



SERVICE AGREEMENT

This Service Agreement ("Agreement") is between Wabash Communications, Inc. ("Company") and the company executing this Agreement ("Customer") and is executed as of the date of the first Service Order ("Effective Date"). Company and Customer may be referred to herein as a "Party" and jointly as the "Parties." The Parties agree as follows:

1. Definitions

- a. "Carrier of Record" is the authorized telecom provider which shall be selected by Company and can be changed by Company. The current Carrier of Record is stated on Schedule A attached hereto and made a part hereof, which Company can update upon amendment of a new Schedule A to this Agreement.
- b. "CPNI" (Customer Proprietary Network Information) as defined in 47 U.S.C. § 222, is the data collected by telecommunications companies about a consumer's telephone calls. It includes the time, date, duration and destination number of each call, the type of network a consumer subscribes to, and certain other information that appears on the consumer's telephone bill.
- c. "Confidential Information" defined as any business plan, financial information, employee or independent contractor information, names of vendors, trade secrets, and other information which a Party desires to not be publicly available. Unless someone can determine from the information that the information is Confidential Information, the Party desiring protection shall mark such information as "Confidential" or follow-up immediately with a written notice for verbal communication. Confidential Information shall not include information that is publicly available, was released to the public by a third party not bound to keep the information confidential or granted in writing by the Party desiring to protect its Confidential Information that such information can be released to a specific or group of people.
- d. "Intellectual Property" shall include trademarks, tradenames, trade secrets, copyrights, patents or any other intellectual property rights granted or capable of being granted in the United States.
- e. "Law" is any applicable Federal, state or local law, regulation, ruling applicable to the Services and any rule of any Service Provider applicable to the Services.
- f. "License" shall mean a limited, non-transferable license to utilize the Software without the right to copy, decompile, transfer or any other right except as specifically allowed herein.

- g. "Service Order" is an order executed by the Customer for the Company to provide one or more Services to the Customer pursuant to this Agreement as stated on Schedule B attached hereto and made a part hereof, which Company can update upon amendment of a new Schedule B to this Agreement.
- h. "Service Provider" is any third-party vendor of the Company that provides services to Company or provides one or more of the Services to Company. Company has no obligation to disclose any Service Provider name, rates, capability or other information to Customer, including, but not limited to Carrier of Record.
- i. "Services" are one or more telecommunications, internet or other communication services and the related hardware, wiring, and connection equipment provided by Company to Customer pursuant to a Service Order as detailed on Schedule B attached hereto and made part hereof. The Company shall have the right to update, discontinue, or modify the Services. The Company will attempt to provide reasonable notice of such Service changes if foreseeable. Customer shall reasonably implement such changes as required.
- j. "SLA" is a service level agreement which is a written document whereby the Company agrees to provide a specific level of service for one or more of the Services. Unless a SLA is provided for a specific Service, the Services are provided without warranty.
- k. "Software" is any source code, open source software, or compiled code utilized by Company to provide the Services whether owned by Company, a Service Provider or any third party.
- l. "User" is any person accessing the Services.

2. Term

- a. This Agreement shall begin the Effective Date for a term of three (3) years. So long as a Service Order is still in place, the term shall continue for additional one (1) year terms. If Customer desires to terminate Agreement at the end of a term, Customer shall give notice no earlier than one-hundred twenty (120) days or later than sixty (60) days before the end of a given term.
- b. This Agreement shall only be terminable for an event of default and cannot be terminated by Customer if it is still receiving Services.
- c. Termination for individual Services is listed on the Service Order or as provided herein.

3. Rates

- a. The cost of the Services contained on a Service Order consists of a cost charged by the Company plus a passthrough for taxes and regulatory fees incurred by the Company in providing the Services. The Company shall collect fees to cover its costs of services to comply with the Laws. The Company shall have the right to increase the cost of the Services for any changes in taxes, regulatory fees, or Company's cost of compliance. With seven (7) days' prior notice, the Company shall also have the right to increase the cost of the Services.
- b. It is the Customer's sole responsibility to ensure their equipment meets hardware requirements. Customer must provide high quality, highspeed internet connection. Customer will be responsible for acquiring new hardware or service if required to access the Service.

4. Invoicing

- a. Setup and Installation Invoices. Company will invoice for setup and installation prior to the Services being provided and expects such invoices to be paid immediately.
- b. Monthly Invoices. The Company will deliver an invoice for Services rendered monthly, electronically to the email address provided by Customer. It is the responsibility of Customer to confirm the Company has an accurate email address on file. Unless Customer provides a written notice of dispute within fifteen (15) days after receipt, the payment is due in full on the sixteenth (16) day after receipt. If Customer does dispute a charge, Customer shall make payment for the entire invoice minus those changes properly disputed. Both Parties recognize some of the Services provided to Customer are provided by third parties and there may be a delay in Company receiving and including in an invoice such charges. Further, Company may include in its invoices charges from third parties who are providing Services which cannot be disputed with Company but must be disputed directly with such third parties.
- c. Any undisputed invoices not paid by the Customer by the twenty-fifth (25) day after delivery shall be deemed late and subject to interest of 1 1/2 % per month. The Company shall have the right to withhold any Services until any late payment has been received. Any disputed charge shall be addressed pursuant to Section 4(d) of this Agreement.
- d. Invoice Dispute: Company will review any disputed invoice and provide a timely response. If Company determines the item was timely disputed and was incorrectly billed to Customer, Company will credit on the next invoice; otherwise, Company will inform Customer that the dispute has been rejected.

- e. Fraud: Fraud or unauthorized use of the Services provided to Customer is not a basis to dispute an invoice and Customer agrees it shall be responsible for such uses.
5. Facilities: It is assumed by the Company that each location where the Services are to be provided is suitable for the Services. If the Company determines upgrades will be required for the location in order to provide the Services, Company will perform the upgrades and Customer hereby agrees to pay the Company for those upgrades and related costs. The Company is not responsible for internal wiring or other infrastructure at Customer's facility or facilities, or any private infrastructure between Customer's facilities.
6. Equipment:
- a. Company Provided: Any equipment provided by Company to provide the Services which is not sold to Customer shall remain the sole property of Company. Customer shall not remove nor allow any third party to remove any tags from such equipment. Customer shall insure such equipment while at Customer's facility and be responsible for any damage, destruction or theft. At the termination of Services or the Agreement, Company will inform Customer whether it will retrieve its equipment or expect Customer to remove, package and transport such equipment to Company. If Company chooses to retrieve its equipment, Customer shall provide unimpeded access during normal business hours for Company to retrieve its equipment. If Company chooses for Customer to return the equipment, Customer shall be solely responsible for the equipment until receive by Company.
 - b. Customer Purchased: If a Service Order lists equipment to be sold to Customer, Company will assign or transfer any warranty received by Company to Customer. Sold equipment shall be the sole responsibility of Customer who shall be responsible for any service or replacement.
 - c. Company provides no warranty for equipment provided or sold to Customer. Company will transfer or assign any warranty received for such equipment and will work with Customer to provide warranty services from the equipment manufacturer. Customer agrees to not hold Company responsible for malfunctioning equipment.
 - d. Risk of Loss; Non-Performance by Service Provider. Upon delivery of the Equipment, Customer shall bear the risk of loss regardless of any breach or negligence by Company, its employees or agents, unless caused by the gross negligence of Company. While Company will assist Customer in processing warranty claims, Customer assumes all risk of non-performance, including untimely or otherwise improper performance by any third parties.

- e. Virus Protection. Customer agrees and understands it is Customer's responsibility to install, run and keep updated anti-virus programs on all devices in its network. If Customer does not have technical expertise to protect its system, Customer shall retain such expertise. Company is not providing such services to Customer.
 - f. Abuse and Negligence. It is Customer's responsibility to restrict access to the Equipment and maintain the correct environment for operating such Equipment. Customer shall be responsible for any abuse or negligence to the Equipment or any equipment of Company.
7. Initiation of Services: As soon as the Company can provide Services to Customer, Customer shall be responsible for payment for such Services. The suitability of the facilities for the Services will not be considered in determining whether the Company can provide the Services to Customer.
8. Use of Services: Customer use of the Services must comply with all applicable Laws of the Services Providers. The Company may terminate one or more of the Services should Customer or anyone having access to the Services by, through or under Customer is in violation of the applicable Laws. The Parties acknowledge that many of the Services are provided by Service Providers who can suspend, deny access or terminate the Services provided by the Service Provider. Customer agrees to not hold Company responsible and to indemnify, defend and hold harmless Company because of the actions of a Service Provider.
9. Local Number Portability: The Company will aid Customer is transferring its phone numbers to utilize the Services; however, the Company provides no guarantee the transfer will be completed in a timely manner. Customer's use of the phone number is subject to Customer remaining current and no defaults.
10. Help Desk/Technical Services: The Company will provide technical services during the Term. Unless such services are included in a Service Order, the Company will charge for its services based on its current hourly rate. Such service costs will be included on the monthly invoice to Customer. Should the need for services be caused by a third-party service provider, the Company will request a service credit from such provider. However, unless there is an SLA for such Services, the Company will have no obligation to provide any credit.
11. Intellectual Property:
- a. Company and Service Providers: The Company shall have the sole right to utilize its Intellectual Property and the Intellectual Property of the Service Providers. Customer shall not utilize such Intellectual Property nor market or claim to any third party that the Services are provided by the Company or the Service Providers. Except for a specific License as allowed herein by Customer, the rights to all

Software shall remain with Company and its Service Providers or third-party owners.

- b. Customer Intellectual Property: The Company shall have the right to utilize Customer Intellectual Property and to market that it provides Services to Customer. Customer also grants Company the right to access its data in order to ensure compliance with Laws and in order to improve, confirm or otherwise monitor the Services.

12. Confidentiality: The Parties acknowledge they will receive information from the other Party, including but not limited to CPNI, which is considered Confidential Information. Each Party agrees to protect such Confidential Information. Upon termination of this Agreement, each Party shall return the Confidential Information of the other Party to said Party, destroy any electronic Confidential Information, and certify to the other Party that all electronic Confidential Information has been destroyed.

13. Default:

- a. Customer: The Customer shall be in default and Company shall have the right to immediately terminate Customer, terminate a particular Service or suspend one or more Services for the following:

- i. The failure of Customer to pay any amount owed to Company timely;
- ii. Any violation of Law regarding one or more Services;
- iii. Any violation of any Service Providers rules of conduct; or
- iv. Any violation of this Agreement by Customer.

- b. Company:

- i. Thirty (30) days after written notice to Company of a violation of this Agreement if not cured.

14. Passwords/Security: Customer is solely responsible for protecting its passwords and equipment at its facilities. Customer shall utilize commercially reasonable efforts to secure its systems. If Customer's equipment or accounts are hacked, Customer shall immediately inform Company. Customer is solely responsible for any damage caused by third-party access to Customer's account or equipment.

15. Damages/Cap: The Company shall not be responsible for any indirect, consequential, or punitive damages related to the Services. Company is not responsible to any third-party for the Services provided to Customer. Customer shall indemnify, defend, and hold harmless Company's Service Provider, and their employees and subcontractors for any claim, cause of action or demand provided by any third party based on a claim regarding the Services. In no event shall Company be responsible for any damages to Customer in

excess of the amount actually paid by Customer to Company during the prior twelve (12) months.

16. Disputes: All disputes shall be resolved pursuant to this Section of the Agreement.

- a. Negotiations: A senior member of the Parties shall discuss any dispute within ten (10) after any dispute arises between the Parties.
- b. If the dispute cannot be resolved by negotiation, the parties shall use the services of the American Arbitration Association (“AAA”) to select a mediator and participate in good faith in a half day mediation.
- c. Should the parties fail to resolve their dispute by mediation, the Parties shall utilize the services of AAA to participate in binding arbitration in San Antonio, Texas.
- d. If either Party violates the requirements of Intellectual Property or Confidential Information pursuant to this Agreement, a Party shall have the right to obtain injunction from a court with appropriate jurisdiction. Should a Party attempt to seek court intervention except as provided in this Section 16(d), no Party shall object to an abatement in order to enforce the requirements of this Agreement.
- e. UNDER NO CIRCUMSTANCES SHALL THE PARTIES UTILIZE A JURY TO RESOLVE ANY DISPUTE.

17. Credit Approval: Customer agrees to provide Company any information or access to company records in order to approve credit. If Customer does not pass Company or any Service Provider credit check, Company shall have the right to either terminate the applicable Services or require adequate security to ensure Customer can pay for the Services.

18. 911/E911: Customer acknowledges that internet-based phone systems differ from traditional local phone systems which are automatically connected and located when using emergency services. So long as Customer provides information and keeps such information updated, the Company will attempt to provide such information to emergency services. Customer acknowledges that E911 services differ from 911 services and Customer is encouraged to continue access to 911 services. Customer shall indemnify, defend and hold harmless Company for any fine, penalty or levy imposed against Company because of Customer’s failure to comply with E911 laws, regulations, or requirements.

19. Amendments: Except as stated in this Agreement, this Agreement can only be amended in writing executed by both Parties.

20. Authority: Each Party to this Agreement states that it has the authority to enter into this Agreement, the right to obtain the Services and the right to bind their entity. Customer additionally agrees it has the authority to provide the Company access to each of its facilities and the right to place equipment in each of its facilities in order to obtain the Services.
21. Notices: Any notice to the Company shall be sent to PO Box 701530, San Antonio, Texas 78270, with a copy to Rosenblatt Law Firm, P.C., Attn: James D. Rosenblatt, 16731 Huebner Rd., San Antonio, Texas 78248. Any notice to Customer shall be to the address below Customer's signature to this Agreement. Any notice shall be deemed received when delivered or attempted delivery is made to recipient.
22. DISCLAIMER OF WARRANTIES: NO WARRANTY IS MADE BY COMPANY REGARDING INFORMATION, SERVICE OR EQUIPMENT PROVIDED AND ALL SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE." CUSTOMER AND USERS USE OF THE SERVICES IS AT CUSTOMER'S OWN RISK. COMPANY HEREBY DISCLAIMS ALL WARRANTIES.
23. Assignment: Customer cannot, without the prior written approval of Company, assign this Agreement or any of the Services. Company has the right to assign this Agreement and the Services upon notice to Customer.
24. Force Majeure: Company will not be liable for any failure or delay in performance of its obligations under this Agreement to the extent the failure or delay is caused by natural disaster, acts of God, acts of war, riots, civil disorders, rebellions or revolution, quarantines, embargoes or any government action, or any action beyond the reasonable control of Company.
25. Interpretation of Agreement: The Parties have jointly negotiated and drafted this Agreement and the Agreement should not be interpreted against either party.
26. Survival: Any Section including, but not limited to, payment obligations, Confidential Information, or Intellectual Property shall survive termination.
27. Additional Terms and Conditions. All terms and conditions contained on Company's website, www.wabashcommunications.com including, but not limited to:
www.wabashcommunications.com/t&c (Terms & Conditions)*
www.wabashcommunications.com/aup (Acceptable Use Policy)
www.wabashcommunications.com/e911 (E-911)
are hereby incorporated herein for all purposes.

*In the event of any conflict between the provisions of this Agreement and the provisions of the Wabash Terms & Conditions Agreement referenced above, the provisions of this Service Agreement shall govern.

28. Assumption of Risk. The Parties acknowledge Company has no special duty to Customer. Customer acknowledges all Services are provided by third parties and Company has no ability to guaranty, warranty or fix the Services.

[Signature page follows]

Schedule A

Carrier of Record: ALTAWORX, LLC