initial Payment is to be paid in consideration of SDS making the PIAS available on the terms and conditions set forth in this Service Agreement, that SDS has earned the Initial Payment in full and that the Initial Payment is refundable only if the Premium Internet Access Service is not working within seven (7) calendar days of the Installation Date.

(b) Initial Payment for SIAS. At the time of installation of the SIAS, Customer is required to pay the "Activation Fee,"²⁰ "First Month Payment," "Standard Installation Fee,"²¹ any "Equipment Purchase Fee" and any Additional Service Fees, as set forth in the SLA. The First Month Payment is the "Monthly Service Fee" set forth in the SLA, for a full month of SIAS regardless of where the "Installation Date" falls in the calendar month; at the end of the term the First Month Payment will be prorated, and any credit will be applied to Customer's final payment. Together, the Activation Fee, Installation Fee, First Month Payment, any Equipment Purchase Fee and any Additional Service Fees constitute the "Initial Payment." Customer agrees that the Initial Payment is to be paid in consideration of SDS making the SIAS available on the terms and conditions set

¹⁸ Is there a requirement for security deposit? If so we will need to include here.

¹⁹ Revise if not charged.

²⁰ Is there an activation fee?

²¹ Is this charged? Is it for standard service or for all installations? What if the customer needs more cable, equipment, etc.?

forth in this Service Agreement, that SDS has earned the Initial Payment in full and that the Initial Payment is refundable only if the SIAS is not working within seven (7) calendar days of the Installation Date.

(c) Monthly Fees. After the Initial Payment, Customer agrees to pay the applicable “Monthly Service Fee,” “Monthly Equipment Assurance Fee” if any, and any other recurring monthly fees (collectively the “Monthly Fees”) on or before the first day of Customer’s “Monthly Billing Cycle.” Except as set forth in the SLA, Customer’s Monthly Billing Cycle begins on the date of installation, unless the Installation Date is on the 29th through the 31st of a month, then the billing cycle will begin on the 28th of the month and prorated accordingly. Notwithstanding the foregoing, SDS may modify Customer’s Monthly Billing Cycle upon at least fifteen (15) calendar days’ advance notice to Customer.

(d) Changes to Monthly Service Fees. Customer understands, acknowledges and agrees that the Monthly Service Fee is subject to change from time to time after the initial Service Term and prior to any Renewal Term subject to advance notice by SDS. If subscribing to PIAS, Customer understands, acknowledges and agrees that the Premium Installation Fee is based on the Customer’s Customized SLA and may change based on the Customer’s specific circumstances. If subscribing to SIAS, Customer understands, acknowledges and agrees that the Standard Installation Fee up to \$99.95 is area dependent and may be limited to standard installation and hardware.²² If Customer needs additional cable, or equipment additional fees may apply.²³

(e) Timely Payment. Customer bears the sole responsibility to timely pay Monthly Fees when due. Bills will be sent via email to the Customer’s Account Email Address. Customer may also choose to receive the monthly bill via postal mail for a four dollar and ninety-five cents (\$4.95 U.S.) monthly fee.²⁴ It is Customer’s sole responsibility to have a valid Account Email Address on file with SDS. Online billing is available if set up in advance with Customer and SDS. Customers may pay their bill with cash, check, credit card or debit card (Master Card, Discover or Visa), or ACH (Automated Clearing House; direct withdrawal from checking or savings account) only. In certain circumstances (such as a sub-par credit rating, or poor payment history) SDS may require a deposit or other guaranteed form of payment (such as payment card or bank account debit authorization) from Customer. Customer understands, acknowledges and agrees that SDS or its Operational Service Providers can run a credit check on Customer prior to any installation. If Customer owes money on any account, SDS may deduct the amounts owed from any existing credit Customer has or any security deposit provided or, if applicable, charge them to the bank or payment card account Customer has authorized SDS to use.

(f) Late Fee. Customer will be assessed up to a thirty-five dollar (\$35.00) late fee²⁵ each month for Monthly Fees unpaid after the payment due date until the overdue balance is paid in full.

²² Is there an installation fee? How much?

²³ Please confirm.

²⁴ Do you charge a paper bill surcharge? If not we can revise.

²⁵ Do you charge a late fee?

(g) Returned Check Fee. Additionally, Customer will automatically be charged a thirty-five dollar (\$35.00) fee²⁶ for any check or ACH payment returned for non-payment or insufficient funds, "ACH Non-Payment Fee."

(h) Equipment Reconnection Fee. Customer will also be charged a one-time Equipment Reconnection Fee²⁷ of up to two hundred dollars (\$200.00) if the Customer equipment is disconnected due to non-payment. This Equipment Reconnection Fee is for standard connection during normal business hours.

(i) No Obligation to Provide Services. SDS shall not be obligated to provide the Service during Monthly Billing Cycles for which Customer has not paid the applicable Monthly Fees in advance. If at any time Customer's account has past due amounts or upon Customer's violation of this Service Agreement (including any documents incorporated by reference herein), SDS may, in SDS' sole and absolute discretion, suspend provision of the Service to Customer or terminate this Service Agreement. Amounts are past due if not paid by the first calendar day of Customer's Monthly Billing Cycle. Customer understands, acknowledges and agrees that SDS is not required to provide notice before suspending or disabling the Service or terminating the Customer's account or this Service Agreement, and SDS will not be liable to Customer or any Authorized User for any such suspension, disabling or termination or any damages that may result therefrom. In order to restore service after a disconnection, Customer agrees to pay the applicable "Re-installment Fee" set forth in the SLA.

(j) Taxes and Governmental Fees. For the SDS Service generally, Customer also agrees to pay all applicable federal, state, and local taxes and fees, including those imposed after the date of execution of the SLA.

12. SERVICE LEVEL AGREEMENT AND REFUNDS FOR STANDARD INTERNET ACCESS SERVICE.

(a) Service Level Agreement. If Customer experiences a Service outage for more than two (2) consecutive hours and Customer notifies SDS immediately of such event Customer may be entitled to a credit towards their account. If SDS determines that the Service outage was caused by SDS's failure to provide said services for reasons within SDS's reasonable control and not a result of scheduled maintenance of SDS's Equipment or Services or as a result of any actions or inactions of Customer or any third parties (including failure of third party equipment), SDS will, upon Customer's request, credit Customer's account the connectivity charges for the length of the outage. Customer credit may not exceed the Monthly Service Fee in any single calendar month.

(b) Refunds.²⁸ If Service cannot be supplied by SDS for any reason, a full refund will be given on a pro-rated basis for any prepaid service fees and SDS Equipment returned in new resalable condition. Service may be cancelled without penalty within thirty (30) days of service installation for quality of service issues. All other payments are non-refundable. For SLIA, please refer to the SLA for details regarding refunds.

13. DISCLAIMER OF WARRANTIES.

²⁶ Do you charge a return check fee? How much does the bank charge?

²⁷ Do you charge a reconnection fee? Larger for premium services?

²⁸ Please confirm the "30 days" and return of equipment resulting in a refund.

(a) CUSTOMER EXPRESSLY AGREES THAT CUSTOMER USES THE SERVICE, THE SDS NETWORKS AND THE SDS EQUIPMENT AT CUSTOMER'S SOLE RISK. THE SERVICE AND SDS EQUIPMENT ARE PROVIDED ON AN "AS-IS" AND "AS AVAILABLE" BASIS AND EXCEPT TO THE LIMITED EXTENT SPECIFICALLY SET FORTH IN SECTION 3 HEREIN, IF APPLICABLE, WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF TITLE, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, OR MERCHANTABILITY. NEITHER SDS OR SDS RELATED ENTITIES: (I) TO UNINTERRUPTED, TIMELY OR SECURE USE OF SERVICE; (II) THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS; (III) THAT THE SERVICE WILL BE ERROR-FREE OR FREE OF ANY VIRUSES, WORMS, SPAM, POP-UP ADVERTISING, SPYWARE, ADWARE OR OTHER HARMFUL COMPONENTS, EVEN IF COUNTERMEASURES HAVE BEEN DEPLOYED; OR (IV) THAT ANY PERSONAL INFORMATION, NON PERSONAL INFORMATION, DATA, FILES, OR CUSTOMER MATERIAL CUSTOMER SENDS OR RECEIVES VIA THE SERVICE WILL BE TRANSMITTED IN UNCORRUPTED FORM, WITHIN A REASONABLE TIME, OR FREE FROM UNAUTHORIZED ACCESS BY OTHERS OR THAT OTHER USERS WILL BE UNABLE TO GAIN ACCESS TO CUSTOMER'S COMPUTER OR DEVICE. THIS INCLUDES INCIDENTS OF FILE SHARING, PRINT SHARING OR USE OF OTHER MEANS THAT ENABLE INTERNET USERS TO GAIN ACCESS TO CUSTOMER'S COMPUTER, DEVICE, OR NETWORK OR SDS EQUIPMENT, OR TO MONITOR CUSTOMER'S ACTIVITY AND CONDUCT WHILE USING THE SERVICE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY CUSTOMER FROM SDS SHALL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN. SOME STATES DO NOT ALLOW LIMITATIONS ON THE SCOPE OF A LIMITATION OF WARRANTY OR HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO CUSTOMER.

(b) In addition, SDS may, in its sole discretion, make available to Customer security software, such as anti-virus software, firewall software, "pop-up" advertising blocking software, parental control software, anti-spyware or anti-adware software for Customer's use on Customer's computer systems in conjunction with the Service. Any such security software provided by SDS to Customer is intended to provide only a minimal level of protection to Customer's computer systems. CUSTOMER UNDERSTANDS, ACKNOWLEDGES AND AGREES THAT SDS AND SDS RELATED ENTITIES OF ANY SUCH SECURITY SOFTWARE, DO NOT GUARANTEE ITS ACCURACY, EFFICACY OR PERFORMANCE. CUSTOMER UNDERSTANDS AND AGREES THAT SDS AND ITS AFFILIATES, OFFICERS, EMPLOYEES, SHAREHOLDERS, AGENTS, REPRESENTATIVES, THIRD PARTY SUPPLIERS AND LICENSORS ARE NOT RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER'S COMPUTER SYSTEMS (OR THE INFORMATION STORED THEREIN) THAT MAY RESULT FROM USE OF THE SECURITY SOFTWARE OR FROM ITS NON-PERFORMANCE.

(c) EXCEPT AS SPECIFICALLY SET FORTH IN THE SLA, CUSTOMER UNDERSTANDS AND AGREES THAT NEITHER SDS NOR SDS RELATED ENTITIES GUARANTEE THAT ANY PARTICULAR AMOUNT OF BANDWIDTH ON SDS'S NETWORK OR THAT ANY SPEED OR THROUGHPUT OF CUSTOMER'S CONNECTION TO SDS'S NETWORK WILL BE AVAILABLE TO CUSTOMER. Customer understands, acknowledges and agrees that the availability and speed of the Service provided at Customer's premises may vary depending upon a number of factors, including Customer's own use, Customer Equipment accessing the Service, the terrain and location of Customer's premises, foliage between SDS Equipment and other components of SDS' network, Internet traffic, and other factors such as system capacity

limitations, governmental actions, events beyond SDS' control and system failures, modifications, upgrades and repairs.

(d) Customer understands, acknowledges and agrees that SDS is NOT responsible for: obstructions that might be erected or grow between Customer's antenna and SDS' network antenna causing a degradation or loss of service; equipment upgrades necessary over time to address changes in foliage or other reasons; debris or ice on antenna; re-aiming the antenna; reconfiguration of network settings due to, but not limited to, tampering or re-installation of operating systems; physical or electronic damage to Customer's or any third party's person or equipment, including to damage caused by lightning or by the equipment itself; damage caused by hackers or viruses; or loss of data, whether such data resides on SDS servers or not.

(e) Customer understands, acknowledges and agrees that SDS may in the future offer other Customers on SDS' network Service with specific minimum service standards (including minimum standards for speed, bandwidth, latency or availability) (such minimum service standards that may be offered in the future "Future Enhanced Service"). Customer further understands, acknowledges and agrees that SDS shall be under no obligation to provide any Future Enhanced Service to Customer unless and until SDS and Customer have executed a new agreement with respect to such Future Enhanced Service, which agreement may include such increased or modified Monthly Fees and additional terms and conditions as SDS and Customer may agree.

(f) Customer understands, acknowledges and agrees that SDS may use various tools and techniques in order to efficiently and reasonably manage the safety of the SDS Networks and to ensure compliance with SDS's Open Internet Policy and Section 8 above (such tools and techniques, "Network Management Tools"). These may include detecting malicious traffic patterns and preventing the distribution of viruses or other malicious code or any such other Network Management Tools as SDS may from time to time determine appropriate.

(g) Customer understands, acknowledges and agrees that, in order to provide redundancy or increased efficiency or otherwise to enhance SDS's Network, SDS may install additional equipment at Customer's premises, and any such equipment not set forth in the SLA shall be deemed to be SDS Equipment for the purposes of this Service Agreement. Customer further understands, acknowledges and agrees that SDS may use the SDS Equipment to provide Service to others in a manner that secures and separates Customer's traffic and local area network from Service provided to others.

(h) Customer understands, acknowledges and agrees that SDS does not warrant that Service descriptions, information, graphic depictions, fees, product and or other components of the Service are accurate, reliable, updated, current, complete or error-free. Despite SDS's efforts, it is possible that a price for the Service (or a component of the Service) offered on SDS's website, or the Service description may be inaccurate in some part. In the event SDS determines that a Service contains an inaccurate price or description, SDS reserves the right to take any action SDS deems reasonable and necessary, in SDS's sole discretion, to rectify the error, including canceling Customer's order, unless prohibited by law. SDS may make improvements or changes to any of SDS's information, or Services described on SDS's websites at any time without notice. Customer agrees to notify SDS immediately if Customer becomes aware of any pricing or descriptive errors or inconsistencies with any Services Customer orders and to comply with any corrective action that SDS may take.

(i) THIS SERVICE AGREEMENT GIVES CUSTOMER SPECIFIC LEGAL RIGHTS, AND CUSTOMER MAY HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE.

(j) This Section 13, Disclaimer of Warranties, will survive termination or expiration of this Service Agreement, for any reason.

14. LIMITATION OF LIABILITY.

(a) CUSTOMER MUST BRING ANY CLAIM OR LAWSUIT WITHIN ONE (1) YEAR OF THE DATE THE CLAIM OR SUIT ARISES.

(b) TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, IN NO EVENT SHALL SDS OR SDS RELATED ENTITIES BE LIABLE WITH RESPECT TO THE SERVICE OR THE SUBJECT MATTER OF THIS SERVICE AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE LIMITATIONS AND EXCLUSIONS HEREIN MAY NOT APPLY TO CUSTOMERS RESIDING IN SUCH STATE. IF ANY PART OF THIS LIMITATION ON LIABILITY IS FOUND TO BE INVALID OR UNENFORCEABLE FOR ANY REASON, CUSTOMER UNDERSTANDS, ACKNOWLEDGES AND AGREES THAT THE AGGREGATE LIABILITY OF SDS UNDER SUCH CIRCUMSTANCES FOR LIABILITIES THAT OTHERWISE WOULD HAVE BEEN LIMITED SHALL NOT EXCEED ONE HUNDRED DOLLARS (\$100.00).

(c) CUSTOMER FURTHER UNDERSTANDS, ACKNOWLEDGES AND AGREES THAT SDS WILL HAVE NO LIABILITY FOR THE FOLLOWING:

(i) ANY AMOUNT IN EXCESS OF ONE HUNDRED DOLLARS (\$100.00);

(ii) ANY THIRD-PARTY FEES OR CHARGES, INCLUDING BANKING FEES, OVERDRAFT FEES, MOBILE PHONE OR OTHER WIRE LINE CHARGES, TECHNICIAN CHARGES, OR OTHER SIMILAR CHARGES;

(iii) ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER;

(iv) DATA LOSS OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES;

(v) ANY DAMAGES OR LOSS DUE TO CUSTOMER'S FAILURE TO BACK UP ANY EQUIPMENT AS REQUIRED IN SECTION 3(F) HEREIN;

(vi) ANY LACK OR BREACH OF SECURITY CUSTOMER OR ANY OTHER PARTY MAY EXPERIENCE OR BE EXPOSED TO WHILE USING THE SERVICE;

(vii) ANY MATTER BEYOND SDS'S REASONABLE CONTROL;

(viii) ANY INTERFERENCE OR INCOMPATIBILITY WITH OR DISRUPTION OF ANY NON-VOICE SYSTEMS, WHETHER CAUSED BY THE TELEPHONE SERVICE, INTERNET SERVICE, EQUIPMENT, OR OTHERWISE; OR

(ix) CUSTOMER'S USE OF THE SERVICE FOR OR IN CONNECTION WITH ANY HIGH-RISK OR UNLAWFUL USES, OR ANY USE THAT VIOLATES THIS SERVICE AGREEMENT.

(d) Customer understands, acknowledges and agrees that SDS may block traffic to or from any source, including the deletion of any unlawful electronic mail as defined under the CAN-SPAM Act, as it deems necessary to secure its network or eliminate unlawful, unsolicited, or non-compliant electronic mail as part of its reasonable network protection practices.²⁹ Customer agrees that SDS shall be entitled to damages if Customer transmits or is otherwise connected with the transmission of such electronic mail. Customer agrees that SDS is entitled to actual damages; however, if actual damages cannot be reasonably calculated, Customer agrees to pay SDS liquidated damages of five dollars (\$5.00 US) for each piece of spam in violation of the CAN-SPAM Act transmitted from or otherwise connected with Customer's account. Customer will be charged at SDS' current hourly rate of _____[\$145.00?],³⁰ and in the minimum be charged for at least one (1) hour, for SDS's response to complaints from, and clean-up for, unsolicited commercial mailing, unauthorized bulk mailings or server violations. **[Note: check hourly rate in prior paragraph]**

(e) Customer understands, acknowledges and agrees that when using the Service to access the Internet or any other online network or service, there are certain risks that may enable other Internet users to gain access to or use of Customer's computer or other equipment. Customers are responsible for putting in place and should put in place all appropriate security measures when using the Service. Customers are responsible for any misuse of the Service that occurs through Customer's account, whether by a member of Customer's household or an authorized or unauthorized third party.

(f) This Section 14, Limitation of Liability, will survive termination or expiration of this Service Agreement for any reason.

15. INDEMNIFICATION.

(a) Customer agrees to indemnify, defend and hold harmless SDS, and SDS Related Entities from and against all losses, expenses, damages and costs (including reasonable attorneys' fees) actions, governmental inquiries and investigations, and other claims brought against any SDS Indemnitee related to Customer's use of the Service or any violation of this Service Agreement and all other documents incorporated herein by reference, including claims that Customer's use of the Service infringed on the patent, copyright, trademark or other intellectual property right of any third party, Customer's violation of any law or the rights of another and claims resulting from Customer's negligence. SDS reserves the right to assume the defense and control of any matter subject to indemnification by Customer, in which event Customer will cooperate with SDS in asserting any available defenses.

(b) This Section 15, Indemnification, will survive termination or expiration of this Service Agreement for any reason.

²⁹ Please confirm that you may block traffic to protect your network or eliminate spam.

³⁰ Please insert your hourly rate, if you have one.

16. AGREEMENT TO ARBITRATE.³¹

(a) CUSTOMER AND SDS AGREE TO ARBITRATE ALL DISPUTES AND CLAIMS BETWEEN CUSTOMER AND SDS THAT THEY ARE NOT ABLE TO RESOLVE THROUGH GOOD FAITH DISCUSSION. The agreement between Customer and SDS to arbitrate all disputes and claims between them is intended to be broadly interpreted. It includes claims arising out of or relating to any aspect of the relationship between Customer and SDS, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory, claims that arose before this or any prior Service Agreement, claims relating to advertising, claims that are currently the subject of purported class action litigation in which Customer is not a member of a certified class and claims that may arise after the termination of this Service Agreement. For the purposes of this Section 16, references to Customer include Customer's subsidiaries, Affiliates, officers, agents, employees, representatives and predecessors in interest, successors, and assigns, as well as all Authorized Users or unauthorized users or beneficiaries of the Service. **CUSTOMER AGREES THAT BY ENTERING INTO THIS SERVICE AGREEMENT, CUSTOMER AND SDS ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION WITH RESPECT TO THIS SERVICE AGREEMENT.** This Service Agreement evidences a transaction in interstate commerce, and thus the Federal Arbitration Act governs the interpretation and enforcement of this provision. This arbitration provision shall survive termination of this Service Agreement.

(b) A party who intends to seek arbitration must first send to the other, by certified mail, a written notice ("Arbitration Notice"). An Arbitration Notice to SDS must be addressed to SDS at the address set forth in this Service Agreement for notices. An Arbitration Notice to Customer must be addressed to Customer at Customer's then-current billing address. The Arbitration Notice must (i) describe the nature and basis of the claim or dispute and (ii) set forth the specific relief sought. If Customer and SDS do not reach an agreement to resolve the claim within sixty (60) calendar days after the Arbitration Notice is received, Customer or SDS may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by SDS or Customer shall not be disclosed to the arbitrator until after the arbitrator determines the amount, if any, to which Customer or SDS is entitled.

(c) The arbitration shall be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association (the "AAA"), as modified by this Service Agreement, and shall be administered by the AAA. The AAA Rules are available online at www.adr.org, by calling the AAA at 1-800-778-7879 or written request to the SDS. The arbitrator shall be bound by the terms of this Service Agreement. All issues are for the arbitrator to decide, except that issues relating to the scope and enforceability of the arbitration provision are reserved to the decision of a court of competent jurisdiction. Unless Customer and SDS agree otherwise, any arbitration hearings shall take place in Pulaski County, Arkansas. The right to a hearing shall be determined by the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator shall issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based. The party initiating arbitration proceedings shall bear all the arbitration-related costs and expenses of both parties including legal fees and expenses.

³¹ Please confirm that you would like to utilize arbitration. If not we can revise as needed.

(d) The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. CUSTOMER AND SDS AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both Customer and SDS agree otherwise, the arbitrator may not consolidate more than one person's claims and may not otherwise preside over any form of a representative or class proceeding.

(e) Notwithstanding any provision in this Service Agreement to the contrary, Customer and SDS agree that if SDS makes any future change to this arbitration provision (other than a change to the address to which an Arbitration Notice is to be sent), Customer may reject any such change by sending SDS written notice within thirty (30) days of the change. By rejecting any future change, Customer agrees that Customer will arbitrate any dispute between Customer and SDS in accordance with the language of this provision.

17. TERMINATION OF THE SERVICE.

FOR PREMIUM SERVICES: Please Refer to the Attached Custom Service Level Agreement for Details Regarding Termination of Service For Premium Internet Access Services.

(a) IF CUSTOMER CANCELS THE SERVICE OR ANY ASPECT THEREOF FOR ANY REASON, SDS SHALL NOT BE REQUIRED TO REFUND CUSTOMER ANY PORTION OF THE MONTHLY FEES PAID BY CUSTOMER FOR THE MONTH IN WHICH CANCELLATION OCCURS, UNLESS REQUIRED OTHERWISE BY STATE LAW OR PROVIDED IN THIS SUBSECTION (a).

(i) Customer may cancel this Service Agreement and the SLA without any penalty or future contractual obligation within three (3) business days from effective date of the Service Agreement.³² Customer will not incur an "Early Termination Fee" if Customer exercises his/her three-day right to cancel this Service Agreement

(ii) In the event SDS has incurred any installation, activation, equipment, porting, or any other costs as a result of initiating Services, Customer shall pay SDS for the charges incurred. Customer understands, acknowledges and agrees that SDS has the right to withhold any such charges from any deposit or advance fees provided by Customer.

(b) If subscribing to SIAS, Customer may terminate the Service no less than thirty (30) days prior to the then-current SIAS Term.³³ Customer Termination notices must be sent by Customer via email, fax, or U.S. mail to SDS's notice address as set forth in this Service Agreement. SDS may take reasonable steps to verify Customer's identity and authority before effecting such termination. Upon termination, Customer agrees to pay any account balance and to return any SDS Equipment within thirty (30) days of expiration of the SIAS Term or pay the Equipment Purchase Price as set forth in Section 3(b) herein. Any "Early Termination Fee" is set forth in the SLA. Termination provisions for the SIAS are set forth in the SLA.

³² Please confirm and revise as needed.

³³ Does this apply to SDS? Please confirm the 30 days' notice requirement.

(c) The Service and all Service features are subject to availability on an ongoing basis. Customer understands that SDS may cease to offer the Service or any Service feature at any time, for any reason or no reason, and without notice to Customer. Without limiting the generality of the foregoing, SDS may suspend, disconnect or terminate the Service at any time without prior notice if SDS believes in its sole discretion that Customer has (i) failed to pay Customer's bill when due, (ii) threatened or harassed any SDS employee, agent or contractor, or (iii) violated any other provision of this Service Agreement. In its reasonable discretion, SDS may terminate the Service on sixty (60) days' notice to Customer.

(d) If the Service to Customer is disconnected for any reason or Service is suspended in accordance with this Service Agreement, SDS may charge Customer (i) for Service during the period of disconnection or suspension in accordance with Applicable Law and (ii) reasonable disconnection and reconnection fees.

(e) SDS will also close the Customer's account after three (3) unpaid billing cycles.

(f) Upon the suspension, disabling or termination of Customer's Service, SDS shall not be responsible for the return of data stored on SDS's servers, including web and email servers. Customer agrees that SDS has no obligation to visit Customer's home upon termination to reconfigure Customer's computer or device or for any other reason.

18. GENERAL PROVISIONS.

(a) This Service Agreement (including all documents incorporated herein by reference) constitutes the entire agreement with respect to the Service. This Service Agreement supersedes and nullifies all prior understandings, promises and undertakings made orally or in writing by or on behalf of the parties with respect to the subject matter of this Service Agreement.

(b) The Parties agree that any Affiliates, Operational Service Providers, agents, third party suppliers and licensors of SDS are intended beneficiaries of this Service Agreement. Except as set forth in the previous sentence, this Service Agreement is not intended to give and does not give any rights or remedies to any person other than Customer and SDS.

(c) Sections 2 through 18 herein shall survive any termination or expiration of this Service Agreement.

(d) No agency, partnership, joint venture, or employment relationship is created as a result of the Service Agreement and neither party has any authority of any kind to bind the other in any respect.

(e) SDS shall not be liable for any failure to perform its obligations hereunder where such failure results from any cause beyond SDS's reasonable control, including mechanical, electronic or communications failure or degradation (including "line-noise" interference).

(f) This Service Agreement and all matters arising out of or related to this Service Agreement shall be governed by the laws of the State of Arkansas without regard to conflicts of law provisions. Subject to the agreement between Customer and SDS with respect to arbitration of any disputes, Customer agrees that the federal and state courts in Pulaski County, Arkansas alone shall have jurisdiction over all disputes arising under

this Service Agreement, and Customer consents to the personal jurisdiction of those courts.

(g) SDS's failure to exercise or enforce any right or provision of this Service Agreement shall not constitute a waiver of such right or provision. If any term, covenant, condition or provision of this Service Agreement shall, to any extent, be held invalid, illegal or unenforceable, the remainder of this Service Agreement shall not be affected and each remaining term, covenant, condition and provision shall be valid and enforceable to the fullest extent permitted by law or construed as nearly as possible to reflect the original intentions of the parties.

(h) SDS may change, amend, alter or modify this Service Agreement at any time. SDS may notify Customer of any change either by posting that change on the SDS Website ([INSERT WEBSITE]³⁴), by sending Customer an email, as a bill insert, via telephone, or by U.S. first-class mail, or by any reasonable means. If Customer continues to use the Service after such notice has been made, Customer agrees that such continued use shall be deemed to be Customer's acceptance of those changes unless additional notice or steps are required by law. The current version of this Service Agreement, as the same may be modified by SDS from time to time, shall supersede any prior version of this Service Agreement that may have been provided to Customer at any time.

(i) Except as specifically set forth in this Service Agreement, any notices under this Service Agreement shall be effective as follows:

(i) *If to Customer:* notice shall be made by (A) email to Customer's Account Email Address; (B) by first-class mail to Customer at Customer's billing address then on file with SDS; (C) insertion in Customer's billing statement; or (D) when posted to the Announcements page of the SDS Website. If by email (including a billing statement delivered via email), such notice shall be deemed effective when transmitted by SDS. If by first-class mail (including a billing statement delivered via first-class mail), such notice shall be deemed effective upon when deposited in the U.S. Mail, addressed to Customer at Customer's then-current billing address. If by posting on SDS' Website, such notice shall be deemed effective when published by SDS.

(ii) *If to SDS:* notice shall be made exclusively by first-class mail to SDS at [ADDRESS],³⁵ [or such other address as SDS may from time to time publish to Customer, and such notice shall be deemed effective upon receipt by an authorized agent.

(j) Customer may not assign this Service Agreement or Customer's rights or obligations under this Service Agreement without SDS's prior written consent, and any purported assignment by Customer without such consent shall be void. SDS may transfer or assign any portion or all of this Service Agreement at any time without notice to Customer, and Customer waives any notice that may be required by law.

(k) For purposes of this Service Agreement, the singular includes the plural and the plural includes the singular. References to a Section, Schedule or Exhibit mean a Section, Schedule or Exhibit contained in or attached to this Service Agreement. The caption headings in this Service Agreement are for convenience and reference only and

³⁴ Please insert SDS's Website when the site is up.

³⁵ Please insert a mailing address for SDS when one is known.

do not define, modify or describe the scope or intent of any of the terms of this Service Agreement. This Service Agreement will be interpreted and enforced in accordance with its provisions and without the aid of any custom or rule of law requiring or suggesting construction against the party drafting or causing the drafting of the provisions in question. If any one or more of the provisions of this Service Agreement, or the applicability of any such provision to a specific situation, shall be held invalid or unenforceable, such provision shall be modified to the minimum extent necessary to make it or its application valid and enforceable, and the validity and enforceability of all other provisions of this Service Agreement and all other applications of any such provision shall not be affected thereby. If any date herein set forth for the performance of any obligations by SDS or Customer or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday in Arkansas, the compliance with such obligations or delivery shall be deemed acceptable on the next business day. These terms shall have the indicated meaning when used in this Service Agreement: (i) "including" shall mean "including, without limitation", (ii) "or" shall mean "and/or" (unless indicated otherwise), and (iii) "discretion" means within the applicable party's sole discretion. Further, any reference to statute, act or code shall mean the statute, act or code as amended.

(a) Customer and SDS have executed this Service Agreement by their signatures (or, the signature of each Party's authorized person) on the SLA.

EXHIBIT A

[ATTACH EXECUTED SLA FOR SIAS OR PIAS, AS APPLICABLE]