

Terms of Service and License Agreement

PLEASE READ THIS TERMS OF SERVICE AND LICENSE AGREEMENT (THE “AGREEMENT”) CAREFULLY.

BY CLICKING “I AGREE,” YOU ARE AGREEING TO THIS AGREEMENT ON BEHALF OF THE ENTITY ON WHO’S BEHALF YOU ARE SETTING UP AN ACCOUNT (THE “CUSTOMER”). YOUR AGREEMENT TO THIS AGREEMENT WILL BE AN AGREEMENT BETWEEN THE CUSTOMER AND BANDWIDTH.COM, INC. (“BANDWIDTH.COM”). YOU REPRESENT AND WARRANT TO BANDWIDTH.COM THAT YOU HAVE AUTHORITY TO BIND CUSTOMER TO THIS AGREEMENT.

IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, YOU ARE NOT AUTHORIZED TO USE PHONEBOOTH.

THIS AGREEMENT IS SUBJECT TO CHANGE FROM TIME TO TIME AS DETERMINED BY BANDWIDTH.COM IN ITS SOLE DISCRETION. MODIFIED AND/OR UPDATED VERSIONS OF THIS AGREEMENT WILL BE POSTED AT WWW.PHONEBOOTH.COM/LEGAL/TERMSOFSERVICE.

CUSTOMER SHOULD CHECK WWW.PHONEBOOTH.COM/LEGAL/TERMSOFSERVICE REGULARLY FOR MODIFIED AND/OR UPDATED VERSIONS OF THIS AGREEMENT.

BANDWIDTH.COM WILL PROVIDE CUSTOMER NOTICE OF ANY MATERIAL CHANGES TO PHONEBOOTH, PHONEBOOTH SERVICES AND/OR THIS AGREEMENT. EXCEPT AS OTHERWISE DETERMINED BY BANDWIDTH.COM, MODIFIED AND/OR UPDATED VERSIONS OF THIS AGREEMENT WILL BE EFFECTIVE IMMEDIATELY UPON POSTING; MODIFIED AND/OR UPDATED VERSIONS OF THIS AGREEMENT WILL BE IDENTIFIED BY THE DATE, MONTH AND YEAR THEY BECOME EFFECTIVE.

DEFINITIONS:

“911 Services” means functionality that allows End Users to contact emergency services by dialing the digits 9-1-1.

“AAA” will have the meaning ascribed to such term in Section 20 below.

“Account Administrator” means Customer’s Administrator who has access to (and is authorized to) modify Customer’s billing and other similar account information via Phonebooth Manager. For clarity, only one (1) Administrator will serve as Customer’s Account Administrator.

“Administrator” means a person (or persons) authorized to act on behalf of Customer, who is/are responsible for the administration and management of the use of Phonebooth and any applicable Phonebooth Services by Customer and Customer’s End Users.

“ANI” means automatic number identification.

“AUP” means Bandwidth.com’s Acceptable Use Policy, which is posted at www.phonebooth.com/legal/AUP, as modified by Bandwidth.com from time to time in Bandwidth.com’s sole discretion.

“Basic 911 Service” means the ability to route an emergency call to the designated entity authorized to receive such calls serving Customer’s Registered Address. With Basic 911 Service, the emergency operator answering an emergency call will not have access to the caller’s telephone number or address information unless the caller provides such information verbally during the emergency call.

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“Confirmed Port Date” means the date upon which Customer’s pre-existing voice provider agrees to port a number(s) to Bandwidth.com.

“Contact Us Plus” means Bandwidth.com software that, when installed by Customer, permits click-to-call (and click-to-email) functionality from Customer’s web site when used in connection with Phonebooth.

“CPE” means equipment located (or to be located) at Customer’s premise(s). CPE does not include Mobile Devices (as defined in any applicable Supplement).

“Customer Equipment” means any internal wiring or extensions, required conduit, facilities, power or other similar infrastructure, systems, equipment, software and networks used in connection with Phonebooth and/or any applicable Phonebooth Services.

“DID/DOD” means a telephone number assigned by Bandwidth.com to Customer (or that Customer ports to Bandwidth.com pursuant to the terms and conditions of this Agreement) for use by Customer in connection with Phonebooth and/or any applicable Phonebooth Services.

“Directory Listings” (or “411”) means the listing of a Customer’s telephone number in the telephone directory for an applicable market.

“Electronic Tools” means online access, application programming interface (API), or access by any other means, to a service ordering/management system to access or manage Customer’s use of Phonebooth and/or any applicable Phonebooth Services.

“Enhanced 911 Services” or “E911 Services” means the ability to route an emergency call to the designated entity authorized to receive such calls, which in many cases is a PSAP serving Customer’s Registered Address, and to deliver the End User’s telephone number and Registered Address information automatically to the emergency operator answering the emergency call.

“ELS” means an Enhanced Local Service DID; ELS DIDs require a Registered Address and provide two way calling capabilities, an LCA, and additional features such as 911 Services and Directory Listings.

“End User” means an individual who Customer assigns a DID/DOD (or an extension associated with such a DID/DOD) for use in connection with Phonebooth and/or any applicable Phonebooth Services pursuant to this Agreement and/or an individual who uses Customer’s Phonebooth Services.

“Escalation Notice” will have the meaning ascribed to such term in Section 20 below.

“Hosted” means telephony features provided by Phonebooth and/or any applicable Phonebooth Services which are delivered via the Internet by servers owned, operated and/or controlled by Bandwidth.com.

“ILEC” means incumbent local exchange carrier.

“Intellectual Property” means patents, pending patent applications, designs, trademarks and/or trade names (whether registered or unregistered), copyrights and related rights, database rights, know-how, trade secrets and/or confidential information, and all other intellectual property rights and similar or equivalent rights which currently exist or are recognized in the future, as well as all applications, extensions and renewals in relation to any such rights.

“International” means anywhere outside of the 48 contiguous United States; for clarity, Alaska, Hawaii and Puerto Rico are “International.”

“IP” means Internet Protocol.

“LCA” means “Local Calling Area” which is an area containing one or more Rate Centers within which a customer may place a local call.

“LD” means long distance.

“LNP” means Local Number Portability.

“LOA” means a letter of authorization to authorize the porting of number(s) from Customer’s pre-existing voice provider to Bandwidth.com. A form of LOA may be found at www.phonebooth.com/legal/PBLOA.

“Local” means inbound and/or outbound calls within an LCA.

“Mobile Device” means any phone, data card, mobile broadband device, any other device, accessory or other product Bandwidth.com sells to Customer or that is active on Customer’s account with Bandwidth.com.

“MRC” means monthly recurring charge.

“NADP” means the North American Dialing (or Numbering) Plan.

“NPA” means the area code of a telephone number.

“NPA/NXX” means the area code and exchange, as designated by the NADP, of a telephone number.

“NRC” means non-recurring charge.

“Officers” will have the meaning ascribed to such term in Section 20 below.

“Operator and Directory Assistance” means live or automated operator assistance for the placement of End User calls, listing services and/or related information.

“Phone System” means any and all hardware and/or software which Customer uses to place or receive telephone calls.

“Phonebooth” means certain communication services offered by Bandwidth.com from time to time, including, without limitation, any applicable Phonebooth Services made available by Bandwidth.com pursuant to any applicable Supplement and/or Service Plan and purchased and/or licensed by Customer from time to time, as managed by or through Phonebooth Manager.

“Phonebooth Manager” means the Electronic Tool provided by Bandwidth.com and established by Customer to purchase, use and manage Phonebooth and/or any applicable Phonebooth Services.

“Phonebooth Services” means those communication services offered by Bandwidth.com from time to time for use(s) in connection with Phonebooth, including, without limitation Phonebooth OnDemand and Phonebooth Softphone, which services will be governed by an applicable supplement to this Agreement to which Customer and Bandwidth.com may from time to time agree in writing and any applicable Service Plan offered by Bandwidth.com in connection with such services. **For clarity, “Phonebooth Services” do not include Phonebooth Free or Phonebooth Mobile; this Agreement does not apply to the use of Phonebooth Free or Phonebooth Mobile (or any Mobile Devices purchased or sold for use with Phonebooth Mobile) by any Customer or any Customer’s End Users.**

“PSAP” means Public Safety Answering Point.

“PSTN” means the public switched telephone network.

“Rate Center” means an area within a LCA or Market that is associated with one or more specific NPA/NXX codes.

“Registered Address” means the address(es) provided to Bandwidth.com by Customer: (i) in written format on Bandwidth.com order forms, if applicable, (ii) as entered into Phonebooth Manager by Customer’s Administrator, or (iii) other written communication by Customer to Customer’s Bandwidth.com sales or post-sales support representative(s) pursuant to this Agreement, in each case that represents the physical location from which Phonebooth (and DID/DODs associated with Phonebooth and/or any applicable Phonebooth Services) will be used by Customer and/or Customer’s End Users. Customer has the sole responsibility for providing to Bandwidth.com, and ensuring acceptance by Bandwidth.com, of the Registered Address for each physical location from which a DID/DOD associated with Phonebooth will be used by Customer.

“RBOC” means Regional Bell Operating Company.

“Regulatory Activity” means any laws, regulations or other similar mandates (including, without limitation, any fees, surcharges or other like charges imposed or mandated) by any federal, state or other governmental agency at any time.

“RMA” means a Return Materials Authorization.

“Service Activation Date” means, with respect to any applicable Phonebooth Service, except as may be provided in any applicable Supplement, the earlier of (i) the date Bandwidth.com deems such Phonebooth Service to be activated with respect to Customer, or (ii) the date Customer actually utilizes such Phonebooth Service.

“Service Address” means the address provided to Bandwidth.com by Customer: (i) in written format on Bandwidth.com order forms, if applicable, (ii) as entered into Phonebooth Manager by Customer’s Administrator, or (iii) other written communication by Customer to Customer’s Bandwidth.com sales or post-sales support representative(s) pursuant to this Agreement, in each case that represents the physical location of Customer.

“Service Plan” means any applicable plan pursuant to which Bandwidth.com provides Phonebooth and/or any applicable Phonebooth Services to Customer, including Customer’s monthly service allotments for minutes, messages and/or data, rates and other terms.

“Service Term” will mean the period during which any applicable Supplement to this Agreement remains in effect pursuant to the terms and conditions of any Phonebooth Service. For clarity, the “Service Term” will expire and/or terminate immediately upon the date when all

Supplement(s) to this Agreement entered into pursuant to this Agreement from time to time will have expired and/or terminated by their terms.

“SIP” is the signaling protocol used between VoIP networks to establish, control and terminate voice calls.

“Toll Free Number” means a telephone number that supports NADP for inbound toll free service (including, but not limited to, NPAs 800, 866, 877) assigned by Bandwidth.com to Customer (or that Customer ports to Bandwidth.com pursuant to the terms and conditions of this Agreement) for use by Customer in connection with Phonebooth.

“U.S. Domestic” means the 48 contiguous United States; for clarity, Alaska, Hawaii and Puerto Rico are “International.”

“Usage” means call traffic measured in units, usually in minutes or seconds.

“Usage Threshold” means any restrictions or limitations included in this Agreement, any applicable Supplement or in any applicable Service Plan.

“VoIP” means Voice over IP.

1. Phonebooth Overview. So long as Customer is not in default with respect to its obligations pursuant to this Agreement, Bandwidth.com will provide Customer with Phonebooth (and any applicable Phonebooth Services) pursuant to the terms of any applicable Service Plan offered by Bandwidth.com from time to time and purchased and/or licensed by Customer.

PHONEBOOTH IS A BUSINESS SERVICE PROVIDED FOR USE WITH A PHONE SYSTEM AND IS DESIGNED AND OFFERED EXCLUSIVELY FOR SMALL TO MEDIUM SIZED BUSINESS USE. CUSTOMER ACKNOWLEDGES AND AGREES THAT PHONEBOOTH AND ALL PHONEBOOTH SERVICES SHALL BE USED STRICTLY AND EXCLUSIVELY FOR COMMERCIAL USE ONLY BY A BUSINESS ENTITY THAT REQUIRES MULTIPLE LINES AND/OR EXTENSIONS. NEITHER PHONEBOOTH NOR ANY PHONEBOOTH SERVICE IS BEING OFFERED OR INTENDED FOR ANY NON-BUSINESS OR NON-COMMERCIAL USE, NOR FOR USE BY INDIVIDUALS OR FOR RESIDENTIAL USE. AS A PRODUCT FOR BUSINESS AND COMMERCIAL USE ONLY, PHONEBOOTH AND PHONEBOOTH SERVICES DO NOT INCLUDE CERTAIN FUNCTIONS THAT USERS MAY EXPECT IN A RESIDENTIAL SERVICE.

PHONEBOOTH MAY BE USED ONLY FOR LAWFUL, PROPER AND APPROPRIATE PURPOSES AND MAY NOT BE USED IN ANY WAY THAT IS ILLEGAL, IMPROPER OR INAPPROPRIATE, OR OTHERWISE FAILS TO CONFORM TO BANDWIDTH.COM’S ACCEPTABLE USE POLICY POSTED AT WWW.PHONEBOOTH.COM/LEGAL/AUP, WHICH IS INCORPORATED BY REFERENCE HEREIN.

INAPPROPRIATE USES PROHIBITED BY BANDWIDTH.COM’S ACCEPTABLE USE POLICY (AS REFERENCED IN SECTION 16 BELOW) INCLUDE, BUT ARE NOT LIMITED TO: RESALE OR TRANSFER OF PHONEBOOTH; AUTO-DIALING; CONTINUOUS CONNECTIVITY; FAX BROADCAST/BLASTING; TELEMARKETING; PREDICTIVE DIALING; OR ANY OTHER USE OR ACTIVITY THAT IS INCONSISTENT WITH NORMAL SMALL TO MEDIUM SIZED BUSINESS USAGE. BANDWIDTH.COM RESERVES THE RIGHT TO MEASURE FOR APPROPRIATE USE AND AT ITS SOLE DISCRETION MAY DETERMINE THAT PHONEBOOTH HAS BEEN SUBJECT TO INAPPROPRIATE USE. IN THE EVENT INAPPROPRIATE USE IS DETERMINED, BANDWIDTH.COM MAY REQUEST CUSTOMER CHANGE OR MODIFY THE USE OF PHONEBOOTH, ANY APPLICABLE PHONEBOOTH SERVICE AND/OR ANY APPLICABLE SERVICE PLAN. ADDITIONALLY, BANDWIDTH.COM RESERVES THE RIGHT TO IMMEDIATELY TERMINATE SERVICE AND, IN ADDITION TO ANY AND ALL OTHER APPLICABLE CHARGES UNDER THIS AGREEMENT, CHARGE A MINIMUM INAPPROPRIATE USE FEE OF \$500 AND/OR CHARGE \$0.05 PER MINUTE FOR ALL CALLS MADE DURING SUCH PERIODS OF PROHIBITED USE (PLUS APPLICABLE INTERNATIONAL CHARGES), WHICHEVER IS HIGHER, AS WELL AS, ALL APPLICABLE AMOUNTS DUE PURSUANT TO THIS AGREEMENT.

2. Emergency Services. **CUSTOMER ACKNOWLEDGES AND AGREES THAT 911 SERVICE FOR PHONEBOOTH SERVICES ARE DIFFERENT THAN FOR TRADITIONAL WIRELINE SERVICE. CUSTOMER WILL CAREFULLY REVIEW INFORMATION REGARDING 911 SERVICE PROVIDED IN ANY SUPPLEMENT TO THIS AGREEMENT ENTERED INTO FROM TIME TO TIME.**

CUSTOMER MUST REVIEW AND PROVIDE AFFIRMATIVE ACKNOWLEDGMENT OF THE CUSTOMER NOTICE OF 911 AND E911 SERVICE LIMITATIONS, POSTED AT WWW.PHONEBOOTH.COM/LEGAL/911NOTICE, PRIOR TO SERVICE ACTIVATION.

CUSTOMER WILL INFORM ALL OF CUSTOMER’S END USERS (OR OTHER THIRD PERSONS WHO MAY USE PHONEBOOTH SERVICES) THAT 911 SERVICE FOR PHONEBOOTH SERVICES IS DIFFERENT THAN FOR TRADITIONAL WIRELINE SERVICE. CUSTOMER WILL INFORM ALL OF CUSTOMER’S END USERS (OR OTHER THIRD PERSONS WHO MAY USE PHONEBOOTH SERVICES) THAT THEY MAY ACCESS EMERGENCY SERVICES VIA ANY ADDITIONAL ARRANGEMENTS THAT CUSTOMER HAS MADE AVAILABLE TO ITS END USERS. CUSTOMER

WILL DISTRIBUTE STICKERS CONCERNING 911 LIMITATIONS TO CUSTOMER'S END USERS AND INSTRUCT END USERS TO ATTACH SUCH LABELS TO ALL DEVICES USED TO MAKE USE OF PHONEBOOTH SERVICES.

CUSTOMER ACKNOWLEDGES AND AGREES THAT NEITHER BANDWIDTH.COM, ITS UNDERLYING CARRIER, NOR ANY OTHER THIRD PARTIES INVOLVED IN THE ROUTING, HANDLING, DELIVERY, OR ANSWERING OF EMERGENCY SERVICES OR IN RESPONDING TO EMERGENCY CALLS, NOR THEIR OFFICERS OR EMPLOYEES, MAY BE HELD LIABLE FOR ANY ACTUAL OR ALLEGED CLAIM, DAMAGE, LOSS, FINE, PENALTY OR COST (INCLUDING, WITHOUT LIMITATION, ATTORNEYS FEES) AND CUSTOMER HEREBY WAIVES ANY AND ALL SUCH CLAIMS OR CAUSES OF ACTION, ARISING FROM OR RELATING TO THE PROVISION OF ALL TYPES OF EMERGENCY SERVICES TO CUSTOMER. CUSTOMER FURTHER AGREES AND ACKNOWLEDGES THAT IT IS INDEMNIFYING AND HOLDING HARMLESS BANDWIDTH.COM FROM ANY ACTUAL OR ALLEGED CLAIM OR ACTION FOR ANY CALLER PLACING SUCH A CALL WITHOUT REGARD TO WHETHER THE CALLER IS AN EMPLOYEE OF THE CUSTOMER. CUSTOMER ACKNOWLEDGES AND AGREES THAT ANY INJURY ARISING OUT OF MISROUTED 911 CALLS, REGARDLESS OF WHETHER THE CALL WAS ROUTED BY A PUBLIC SAFETY ANSWERING POINT OR AN OFFICIAL EMERGENCY OPERATOR, IS NEITHER THE FAULT NOR LIABILITY OF BANDWIDTH.COM AND CUSTOMER HOLDS BANDWIDTH.COM HARMLESS FROM ANY DAMAGES OR LIABILITIES. THE LIMITATIONS APPLY TO ALL CLAIMS REGARDLESS OF WHETHER THEY ARE BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, PRODUCT LIABILITY, TORT AND ANY OTHER THEORIES OF LIABILITY.

3. Service Availability. Subject to the terms and conditions of this Agreement, Phonebooth and Phonebooth Manager will be available during the Service Term, except in the case of maintenance to the network operated by Bandwidth.com and/or any other underlying carrier's network. Bandwidth.com will use commercially reasonable efforts to provide prior notification to Customer via electronic mail ("email") (or via Phonebooth Manager) regarding any scheduled maintenance to Phonebooth, Phonebooth Manager, and/or any applicable Phonebooth Services. Bandwidth.com may interrupt its provision of Phonebooth, Phonebooth Manager and/or any applicable Phonebooth Services, for unscheduled emergency maintenance without notice to Customer from time to time. Bandwidth.com will use its commercially reasonable efforts to provide Phonebooth, Phonebooth Manager, and any applicable Phonebooth Services, with minimum disruptions; however, Bandwidth.com cannot guarantee that Phonebooth, Phonebooth Manager and/or any applicable Phonebooth Services will always function without disruptions, delay or other imperfections.

4. Phonebooth Manager; Related Account Management.

(a) Phonebooth Manager enables Customer to purchase and use Phonebooth (and any applicable Phonebooth Services). Customer's Administrator(s) will administer and manage the use of Phonebooth (and any applicable Phonebooth Services) by Customer and Customer's End Users. Customer's End Users also may be able to manage the use of applicable Phonebooth Services with respect to such End User. Customer will ensure that each of Customer's Administrator(s) and End User(s) has read and agrees to comply with this Agreement and any applicable Supplement.

(b) Customer's Administrator(s) will establish a password to restrict complete access to Phonebooth Manager to Customer's Administrator(s); only Customer's Account Administrator will have access to and be authorized to modify Customer's billing and other similar account information. Customer's End User(s) also will establish password(s) to restrict access to the use of applicable Phonebooth Services by such End User(s) to Customer's Administrator(s) and such End User(s). Customer will (and will ensure that Customer's Administrator(s) and End User(s)) take all steps necessary to ensure the security of any applicable password. If Customer (or Customer's Administrator(s) or End User(s)) suspects that any password has been shared or otherwise become known to anyone other than Customer's Administrator(s) or applicable End User(s), Customer (or Customer's Administrator(s) or End User(s)) will immediately change any such password. Customer, Customer's Administrator(s) and any End Users will not respond to any unsolicited requests for credit card details, passwords or other data. Customer will be solely responsible for any authorized or unauthorized access to or use of Phonebooth (and any applicable Phonebooth Services) and/or Phonebooth Manager, including, without limitation, any acts or omissions of Customer's Administrator(s) or Customer's End Users.

(c) Customer will purchase a number of line(s) for Customer's End Users as provided in any applicable Service Plan. Customer's Administrator(s) may allocate to each of Customer's End Users a telephone number assigned by Bandwidth.com to Customer (or that Customer ports to Bandwidth.com pursuant to the terms and conditions of this Agreement) for use by such End User. Customer is solely responsible for all Usage of Phonebooth (and any applicable Phonebooth Services) by or attributable to any End User, whether or not authorized by Customer.

5. Service Term. The Service Term will commence on the date that Customer enters into this Agreement with Bandwidth.com and will continue so long as any applicable Supplement to this Agreement remains in effect pursuant to the terms and conditions of any applicable Phonebooth Service. The Service Term will expire and/or terminate immediately upon the date when all Supplement(s) to this Agreement entered into pursuant to this Agreement from time to time will have expired and/or terminated by their terms.

6. No Warranties.

(a) EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN A WRITTEN AGREEMENT BETWEEN CUSTOMER AND BANDWIDTH.COM, PHONEBOOTH, PHONEBOOTH MANAGER, ANY APPLICABLE PHONEBOOTH SERVICE, CONTACT US PLUS AND ANY CPE, EQUIPMENT, MOBILE DEVICES AND/OR RELATED SERVICES EACH IS PROVIDED "AS IS" AND "AS AVAILABLE" AND WITHOUT WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED. TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, EACH OF BANDWIDTH.COM, ITS AFFILIATES, SUPPLIERS AND, IF APPLICABLE, RESELLERS DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY WARRANTY OF NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, BANDWIDTH.COM, ITS AFFILIATES, SUPPLIERS AND, IF APPLICABLE, RESELLERS DO NOT WARRANT THAT PHONEBOOTH (OR ANY FUNCTIONS OF PHONEBOOTH OR ANY PHONEBOOTH SERVICES), CONTACT US PLUS, ANY CPE, EQUIPMENT, MOBILE DEVICES AND/OR RELATED SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT PHONEBOOTH, PHONEBOOTH MANAGER, CONTACT US PLUS OR ANY PHONEBOOTH SERVICES (OR ANY SERVER THAT MAKES PHONEBOOTH, ANY PHONEBOOTH SERVICES, PHONEBOOTH MANAGER OR CONTACT US PLUS AVAILABLE) WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. BANDWIDTH.COM DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR RESULTS OF PHONEBOOTH, PHONEBOOTH MANAGER, ANY PHONEBOOTH SERVICES OR CONTACT US PLUS IN TERMS OF ITS CORRECTNESS, ACCURACY, RELIABILITY, UNAUTHORIZED ACCESS BY THIRD PARTIES OR OTHERWISE. CUSTOMER (AND NOT BANDWIDTH.COM) ASSUMES THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION. CUSTOMER ACKNOWLEDGES THAT ANY DATA OR INFORMATION DOWNLOADED OR OTHERWISE OBTAINED OR ACQUIRED THROUGH THE USE OF PHONEBOOTH, ANY PHONEBOOTH SERVICES, PHONEBOOTH MANAGER AND/OR CONTACT US PLUS IS AT CUSTOMER'S SOLE RISK AND DISCRETION AND BANDWIDTH.COM WILL NOT BE LIABLE OR RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER OR CUSTOMER'S PROPERTY. CUSTOMER HEREBY EXPRESSLY ASSUMES THE RISK OF ITS OR ITS END USER'S USE OF ANY INFORMATION TRANSMITTED VIA PHONEBOOTH OR ANY PHONEBOOTH SERVICES. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY CUSTOMER FROM BANDWIDTH.COM, ITS EMPLOYEES OR THROUGH OR FROM PHONEBOOTH, ANY PHONEBOOTH SERVICE AND/OR PHONEBOOTH MANAGER WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT. APPLICABLE LAW MAY NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE FOREGOING EXCLUSION MAY NOT APPLY.

(b) BANDWIDTH.COM WILL HAVE NO OBLIGATION TO DEFEND OR INDEMNIFY CUSTOMER FROM OR AGAINST ANY THIRD PARTY CLAIMS ALLEGING THAT CUSTOMER'S USE OF PHONEBOOTH, ANY PHONEBOOTH SERVICES, PHONEBOOTH MANAGER OR CONTACT US PLUS OR THE EXERCISE OF ANY RIGHTS GRANTED HEREIN INFRINGES ON ANY INTELLECTUAL PROPERTY OF ANY THIRD PARTY. IF A CLAIM IS MADE, OR IN BANDWIDTH.COM'S REASONABLE OPINION IS LIKELY TO BE MADE, AGAINST BANDWIDTH.COM, CUSTOMER OR ANY THIRD PARTY ALLEGING THAT PHONEBOOTH, ANY APPLICABLE PHONEBOOTH SERVICES, PHONEBOOTH MANAGER, CONTACT US PLUS OR ANY USE THEREOF INFRINGES ANY INTELLECTUAL PROPERTY OF ANY THIRD PARTY, BANDWIDTH.COM MAY, IN BANDWIDTH.COM'S SOLE DISCRETION, TERMINATE THIS AGREEMENT AND ALL RIGHTS AND OBLIGATIONS PURSUANT TO THIS AGREEMENT.

(c) EXCEPT AS PROVIDED IN ANY WRITTEN AGREEMENT WITH BANDWIDTH.COM, BANDWIDTH.COM HAS NO OBLIGATION TO PROVIDE ANY SUPPORT TO CUSTOMER OR ANY END USER WITH RESPECT TO PHONEBOOTH, ANY PHONEBOOTH SERVICE, PHONEBOOTH MANAGER AND/OR CONTACT US PLUS. IF CUSTOMER HAS ENTERED INTO A WRITTEN AGREEMENT WITH BANDWIDTH.COM FOR ANY APPLICABLE SUPPORT, BANDWIDTH.COM DOES NOT SUPPORT PHONEBOOTH BEYOND THE BANDWIDTH.COM POINT OF DEMARCATION AS DESCRIBED AT [HTTP://SUPPORT.PHONEBOOTH.COM](http://support.phonebooth.com).

7. CPE.

(a) If Customer leases CPE from Bandwidth.com: Customer will allow Bandwidth.com reasonable access to the CPE as required to provide the CPE and/or Phonebooth and any applicable Phonebooth Services. Customer acknowledges and agrees that any such leased CPE may be new or recertified. CPE leased by Customer from Bandwidth.com may be covered under a limited warranty provided by any applicable manufacturer or provider, which Bandwidth.com will extend to Customer without charge to the extent Bandwidth.com can do so pursuant to Bandwidth.com's agreements with any applicable manufacturer or provider; however, Bandwidth.com provides no warranty with respect to any such leased CPE (and/or CPE provider service). Customer will reimburse Bandwidth.com, on a time and materials basis, for Bandwidth.com's entire cost to repair and/or replace any such CPE in the event of (a) misuse, (b) failure to exercise reasonable care, (c) alteration of the original configuration of such CPE by Bandwidth.com, (d) damage, (e) theft, or (f) disaster. If such CPE requires maintenance not caused by one of the events set out in the preceding sentence, Bandwidth.com (or its agents) will either arrange to repair such CPE at Customer's premises or ship an equivalent pre-configured replacement to Customer. If Bandwidth.com ships replacement CPE to Customer at any time, Customer will return, at Customer's cost and expense, the replaced CPE to Bandwidth.com not later than ten (10) days immediately after Customer's receipt of the replacement CPE or pay for such replaced CPE. Customer will not receive any compensation or credit for any downtime or outages associated with the replacement or repair of any such CPE. Upon expiration or termination of this Agreement for any reason, Customer will return, at Customer's cost and expense, to Bandwidth.com any leased CPE not later than ten (10) days immediately after the expiration or termination of this Agreement. Customer is responsible for all risk of loss and damage to CPE being shipped to Bandwidth.com pursuant to this Section 7(a). If Customer fails to timely return such leased CPE in good

working condition to Bandwidth.com, Bandwidth.com will charge Customer for the cost of such leased CPE. If Customer terminates any applicable lease of any CPE prior to the expiration or termination of any applicable term, in addition to any amounts otherwise due and payable pursuant to the terms and conditions of such lease, Bandwidth.com may charge Customer a restocking fee equal to twenty percent (20%) of the original purchase price of such leased CPE.

(b) If Customer purchases CPE from Bandwidth.com: CPE purchased by Customer from Bandwidth.com may be covered under a limited warranty provided by any applicable manufacturer or provider, which Bandwidth.com will extend to Customer without charge to the extent Bandwidth.com can do so pursuant to our agreements with any applicable manufacturer or provider; however, Bandwidth.com provides no warranty with respect to any such purchased CPE (and/or CPE provider service). All sales of CPE purchased by Customer from Bandwidth.com are final; provided, however, if Customer receives purchased CPE that is damaged or nonfunctional upon arrival, (i) within ten (10) days of receipt of such damaged or nonfunctional CPE, Customer must notify Bandwidth.com via email to Customer Care at customercare@phonebooth.com to request an RMA; (ii) Bandwidth.com only will accept returns of any such damaged or nonfunctional products within thirty (30) days of the date of the shipment to Customer by Bandwidth.com; (iii) any such damaged or nonfunctional CPE timely returned to Bandwidth.com by Customer must be fully complete, including all original manufacturer boxes with the UPC code and packing materials, all manuals, blank warranty cards, accessories and any other documentation included with the original shipment to Customer; (iv) Bandwidth.com will not accept CPE returned in used or altered condition; (v) Customer is solely responsible for all costs and expenses connected to the shipment to Bandwidth.com of any such damaged or nonfunctional products shipped to Bandwidth.com pursuant to this Section 7(b); (vi) Customer is responsible for all risk of loss and damage to products being shipped to Bandwidth.com pursuant to this Section 7(b); and (vii) if Bandwidth.com determines that the CPE operates within manufacturer specifications upon return pursuant to any applicable RMA, the affected CPE will be returned to Customer at Customer's sole cost and expense and the sale of such CPE will remain final.

8. Billing and Payment. Bandwidth.com will bill Customer, and Customer will pay, for Phonebooth and any applicable Phonebooth Services at the rates stated in any applicable Service Plan, as well as any other charges or amounts as described in this Agreement or any applicable Supplement. Bills and/or charges will include all applicable federal, state, and local taxes; all such taxes, and all use, sales, commercial, gross receipts, privilege, surcharges, or other similar taxes, license fees, surcharges and miscellaneous fees, including but not limited to regulatory fees such as Universal Service Fund ("Taxes" and "Fees" or together "Taxes and Fees"), whether or not charged to or against Bandwidth.com, will be payable by Customer. However, if Customer provides proof of its exempt status for a specific Tax or Fee, Bandwidth.com will not charge the applicable Tax or Fee due to such exemption. If applicable, Customer will supply Bandwidth.com a valid and properly executed tax exemption certificate(s) in the form of an email (with supporting attachments) sent to customercare@phonebooth.com with "Notice of Tax Exempt Status" in the subject line of the email. In such cases Customer remains responsible for, and agrees to pay, any and all remaining non-exempt Taxes and Fees; tax exemption status validation is solely the responsibility of Customer and Bandwidth.com will not be obligated to consider any retroactive tax exemption. Bandwidth.com will commence billing for all MRC and any other charges pursuant to this Agreement or any applicable Supplement on any applicable Service Activation Date. Except as expressly provided in any applicable Supplement, the MRC applicable to any applicable Phonebooth Service for the calendar month immediately following the applicable Service Activation Date (and any then applicable NRC) will be billed upon the Service Activation Date. If applicable, the MRC applicable to any applicable Phonebooth Service for the first partial calendar month immediately following the applicable Service Activation Date will be pro-rated and billed accordingly. Thereafter, the applicable MRC for each calendar month (and any applicable NRC) will be billed on or about the first day of such calendar month. Any applicable Usage charges are billed after the actual calls and Usage has occurred in accordance with the terms and conditions of this Agreement, any applicable Supplement and any applicable Service Plan. Time is of the essence with respect to any amounts due or payable pursuant to this Agreement. After fifteen (15) days of non-payment, all fees will accrue interest at a rate of one and one-half percent (1.5%) per month or any part thereof, or the highest rate allowed by applicable law, and Customer will pay all collection costs incurred by Bandwidth.com (including, without limitation, reasonable attorney's fees). If, at any time after any applicable due date for any applicable bill, Customer has failed to make satisfactory payment as determined by Bandwidth.com, Bandwidth.com may give Customer written notification (by email or otherwise), that Customer has committed a material breach of this Agreement and/or any applicable Supplement. Except upon the occurrence of a serious material breach, as determined by Bandwidth.com in its sole discretion, Bandwidth.com will provide the "Notification of Material Breach" at least five (5) business days prior to Bandwidth.com's suspension or termination of Phonebooth and/or any applicable Phonebooth Service for such Customer. Customer must pay all outstanding amounts payable to Bandwidth.com pursuant to this Agreement within such five (5) business day period to avoid suspension or termination of Phonebooth and/or any applicable Phonebooth Service. If Bandwidth.com terminates Phonebooth or any applicable Phonebooth Service for such Customer due to non-payment pursuant to this Agreement, then, in addition to any other amounts then due and payable by Customer to Bandwidth.com, Customer also will be obligated to pay to Bandwidth.com the fees described in this Agreement or pursuant to any applicable Supplement and/or Service Plan. Upon the occurrence of a serious material breach, as determined by Bandwidth.com in its sole discretion, Bandwidth.com may immediately suspend or terminate Phonebooth and/or any applicable Phonebooth Service for such Customer. Bandwidth.com may, at any time and in its sole discretion: (i) require a security deposit to continue provisioning Phonebooth or any applicable Phonebooth Service to Customer pursuant to this Agreement, if Customer's level of approved credit, as determined by Bandwidth.com in its sole discretion, is deemed insufficient, as determined by Bandwidth.com in its sole discretion; (ii) change payment terms, billing cycle, and/or any applicable due date(s); (iii) demand immediate payment by wire or other means and discontinue Phonebooth or any applicable Phonebooth Service for Customer without notice to Customer if Bandwidth.com determines Customer's Usage exceeds Customer's level of approved credit, as determined by Bandwidth.com in its sole discretion; and/or (iv) immediately block Customer's access to or use of Phonebooth or any applicable Phonebooth Service if a Customer's pre-paid balance is depleted or is at a level that cannot cover Customer's estimated traffic during the time required for Customer to replenish their prepaid balance, or Customer otherwise refuses to make any reasonably requested

payments. Bandwidth.com retains the right to bill, including, without limitation, amend or correct any bill previously issued, for any applicable Phonebooth Service provided pursuant to this Agreement, for a period of up to twelve (12) months, commencing from the date of the provision of any applicable Phonebooth Service(s) to Customer. Bandwidth.com will retain such billing rights for such twelve (12) month period notwithstanding any prior billing to Customer for the same period(s) and regardless of any otherwise conflicting billing conditions in this Agreement. For the duration of such twelve (12) month period, Bandwidth.com will not be deemed to have waived any rights with regard to billing for any applicable Phonebooth Service provided pursuant to this Agreement during such period, nor will any legal or equitable doctrines apply, including estoppel or laches. Unpaid bills and/or charges may be sent to third party collection agencies.

Additional terms that apply if Customer has authorized payment by credit card or debit card pursuant to any applicable Supplement or Service Plan: Customer agrees that all payments by Customer will be made to Bandwidth.com via credit or debit card. Bandwidth.com may change the types of cards accepted by Bandwidth.com at any time in its sole discretion. Customer is solely responsible for the use of the account from which payment is made. If Customer provides an account number that Bandwidth.com accepts for payment, Customer authorizes Bandwidth.com to charge all amounts Customer owes, then or later, to that account and to demand immediate payment from the card issuer. Customer also agrees to pay, pursuant to the terms of Customer's agreement with Customer's card issuer, the amounts charged to such account. Each time Customer or Customer's End Users uses Phonebooth and/or any applicable Phonebooth Service, Customer reaffirms that Bandwidth.com is authorized to charge Customer's credit or debit card. Customer authorizes Bandwidth.com to charge purchases made online to the account supplied by Customer to Bandwidth.com. Customer is solely responsible to notify Bandwidth.com promptly if the card information that Customer previously provided to Bandwidth.com is no longer accurate. Customer acknowledges that, if Customer's card is rejected, or payments are disputed, Bandwidth.com may terminate this Agreement and/or any applicable Supplement, Phonebooth Services and/or Service Plan until payments are resumed and received or disputes have been finally resolved. Customer acknowledges that Bandwidth.com may not be able to distinguish between credit and debit cards. While Bandwidth.com may send Customer messages about Customer's billing, Bandwidth.com is not obligated to do so and may change or cease its messages at any time.

Additional terms that apply if Customer has authorized payment by automatic clearing house pursuant to any applicable Supplement or Service Plan: Customer agrees that all payments by Customer will be made to Bandwidth.com via automatic clearing house. Customer is solely responsible for the use of the account from which payment is made. If Customer provides an account number that Bandwidth.com accepts for payment, Customer authorizes Bandwidth.com to charge all amounts Customer owes, then or later, to that account and to demand immediate payment from Customer's bank. Customer also agrees to pay, pursuant to the terms of Customer's agreement with Customer's bank, the amounts charged to such account. Each time Customer or Customer's End Users uses Phonebooth and/or any applicable Phonebooth Service, Customer reaffirms that Bandwidth.com is authorized to charge Customer's account via automatic clearing house. Customer authorizes Bandwidth.com to charge purchases made online to the account supplied by Customer to Bandwidth.com. Customer is solely responsible to notify Bandwidth.com promptly if the account information that Customer previously provided to Bandwidth.com is no longer accurate. Customer acknowledges that, if Customer's automatic clearing house payment does not clear, or payments are disputed, Bandwidth.com may terminate this Agreement and/or any applicable Supplement, Phonebooth Services and/or Service Plan until payments are resumed and received or disputes have been finally resolved. While Bandwidth.com may send Customer messages about Customer's billing, Bandwidth.com is not obligated to do so and may change or cease its messages at any time.

9. Billing Disputes. If Customer disputes any amounts charged to Customer by Bandwidth.com pursuant to this Agreement, Customer will pay in full all charges billed by any applicable due date and thereafter submit written notification, within thirty (30) calendar days of the date of the disputed charges, in the form of an email sent to customercare@phonebooth.com with "Notice of Billing Dispute" in the subject line of the email. Such email notification must include Customer's complete contact information, the specific dollar amount in dispute, detailed supporting calculations and reasons for the dispute, and any supporting documentation, if available, in the body of or attached to, the email. Bandwidth.com will respond to Customer, in writing, within thirty (30) calendar days immediately after receipt of from Customer of any such notice of billing dispute. Any dispute resolved in favor of Customer will be credited as appropriate to the next bill issuable by Bandwidth.com pursuant to this Agreement, including any applicable Supplement. If Bandwidth.com determines that any disputed amounts are correct as billed pursuant to this Agreement, including any applicable Supplement, Bandwidth.com will notify Customer in writing that the charges have been deemed valid and legitimate, and the dispute will be considered resolved by both parties; if, for any reason, any amount(s) remain due from Customer related to such dispute, then all such amounts will be due and payable immediately. Bandwidth.com reserves the right to deny or delay any and all billing disputes and/or credits if Customer's account is in arrears or otherwise not in good standing.

10. Resumption of Service. If Customer requests the restoration of any applicable Phonebooth Service to such Customer after a suspension or termination, Bandwidth.com has the sole and absolute discretion to restore any applicable Phonebooth Service to such Customer and may condition restoration upon satisfaction of such conditions as Bandwidth.com determines necessary, including, without limitation, Customer's execution or delivery of a new agreement, payment of all past due amounts in full, completion of Bandwidth.com's credit approval process, and/or the making of advance payments. Additional NRC also may apply.

11. Material Breach; Termination for Material Breach; Effect of Termination for Material Breach. Bandwidth.com or Customer may terminate this Agreement and, in the case of Bandwidth.com, any or all Phonebooth Services and/or Contact Us Plus provided hereunder, upon the occurrence of a material breach that is not cured within thirty (30) days following the delivery of written notice specifying said breach; provided, however, Bandwidth.com may terminate this Agreement and/or any or all Phonebooth Services and/or Contact Us Plus provided hereunder for such Customer immediately upon a serious material breaches, as determined by

Bandwidth.com in its sole discretion. For clarity, a breach, material breach and/or serious material breach with respect to any Phonebooth Service and/or Contact Us Plus will constitute a breach, material breach and/or serious material breach, as the case may be, with respect to all Phonebooth Services, as determined by Bandwidth.com in its sole discretion. Such notice from Customer must be in the form of an email sent to customercare@phonebooth.com, with "Notice of Material Breach" in the subject line of the email and Customer's complete contact information, detailed explanation, and any supporting documentation, if available, in the body of or attached to, the email. Such notice from Bandwidth.com will be in the form of an email to Customer. In the event of an uncured material breach by Bandwidth.com, this Agreement and Customer's access to and use of any or all Phonebooth Services and Contact Us Plus provided hereunder will terminate without further liability to Customer; provided, however, Customer will remain responsible for: (a) any amounts due pursuant to this Agreement incurred prior to such termination, and (b) any NRC previously waived by Bandwidth.com. In the event of an uncured material breach by Customer, including, without limitation, any asserted termination of this Agreement prior to the expiration of any applicable Service, the following fees will apply, which Customer acknowledges and agrees are customary and reasonable and do not constitute a penalty or premium: (a) any amounts due pursuant to this Agreement incurred prior to such termination, (b) any amounts due pursuant to any applicable Supplement and/or Service Plan with respect to any applicable Phonebooth Service, including, without limitation, the total of any applicable monthly minimum commitments for any Phonebooth Services provided hereunder (including, without limitation, any Usage) for the remainder of the applicable Service Term and any other fees included in any applicable Supplement and/or Service Plan, and (c) any NRC previously waived by Bandwidth.com. If Customer authorizes another carrier to transfer a number away from Bandwidth.com, such authorization will be considered a request by Customer to terminate all Phonebooth Services associated with that number.

12. Termination by Bandwidth.com. In addition to any other right that Bandwidth.com may have to terminate or suspend this Agreement, if Bandwidth.com determines, in its sole discretion, that Customer's ongoing use of Phonebooth, any or all Phonebooth Services, and/or the specific method or technology utilized by Customer places the network operated by Bandwidth.com, other customers, partners or the overall business(es) of each in jeopardy, Bandwidth.com reserves the right to terminate this Agreement (and/or any applicable Supplement) and Customer's access to Phonebooth, any or all Phonebooth Services and/or Contact Us Plus immediately and without notification.

13. License; Intellectual Property.

(a) Subject to Customer's compliance with this Agreement, Bandwidth.com grants Customer a non-exclusive, non-transferable license to use Phonebooth, Phonebooth Manager and/or Contact Us Plus solely in connection with Customer's use of Phonebooth during the Service Term. Phonebooth, Phonebooth Manager and/or Contact Us Plus may be incorporated into, and may incorporate itself, software and other technology owned or controlled by third parties. Any such third party software or technology incorporated in Phonebooth, Phonebooth Manager and/or Contact Us Plus falls under the scope of this Agreement. Any and all other third party software will be subject to Customer's acceptance of a license agreement with such third party. Customer will use Phonebooth, any Phonebooth Service, Phonebooth Manager and/or Contact Us Plus solely for lawful purposes in connection with Customer's use of Phonebooth during the Service Term. Customer (and Customer's End Users) will not, directly or indirectly: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code or underlying ideas or algorithms of Phonebooth, any Phonebooth Service, Phonebooth Manager and/or Contact Us Plus; (ii) modify, translate or create derivative works based on Phonebooth, any Phonebooth Service, Phonebooth Manager and/or Contact Us Plus; (iii) rent, lease, distribute, sell, resell, assign, display, host, outsource, disclose or otherwise commercially exploit or otherwise transfer rights to Phonebooth, any Phonebooth Service, Phonebooth Manager and/or Contact Us Plus or make Phonebooth, any Phonebooth Service, Phonebooth Manager and/or Contact Us Plus available to any third party; (iv) use Phonebooth, any Phonebooth Service, Phonebooth Manager and/or Contact Us Plus for timesharing or service bureau purposes or otherwise for the benefit of a third party; (v) remove any proprietary notices or labels on Phonebooth, any Phonebooth Service, Phonebooth Manager and/or Contact Us Plus; or (vi) copy, reproduce, post or transmit Phonebooth, any Phonebooth Service, Phonebooth Manager and/or Contact Us Plus in any form or by any means, including, without limitation, electronic, mechanical, photocopying, recording or other means.

(b) Phonebooth, Phonebooth Services, Phonebooth Manager and/or Contact Us Plus each is the Intellectual Property of Bandwidth.com. Customer (and Customer's End Users) will not delete or in any manner alter the copyright, trademark, and other proprietary rights notices or markings appearing on or in connection with Phonebooth, any Phonebooth Service, Phonebooth Manager and/or Contact Us Plus. Any third party Intellectual Property included in Phonebooth, any Phonebooth Service, Phonebooth Manager and/or Contact Us Plus is the property of the respective owner of such Intellectual Property and may be protected by applicable law. Nothing in this Agreement gives Customer (or Customer's End Users) any right or license to any trademarks and/or trade names (whether registered or unregistered), signs, logos, icons, slogans, banners, screen shots, trade dress, links or other brand features of Bandwidth.com, including, without limitation "Phonebooth," without the prior written consent of Bandwidth.com, which consent may be withheld in the sole discretion of Bandwidth.com for any reason. If Customer (or any End User) from time to time provides suggestions, comments and/or other feedback to Bandwidth.com with respect to Phonebooth, any Phonebooth Service, Phonebooth Manager and/or Contact Us Plus, Bandwidth.com may, in connection with any of its products or services, freely use, copy, disclose, license, distribute and/or exploit any such suggestions, comments and/or other feedback in any manner and without any obligation or restriction based on intellectual property rights or otherwise. Bandwidth.com will retain sole ownership of any such suggestions, comments and/or other feedback and Customer will not provide any such suggestions, comments and/or other feedback subject to any terms that would impose any obligation on Bandwidth.com or any of its customers or partners.

14. Limitation of Liability.

(a) IN NO EVENT SHALL BANDWIDTH.COM BE LIABLE FOR ANY ALLEGED, DIRECT, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, LOST PROFITS AND ALL BUSINESS OR OPERATIONAL RELATED LOSSES) ARISING OUT OF OR RELATED TO PHONEBOOTH, ANY PHONEBOOTH SERVICES, CONTACT US PLUS AND/OR PRODUCTS AND/OR SERVICES PROVIDED PURSUANT TO THIS AGREEMENT, THE CPE, EQUIPMENT, MOBILE DEVICES, AND/OR ANY PRODUCTS OR SERVICE PROVIDED BY THIRD PARTIES PURSUANT TO THIS AGREEMENT.

(b) BANDWIDTH.COM'S AGGREGATE LIABILITY OF ANY KIND ARISING OUT OF OR RELATED TO THIS AGREEMENT IS LIMITED TO SERVICE CREDITS THAT WILL NOT EXCEED THE LESSER OF (I) THE FEES ACTUALLY PAID TO BANDWIDTH.COM BY CUSTOMER PURSUANT TO THIS AGREEMENT DURING THE PRECEDING TWELVE (12) CALENDAR MONTHS, OR (II) ONE THOUSAND US DOLLARS (\$1,000.00).

15. Indemnity. Customer will indemnify and hold harmless Bandwidth.com and its stockholders, directors, officers, employees, agents, licensors, representatives and affiliates from and against any and all actual or alleged losses, costs, claims, liability of any kind, damages (including to any tangible property or bodily injury to or death of any person), or expense of whatever nature, (including reasonable attorneys' fees) to or by any third party, relating to or arising from (a) the use of Phonebooth, any Phonebooth Services, Phonebooth Manager and/or Contact Us Plus provided to Customer and/or any End User, whether or not Customer and/or any End User has knowledge of or has authorized access for such use, (b) any damage to or destruction of CPE, equipment, or Mobile Devices not caused by Bandwidth.com or its agents, and (c) any breach of this Agreement by Customer. Customer (or Customer's Phone System vendor or other service provider) will be solely responsible for implementing any installation, configuration, and/or connection of any Customer Equipment and has the sole and exclusive responsibility for the security and integrity of such Customer Equipment, if any. Customer therefore will indemnify and hold harmless Bandwidth.com and its stockholders, directors, officers, employees, agents, licensors, representatives and affiliates from and against any actual or alleged losses, costs, claims, liability of any kind, damages, or expenses or fees (including reasonable attorneys' fees) on the part of or which may be incurred by Customer or a third-party relating to or arising from the use or operation of Customer Equipment. Customer's indemnification in this Section 15 includes any actual or alleged losses or claims in connection with unauthorized access to or use of Phonebooth, any Phonebooth Services, Phonebooth Manager and/or Contact Us Plus by any third-party through Customer Equipment, regardless of whether such unauthorized access is unintentional, accidental, intentional or fraudulent and regardless of whether Customer had knowledge of such unauthorized access. In all such cases of unauthorized access through or to Customer Equipment, Customer retains full and sole responsibility for any and all charges for Phonebooth and the use of Phonebooth Manager, any Phonebooth Services, and/or Contact Us Plus as otherwise provided in this Agreement. If Bandwidth.com grants Customer access to Phonebooth (or Customer's Phonebooth account) by Electronic Tools (including, without limitation, Phonebooth Manager), Customer agrees that it is fully and exclusively responsible for all information accuracy, charges, costs, transactions, and activities conducted through such Electronic Tools. Customer agrees that it is fully and exclusively responsible to safeguard, monitor, manage, and maintain access to Phonebooth (including, without limitation, Phonebooth Manager) by any Electronic Tools, and to only allow authorized use of such Electronic Tools to Customer's Administrator(s) or Account Administrator, as the case may be. Customer will indemnify and hold harmless Bandwidth.com and its stockholders, directors, officers, employees, agents, licensors, representatives and affiliates from and against any actual or alleged losses, costs, claims, liability of any kind, damages, or expenses or fees (including reasonable attorneys' fees) on the part of or which may be incurred by Customer, or a third-party, relating to or arising from the use or operation of Electronic Tools, including, without limitation, any actual or alleged losses or claims in connection with unauthorized access to, use, transactions, or activity conducted through the Electronic Tools, regardless of whether such unauthorized access is unintentional, accidental, intentional, or fraudulent, and regardless of whether Customer had knowledge of such unauthorized access. In all such cases of unauthorized access through or to Phonebooth by Electronic Tools (including, without limitation, Phonebooth Manager), Customer retains full and sole responsibility for any and all charges for Phonebooth and the use of Phonebooth, any Phonebooth Services, Phonebooth Manager and/or Contact Us Plus as otherwise provided in this Agreement.

16. Acceptable Use Policy; Additional Privacy Matters.

(a) All use of Phonebooth, any Phonebooth Services and/or Phonebooth Manager must comply with Bandwidth.com's Acceptable Use Policy, which is posted at www.phonebooth.com/legal/AUP, and is incorporated herein by reference. By using Phonebooth, any Phonebooth Services and/or Phonebooth Manager, Customer agrees to comply with the AUP, as modified by Bandwidth.com from time to time in Bandwidth.com's sole discretion. Any amendment to the AUP will be effective immediately upon the posting of the modified AUP at www.phonebooth.com/legal/AUP. Violation of the AUP by Customer (or any of Customer's End Users) will constitute a material breach of this Agreement. Customer is solely responsible and liable for all use of Phonebooth, any Phonebooth Services and/or Phonebooth Manager by any of Customer's End Users, even if such use occurs without Customer's permission.

(b) If Customer (or any applicable End User) is a "covered entity" or a "business associate" thereof, as each term is used pursuant to the Health Insurance Portability and Accountability Act of 1996 (as amended, "HIPAA") or are otherwise subject to any HIPAA, related or similar legal requirement, Customer is solely responsible to ensure full compliance therewith. Customer will indemnify, defend and hold harmless Bandwidth.com from any claim, loss, damage, cost or expense (including, without limitation, attorneys' fees) arising out of any claim under HIPAA or any related or similar requirements of any applicable jurisdiction. Customer acknowledges that Bandwidth.com is not a Business Associate as such term is defined under HIPAA in connection with its provision of services under this Agreement.

17. Service Moves. Phonebooth requires a Service Address and applicable Registered Address(es). Customer may not move service from a Service Address or any applicable Registered Address without prior written notification from Customer to Bandwidth.com. If Customer fails to notify Bandwidth.com in writing of any move of service from a Service Address or any applicable Registered Address, including, without limitation, through Phonebooth Manager, Bandwidth.com, in its sole discretion, may immediately suspend Customer access to or use of Phonebooth until Bandwidth.com accepts and completes any applicable Customer request to move service from a Service Address or any applicable Registered Address. Customer acknowledges that failure to properly notify Bandwidth.com of an intended move from a Service Address or any applicable Registered Address may result in, among other things, Customer's inability to use 911 Services, including E911 Services, if applicable. Customer acknowledges that said failure may cause incorrect routing of emergency services and any consequences of such rests solely with Customer. Additionally, Customer understands that continuation of existing ELS DID's may be restricted by the location of the Service Address or any applicable Registered Address to be moved. A move of a Service Address or any applicable Registered Address may require a new agreement and/or Service Term. For clarity, no asserted or attempted move of a Service Address or any applicable Registered Address will result in any right of Customer to terminate this Agreement.

18. Resale Prohibition. Phonebooth, any Phonebooth Services, Phonebooth Manager and Contact Us Plus each is provided for the use of Customer and Customer's End Users only. Customer may not under any circumstances resell or offer to resell Phonebooth, any Phonebooth Services and/or Phonebooth Manager. Any failure by Customer to comply with this Section 18 will constitute a material breach of this Agreement. In addition to any other rights or remedies that Bandwidth.com may have as a result of such material breach, including, without limitation, termination of this Agreement, Customer also will be liable to Bandwidth.com for any additional charges and/or damages which may be incurred by Bandwidth.com as a result of any unauthorized resale or offer to resell.

19. Third Party Beneficiaries. The parties do not intend by the execution, delivery, or performance of this Agreement to confer any benefit, direct or incidental, upon any person or entity that is not a party to this Agreement.

20. Dispute Resolution Process; Governing Law.

(a) It is the mutual desire of the parties to promptly and fully resolve any dispute arising in connection with this Agreement in good faith, confidentially, and informally with minimal transaction costs; no public statement may be made by any party regarding any such dispute. If either party determines that the dispute cannot be resolved informally, then such party will initiate an escalation process by giving written notice ("Escalation Notice") to the other party. Each party will name one executive as its representative, to be a person knowledgeable of the subject matter in dispute and someone with authority to discuss the dispute ("Officers"). The Officers will meet in person or by conference call, together with any persons assisting them, within fifteen (15) days after delivery of the Escalation Notice. All negotiations conducted by the Officers are confidential and will be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and any state rules of evidence. The Officers will conduct such additional meetings as they deem necessary to exchange relevant information, will appoint staff to engage in resolution of any disputed facts, and will attempt to resolve the dispute. Should the Officers be unable to resolve the dispute within such fifteen (15) days, or within such additional time as the parties may otherwise agree to in writing, either party may demand mediation, whereupon the parties will, in good faith, mediate the dispute no later than thirty (30) days after such demand through the services of a mutually selected mediator, the cost of whom will be borne equally by the parties, at a date and location selected by the mediator after consultation with the parties. **IF THE DISPUTE IS NOT RESOLVED AFTER APPLYING THE ESCALATION PROCEDURES SET FORTH ABOVE, THE PARTIES AGREE TO WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY JUDICIAL PROCEEDING ARISING UNDER OR RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, AND AGREE TO SUBMIT ALL CONTROVERSIES, CLAIMS AND MATTERS OF DIFFERENCE TO ARBITRATION ACCORDING TO THE COMMERCIAL RULES AND PRACTICES OF THE AMERICAN ARBITRATION ASSOCIATION ("AAA").** Arbitration hereunder will occur within sixty (60) days of the date of submission before a single neutral arbitrator having significant experience in the subject matter of this Agreement and who will be selected in accordance with AAA rules. Arbitration proceedings will take place in Wake County, North Carolina. Discovery will be permitted, including the use of interrogatories, requests for admission and production of documents and depositions. If the amount claimed to be in dispute is less than \$500,000, all applicable expedited procedures of the AAA will apply. The arbitrator's fees and costs of the arbitration will be borne by the party against whom the award is rendered, except that if the arbitrator issues a split decision, granting partial relief to both parties, the arbitrator will equitably allocate the arbitrator's fees and other costs. Each party will pay its attorney's fees related to any dispute related to this Agreement. The arbitration award will be final and binding on both parties of this Agreement, will not be subject to any appeal and will be enforceable in any court of competent jurisdiction.

(b) ANY DISPUTE RESOLUTION PROCEEDINGS, WHETHER IN ARBITRATION OR IN COURT, WILL BE CONDUCTED ONLY ON AN INDIVIDUAL BASIS AND NOT IN A CLASS ACTION OR REPRESENTATIVE ACTION OR AS A MEMBER IN A CLASS, CONSOLIDATED OR REPRESENTATIVE ACTION. CUSTOMER WILL NOT BE A CLASS REPRESENTATIVE, CLASS MEMBER OR OTHERWISE PARTICIPATE IN A CLASS, CONSOLIDATED OR REPRESENTATIVE PROCEEDING.

(c) This Agreement will be governed by, construed under and enforced in accordance with the laws of the State of North Carolina without reference to its choice of law principles or the United Nations Convention on the International Sale of Goods. In the event any party brings a civil action or initiates judicial proceedings of any kind related to this Agreement (except for actions to enter or collect on judgments), the parties consent to the exclusive personal jurisdiction and venue of the federal and state courts located in Wake County, North Carolina and the prevailing party will be entitled to recover its costs, including reasonable attorney's fees.

21. Notices. Any notice(s) to Customer pursuant to this Agreement, including, without limitation, any notices of material changes to this Agreement or any applicable Supplement, will be sent to Customer's primary contact of record as provided by Customer to Bandwidth.com; if Customer has not identified any alternative primary contact of record, Customer's primary contact of record is Customer's Administrator (or any Customer's Administrator, if more than one). Notice(s) to Customer will be deemed to be delivered when sent via one or any combination of the following on Bandwidth.com's books and records: Customer's email address(s) (or via Phonebooth Manager); Customer's facsimile number; and/or next-day delivery service (for example, FedEx or the United States Postal Service) to Customer's physical or postal address. Any notice(s) to Bandwidth.com pursuant to this Agreement will be sent via next-day delivery service (for example, FedEx or the United States Postal Service) to Bandwidth.com at 4001 Weston Parkway, Cary, North Carolina 27513, Attention: General Counsel.

22. Miscellaneous. Customer is not relying on any affirmation of fact, description, or promise from (or purported to be from) any person or entity, nor any oral or written representation or warranty that is not expressly included in this Agreement. Any alterations or additions to this Agreement made by Customer by any means will not be considered part of this Agreement. Bandwidth.com's failure to insist upon or enforce strict performance of or strict compliance with any provision of this Agreement shall not be construed as a waiver of any provision or right; neither the course of conduct between the parties nor trade practice shall act to modify any provision of this Agreement or any Supplement entered into from time to time pursuant to this Agreement. This Agreement may only be modified, or any rights under it waived, by a separate written document executed by both parties.. In the event of a conflict between this Agreement and any applicable tariff, the tariff will prevail. Customer may not assign this Agreement, by operation of law or otherwise, including, without limitation, pursuant to any merger, stock purchase or other change in control of Customer, without Bandwidth.com's prior written consent. This Agreement will be binding on the parties hereto and their respective personal and legal representatives, successors, and permitted assigns. If any provision of this Agreement is held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Agreement will not be affected thereby. In the event any specified time frame or deadline denotes calendar days, it is agreed that when the last date of required action or response falls on a weekend or holiday, the action and/or deadline will automatically extend to the next business day. Agreement headings are provided for reference purposes only.

23. 911 Activation. Phonebooth Manager will confirm to Customer's Administrator(s) via Phonebooth Manager the availability of applicable 911 Services upon activation of any applicable Phonebooth Service. Any 911 Services available with any Phonebooth Service are subject to the service limitations described in the Customer Notice of 911 and E911 Service Limitations, posted at www.phonebooth.com/legal/911Notice.

THIS AGREEMENT, TOGETHER WITH ANY ATTACHMENTS REFERENCED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE TERMS OF ANY APPLICABLE SUPPLEMENT, ANY APPLICABLE SERVICE PLAN, THE RATES POSTED AT WWW.PHONEBOOTH.COM/LEGAL/RATES, THE ACCEPTABLE USE POLICY POSTED AT WWW.PHONEBOOTH.COM/LEGAL/AUP, THE CUSTOMER NOTICE OF 911 AND E911 SERVICE LIMITATIONS POSTED AT WWW.PHONEBOOTH.COM/LEGAL/911NOTICE, OR ANY OTHER ADDENDA ENTERED INTO FROM TIME TO TIME, EACH OF WHICH IS INCORPORATED HEREIN BY REFERENCE, CONSTITUTE THE ENTIRE UNDERSTANDING BETWEEN CUSTOMER AND BANDWIDTH.COM, INC. WITH RESPECT TO THE SERVICE(S) PROVIDED PURSUANT TO THIS AGREEMENT. CUSTOMER IS NOT RELYING ON ANY AFFIRMATION OF FACT, DESCRIPTION, OR PROMISE FROM (OR PURPORTED TO BE FROM) ANY PERSON OR ENTITY, NOR ANY OTHER ORAL OR WRITTEN REPRESENTATION OR WARRANTY THAT IS NOT EXPRESSLY INCLUDED IN THIS AGREEMENT.

BY CLICKING "I AGREE," YOU ACKNOWLEDGE AND AGREE THAT YOU HAVE READ THIS AGREEMENT AND UNDERSTAND THE RIGHTS, OBLIGATIONS, TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT AND WILL BE BOUND BY SUCH TERMS. YOU ALSO AGREE THAT YOU ARE ABLE TO ELECTRONICALLY ACCESS AND PRINT THIS AGREEMENT AND THAT CLICKING "I AGREE" CONSTITUTES YOUR VALID ELECTRONIC SIGNATURE ON THIS AGREEMENT.