

**Service Agreement (E-Rate)**

CM3138

This Service Agreement ("Agreement") is entered into on November 24, 2021 ("Effective Date") by and between Comcast Cable Communications Management, LLC, a Delaware limited liability company, on behalf of itself and its applicable operating affiliates and subsidiaries offering Service(s) as identified below, with offices located at 1701 JFK Blvd., Philadelphia, PA 19103 and Nassau County Public Library ("Customer"), with offices located at 25 N. 4th Street Fernandina Beach, FL 32034. Herein, the above shall be collectively referred to as "Parties" and individually as "Party".

This Agreement sets forth the terms and conditions under which Comcast Cable Communications Management, LLC and its applicable operating affiliates and subsidiaries (identified above, "Comcast") will provide communications and other Service(s) to the above Customer. This Agreement consists of this document ("Service Agreement Cover Page"), the Comcast General Terms and Conditions for E-Rate ("General Terms and Conditions"), Sales Order(s), the Product Specific Attachment(s) applicable to the ordered Service(s) ("PSA(s)"), and any written amendments to the Agreement and executed by both Parties, if any ("Amendment(s)"), collectively referred to as the "Agreement". In the event of an explicit inconsistency among these documents, precedence will be as follows: (1) Amendment(s), (2) PSA(s), (3) General Terms and Conditions, (4) this Service Agreement Cover Page, and (5) Sales Order(s). The PSA(s) are located at <http://business.comcast.com/enterprise-terms-of-service/index.aspx> (or any successor URL). Use of the Service(s) is also subject to the High-Speed Internet for Business Acceptable Use Policy ("AUP") located at <http://work.comcast.net/legal/aup.asp> (or any successor URL), and the High-Speed Internet for Business Privacy Policy ("Privacy Policy") located at <http://work.comcast.net/legal/privacy.asp> (or any successor URL). Comcast may update the PSA(s), AUP and Privacy Policy from time to time upon posting to the Website. This Agreement shall commence and become a legally binding agreement upon the mutual execution of this Service Agreement Cover Page by the Parties. The Agreement shall terminate as set forth in the General Terms and Conditions. All capitalized terms not defined on this Service Agreement Cover Page shall have the definitions given to them in the General Terms and Conditions.

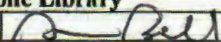

As set forth in the Sales Order(s) attached hereto, the following Services shall be provided to Customer by Comcast:

Four (4) 50 Mbps Ethernet Dedicated Internet ("EDI") Service(s) circuit(s) inclusive of IPv4 Static Address Block /29 (6)

One (1) 100 Mbps Ethernet Dedicated Internet ("EDI") Service(s) circuit(s) inclusive of IPv4 Static Address Block /29 (6)

Term (Months): Thirty-six (36)	Agreement Number: FL-TSchwa-112421-KE-01/FY22
Non-Recurring Charges (NRC): \$0.00	Monthly Recurring Charges (MRC): \$ 2,460.00
Custom Installation Charge ("CIC"): \$0.00	
Number of Service Location(s): Five (5)	Estimated Service Commencement Date: On or after July 1, 2022
Notes / Comments:	
<ol style="list-style-type: none"> <li>E-Rate funding, if applicable, to be sought solely by Customer.</li> <li>The Service(s) specified herein shall be provided by Comcast Business Communications, LLC. The Comcast Business Communications, LLC SPIN No. is 143003990.</li> <li>The mutual execution of this new Network Services Agreement No. FL-TSchwa-112421-KE-01/FY22 shall commence the termination, in full and without penalty, of the Network Services Agreement No. FL-TSchwa-060221-KE-01/FY21 between the Parties. Such termination shall take effect upon the Service Date for the Services under the new Agreement. In the event this Network Services Agreement No. FL-TSchwa-112421-KE-01/FY22 is not mutually executed, the former Network Services Agreement No. FL-TSchwa-060221-KE-01/FY21 shall remain in full force and effect.</li> </ol>	
Sales Person: Theodore Schwalb	Telephone Number: (850) 635-1824
Sales Director: Robert Patterson	Telephone Number: (754) 221-3121
Customer Contact: Dawn Bostwick	Telephone Number: (904) 530-6501

Customer, by signing below, agrees and accepts the terms and conditions of this Agreement.

Nassau County Public Library		Comcast Cable Communications Management, LLC	
Signature:		Signature:	
Printed Name:	AARON C. BELL	Printed Name:	MICHAEL MALONEY
Title:	CHAIRMAN	Title:	VP - Channel Sales
Date:	2/28/2022	Date:	2/8/2022



**COMCAST ENTERPRISE SERVICES  
GENERAL TERMS AND CONDITIONS FOR E-RATE  
("General Terms and Conditions")**

**ARTICLE 1: DEFINITIONS**

For purposes of these General Terms and Conditions, the following terms shall have the meanings specified below.

**Affiliate:** With respect to each Party, any entity that controls, is controlled by or is under common control with such, Party.

**Agreement:** Collectively, these General Terms and Conditions, the Service Agreement Cover Page executed by both Parties, any applicable Product Specific Attachment(s) and each binding Sales Order(s).

**Comcast:** The operating Affiliate of Comcast Cable Communications Management, LLC that provides the Services. References to Comcast in Article 5 and Article 6 shall also include its Affiliates and their respective directors, officers, employees, agents, suppliers, licensors, successors, and assigns, as the case may be.

**Comcast Equipment:** Any and all facilities, equipment or devices provided by Comcast or its authorized contractors at the Service Location(s) that are used to deliver the Services. Notwithstanding the foregoing, inside telephone wiring within a Service Location(s), whether or not installed by Comcast, shall not be considered Comcast Equipment.

**Confidential Information:** All information regarding either Party's business which has been marked or is otherwise communicated as being "proprietary" or "confidential" or which reasonably should be known by the receiving Party to be proprietary or confidential information. Without limiting the foregoing, Confidential Information shall include, even if not marked, the Agreement, all Licensed Software, promotional materials, proposals, quotes, rate information, discount information, subscriber information, network upgrade information and schedules, network operation information (including without limitation information about outages and planned maintenance) and invoices, as well as the Parties' communications regarding such items.

**Customer:** The entity named on the Service Agreement Cover Page.

**Customer-Provided Equipment:** Any and all facilities, equipment or devices supplied by a party other than Comcast or its authorized contractors for use in connection with the Services.

**Network:** The Comcast Equipment, facilities, fiber optic or coaxial cable associated with electronics and other equipment used to provide the Services.

**Product Specific Attachment(s) or PSA(s):** The additional terms and conditions applicable to the Service(s).

**Sales Order(s):** A request to provide the Services to a Service Location(s) submitted by Customer to Comcast on (a) the then-current Comcast form designated for such purpose or (b) such

other form, or in such other manner, as may be agreed upon by the Parties. The initial Sales Order(s) is attached to this Agreement. All subsequent Sales Order(s) submitted under the Agreement shall have the same Service Term duration as identified on the Service Agreement Cover Page.

**Service(s):** Service(s) provided by Comcast pursuant to a Sales Order(s). All Services provided under the Agreement are for commercial, non-residential use only.

**Service Commencement Date:** With respect to each Service(s), "Service Commencement Date" shall have the meaning specified in the PSA(s) applicable to such Service(s), it being understood that a single Sales Order containing multiple Service Location(s) or Service(s) may have multiple Service Commencement Dates.

**Service Location(s):** The Customer location(s) where Comcast provides the Services.

**Service Term:** As specified in a Sales Order(s), the duration of time (which shall commence on the Service Commencement Date) for which Services are ordered.

**Termination Charges:** Charges that may be imposed by Comcast upon early termination of a Service(s) as specified in the applicable PSA.

**Website:** The Comcast website where the PSA(s), the Privacy Policy and the Use Policies are posted. The current URL for the Website is <https://business.comcast.com/terms-conditions-ent> (as the same may be updated by Comcast from time-to-time).

**ARTICLE 2. DELIVERY OF SERVICE**

**2.1 Orders.** To request Service at a Service Location(s), Customer shall submit a properly completed Sales Order(s) to Comcast. Such Sales Order(s) shall become binding on the Parties upon the earlier of (i) Comcast's notice to Customer that it accepts such Sales Order(s), (ii) Comcast begins providing the Service(s) described in the Sales Order(s) or (iii) Comcast begins installation or construction for delivery of the Service(s). Each Sales Order(s) submitted by Customer may be subject to an engineering review which will determine whether and to what extent the Network must be extended, built or upgraded in order to provide the ordered Service(s). Comcast will provide Customer written notification in the event Service(s) installation at any Service Location(s) will require an additional non-recurring installation fee ("Custom Installation Fee" or "Construction Charges"). Notwithstanding anything to the contrary contained in this Article 2.1, Customer shall have five (5) days from receipt of such notice to reject the Custom Installation Fee and terminate the ordered Services at the affected Service Location(s). For certain Service(s), the Engineering Review will be conducted prior to Sales Order(s) submission. In such case, Customer shall be deemed to have accepted the designated Custom Installation Fee upon submission of the applicable Sales Order.

**2.2 Access.** In order to deliver Services to Customer, Comcast may require access, right-of-way, conduit, and/or common room space ("Access") within and/or outside each



Service Location(s). Within the Service Location(s), Customer shall be solely responsible for securing and maintaining such Access as Comcast may require to deliver the Service(s). In the event that Customer fails to secure or maintain such Access, Comcast (i) may cancel or terminate Service(s) at such Service Location(s) pursuant to Article 4.3 and (ii) shall be excused from its obligations with respect to the Service(s) at such Service Location(s) (including any obligation to issue service credits) until such time as Customer provides Comcast with the necessary Access. If Comcast is unable to secure or maintain Access outside a particular Service Location(s), which Access is needed to provide Service(s) to such Service Location(s), Customer or Comcast may cancel or terminate Service(s) at such Service Location(s), without further liability beyond the termination date, upon a minimum thirty (30) days' prior written notice to the other Party.

**2.3 Hazardous Materials.** If the presence of asbestos or other hazardous materials exists or is detected at a Service Location(s) or within the building where the Service Location(s) is located, Comcast may immediately stop providing and/or installing Service(s) until such materials are removed. Customer shall be responsible for any additional expense incurred by Comcast as a result of encountering, or in the avoidance of, hazardous materials.

#### **2.4 Equipment**

**A. Comcast Equipment.** Comcast may, in its sole discretion, remove or change Comcast Equipment. Customer shall not move, rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any Comcast Equipment or permit others to do so, and shall not use the Comcast Equipment for any purpose other than as authorized by the Agreement. Customer shall (i) provide an adequate environmentally controlled space and such electricity as may be required for installation, operation, and maintenance of the Comcast Equipment and (ii) be responsible for damage to, or loss of, Comcast Equipment caused by its acts or omissions, or by fire, theft or other casualty at the Service Location(s), unless caused by the gross negligence or willful misconduct of Comcast. Comcast shall maintain, at its cost, Comcast Equipment during the term of this Agreement; provided, however, that such maintenance shall be at Customer's cost to the extent it is related to causes other than the ordinary and proper use of the Comcast Equipment. Upon termination or expiration of this Agreement and/or any Sales Order(s), Customer shall be responsible for the return of all applicable Comcast Equipment. Until such time as the Comcast Equipment is returned to Comcast, Comcast may continue to invoice Customer for the monthly fee applicable to such Comcast Equipment. If any returned Comcast Equipment has been damaged and/or destroyed other than by Comcast or its agents, normal wear and tear excepted, Comcast may, in its sole discretion, invoice Customer for the manufacturer's list price of such Comcast Equipment or the cost of repair.

**B. Customer-Provided Equipment.** Customer shall have sole responsibility for providing maintenance, repair, operation and replacement of all Customer-Provided Equipment, inside telephone wiring and other Customer equipment and facilities on the Customer's side of the demarcation point (i.e., the point of interconnection between the Network and Customer-Provided Equipment located at a Service Location(s)). Neither Comcast nor its employees, Affiliates, agents or contractors shall (i) have any obligation to install, operate, or maintain Customer-Provided Equipment or (ii) be liable for any damage, loss, or destruction to Customer-Provided Equipment, unless caused by the gross negligence or willful misconduct of Comcast. Customer-Provided Equipment shall at all times be compatible with the Network. Customer shall be responsible for the payment of service charges for visits by Comcast's employees or agents to a Service Location(s) when the service difficulty or trouble report results from Customer-Provided Equipment.

#### **2.5 Network, Intellectual Property and IP Addresses.**

**A.** The Network is and shall remain the property of Comcast regardless of whether installed within, upon, overhead, above, or underground at or near the Service Location and shall not be considered a fixture or an addition to the land or the Service Location(s) located thereon. Customer agrees that it shall take no action that directly or indirectly impairs Comcast's title to the Network, or any portion thereof, or exposes Comcast to any claim, lien, encumbrance, or legal process, except as otherwise agreed in writing by the parties. Nothing in this Agreement shall preclude Comcast from using the Network for services provided to other Comcast customers. For a period of twelve (12) months following Comcast's discontinuance of Service to the Service Location(s), Comcast retains the right to remove the Network. To the extent Comcast removes such portion of the Network it shall be responsible for returning the Service Location(s) to its prior condition, reasonable wear and tear excepted.

**B.** Customer acknowledges that use of the Services does not give it any ownership or other rights in any telephone number or Internet/online addresses provided in connection with such Services, including, but not limited to, Internet Protocol addresses, e-mail addresses and web addresses.

**C.** Title and intellectual property rights to (i) the Services and (ii) any computer software or code provided by Comcast to use the Services, including, but not limited to, associated documentation, and all updates thereto ("Licensed Software") are, in each case, owned by Comcast, its agents, suppliers or affiliates or their licensors or otherwise by the owners of such material. The copying, redistribution, bundling or publication of the Services, in whole or in part, without the express prior written consent of Comcast or other owner of such material, is prohibited.

**D.** The Agreement provides no right to use any Party's or its Affiliates' trademarks, service marks, or trade names, or to



otherwise refer to the other Party in any marketing, promotional, or advertising materials or activities.

**2.6 License Grant.** If Customer requires the use of Licensed Software from Comcast in order to use the Services, Customer shall have a nonexclusive, nontransferable, and limited license to use such Licensed Software in object code only and solely to the extent necessary to use the applicable Service during the corresponding Service Term. Customer may not claim title to, or an ownership interest in, any Licensed Software (or any derivations or improvements thereto), and Customer shall execute any documentation reasonably required by Comcast, including, without limitation, end-user license agreements for the Licensed Software. Customer shall not: (i) copy the Licensed Software (or any upgrades thereto or related written materials) except for emergency back-up purposes or as permitted by the express written consent of Comcast; (ii) reverse engineer, decompile, or disassemble the Licensed Software; (iii) sell, lease, license, or sublicense the Licensed Software; or (iv) create, write, or develop any derivative software or any other software program based on the Licensed Software. Customer acknowledges that the use of Service may periodically require updates and/or changes to the Licensed Software resident in the Comcast Equipment or Customer Provided-Equipment. Customer hereby consents to, and shall provide free access for, such updates deemed reasonably necessary by Comcast.

### **ARTICLE 3. BILLING AND PAYMENT**

#### **3.1 Charges; Changes to MRC; Taxes.**

A. Customer agrees to pay all charges associated with the Services, including, but not limited to, (i) any fees or payment obligations in connection with the Services imposed by governmental or quasi-governmental bodies in connection with the sale, installation, use, or provision of the Services (e.g., applicable franchise fees, right of way fees and Universal Service Fund charges) regardless of whether Comcast or its Affiliates pay the fees directly or are required or permitted by law to collect them from Customer and (ii) charges incurred as the result of fraudulent or unauthorized use of the Services. Any failure on the part of Customer to be ready to receive Service, or any refusal on the part of Customer to receive Service, shall not relieve Customer of its obligation to pay charges for any Service that is otherwise available for use. For the avoidance of doubt, Comcast shall not be responsible for any purchases made by Customer or its end users while using the Services.

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B. With respect to each Sales Order, Comcast may, upon thirty (30) days prior written notice to Customer (or such longer period as may be required by law) modify the monthly recurring charges applicable to (i) Ethernet, Internet and/or Video Services at any time after the expiration of the initial Service Term and (ii) any other services at any time; provided, that, Customer acknowledges and agrees that such notice requirement may be satisfied by including notice of a monthly recurring charge modification(s) in a Customer invoice. Customer shall have thirty (30) days from receipt of any such

notice to cancel the applicable Service without further liability. Should Customer fail to cancel within such timeframe, Customer shall be deemed to have accepted the modified Service pricing.

C. Except to the extent Customer provides a valid tax exemption certificate prior to the delivery of Service, Customer shall be responsible for the payment of any and all applicable local, state, and federal taxes or fees (however designated). Customer shall also be responsible to pay any Service fees, payment obligations and taxes that become applicable retroactively.

#### **3.2 Payment Terms; Disputes**

A. Except as otherwise indicated herein or in a PSA, Comcast will invoice Customer in advance on a monthly basis for all monthly recurring charges and fees arising under the Agreement. All other charges will be billed monthly in arrears, including without limitation, certain usage based charges and third party pass through fees. Payment is due upon presentation of an invoice and will be considered timely made to Comcast if received within thirty (30) days after the invoice date. If a Service Commencement Date is not the first day of a billing period, Customer's first monthly invoice shall include any pro-rated charges for the Services, from the Service Commencement Date to the start of the next billing period. In certain cases, Comcast may agree to provide billing services on behalf of third parties, as the agent of the third party based on Customer's agreements with such third parties ("Third Party Fees"). Any such Third-Party Fees shall be payable pursuant to Customer's contract or other arrangement with such third party and/or Comcast. Comcast shall not be responsible for any dispute regarding Third Party Fees. Partial payment of any bill will be applied to the Customer's outstanding charges in amounts and proportions solely determined by Comcast. Except to the extent otherwise prohibited by law, Customer will be assessed a service charge up to the full amount permitted under applicable law for any check or other instrument used to pay for the Services that has been rejected by the bank or other financial institution. Any payment not made when due will be subject to a late charge equal to the lower of (i) 1.5% per month and (ii) the highest rate allowed by law. If Comcast is required to use a collection agency or attorney to collect any amount owed by Customer or any unreturned Comcast Equipment, Customer agrees to pay all reasonable costs of collection or other action. No acceptance of partial payment(s) by Comcast shall constitute a waiver of any rights to collect the full balance owed under the Agreement.

B. If Customer disputes any portion of an invoice, Customer shall pay the undisputed portion of the invoice and submit a written claim, including all substantiating documentation, to Comcast for the disputed amount of the invoice by the invoice due date. The parties shall negotiate in good faith to resolve any billing dispute submitted by Customer pursuant to this Article 3.2(B). Under no circumstances may Customer submit a billing dispute to Comcast later than ninety



(90) days following Customer's receipt of the applicable invoice.

**3.3 Credit Approval and Deposits.** Initial and ongoing delivery of Services may be subject to credit approval. Customer authorizes Comcast to make inquiries and to receive information about Customer's credit history from others and to enter this information in Customer's records. Comcast, in its sole discretion, may deny the Services based upon an unsatisfactory credit history. Subject to applicable regulations, Comcast may require Customer to make a deposit as a condition to Comcast's provision of the Services, or as a condition to Comcast's continuation of the Services. The deposit will not, unless explicitly required by law, bear interest and shall be held by Comcast as security for payment of Customer's charges. Comcast may apply the deposit to any delinquent Customer charges upon written notice to Customer.

**3.4 E-Rate Funding.** Comcast makes no representations or warranties with respect to the eligibility or ineligibility of the Services or any Service component for federal e-rate support or for other governmental and quasi-governmental telecommunications/internet discounts or entitlements (collectively, "E-Rate Funding"). Customer expressly understands and agrees that it is responsible for ensuring that Comcast is paid one hundred percent (100%) of all non-recurring charges ("NRC(s)"), monthly recurring Service charges ("MRC(s)") and other amounts required under this Agreement in accordance with the payment intervals specified therein. Unless and until the Customer has received, or has been designated as a recipient of, E-Rate Funding for the Services, Customer may not withhold or offset any such amounts on the basis of its anticipated receipt of E-Rate Funding, except as otherwise set forth below. In the event that the Customer has received, or has been designated as a recipient of, E-Rate Funding for the Services, Customer may choose to either (1) pay Comcast in full for the Services, or (2) receive discounted bills from Comcast. If Customer chooses option (1), the Customer must utilize the applicable customer-initiated reimbursement process relative to such E-Rate Funding. Comcast shall have no obligation to discount or pro-rate its invoices or to take other action to process such E-Rate Funding, except to the extent specifically required by law and regulation, or except as otherwise set forth above or below. Notwithstanding this, Comcast will reasonably assist Customer in the completion of any portions of the FCC Form 472 which, as a matter of law or regulation, are required to be completed by the service provider. If Customer chooses option (2), Comcast shall have no obligations under this Agreement until Customer provides Comcast the copy of the Notification and Acceptance of Form(s) 486 from the Universal Services Administrative Company, Schools and Libraries Division ("SLD"), approving Customer's eligibility for E-Rate Funding. A Customer selecting option (2) is required to pay Comcast the non-discounted portion of all NRC(s), MRC(s), and other amounts required under this Agreement in accordance with the payment interval specified therein. Customer also must

reasonably assist Comcast in completing the Service Provider Invoice Form (FCC Form 474) and obtaining full payment of the discount amount from the Universal Service Administrative Company or other E-Rate fund administrator or administrative entity. If during the term of this Agreement, Customer fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of the Agreement succeeding the first fiscal period, Customer may elect to (i) continue to receive Services under this Agreement, in which Customer shall remain bound by the terms and conditions set forth hereunder and remain responsible for all NRC(s) and MRC(s), as set forth in the Agreement or applicable Sales Order(s), for the remaining term applicable thereto, irrespective of E-Rate Funding status, or, (ii) terminate this Agreement or Sales Order(s) upon written notice as of the beginning of the fiscal year for which funds are not appropriated or otherwise made available. The effect of termination of the Agreement or Sales Order(s) hereunder will be to discharge both Comcast and the Customer from future performance of the Agreement. However, Comcast shall be reimbursed for any and all unpaid NRC(s), any unpaid past due balance(s), and any additional costs already incurred by Comcast in conjunction with this Agreement. Customer shall notify Comcast in writing within thirty (30) days of fiscal budget denial indicating funds may not be available for the continuation of the Agreement for each succeeding fiscal period beyond the first year. In no event shall Comcast initiate construction of the Network until proof of funding has been received, in whole or in part, based on 100% Customer-furnished funds or partially reimbursed funds by the SLD.

#### **ARTICLE 4. TERM & TERMINATION**

**4.1 Sales Order Term.** Upon the expiration of the Service Term applicable to a Sales Order, each Sales Order shall automatically renew for successive periods of one (1) month each (each, a "Renewal Term"), not to exceed twelve (12) months, unless prior written notice of non-renewal is delivered by either Party to the other at least thirty (30) days before the expiration of the Service Term or the then current Renewal Term. To the extent the initial Service Term or a Renewal Term applicable to a Sales Order extends beyond the expiration date of the term set forth on the Service Agreement Cover Page, such Sales Order shall continue to be governed by the terms and conditions of the Agreement. DSB

**4.2 Termination for Convenience.** Notwithstanding any other term or provision in this Agreement, Customer shall have the right, in its sole discretion, to terminate any or all Sales Order(s) at any time, upon thirty (30) days prior written notice to Comcast. Comcast may terminate the Agreement upon notice if Customer does not take any Service under a Sales Order for twelve (12) consecutive months or longer.

**4.3 Termination for Cause.** If either Party breaches any material term of the Agreement and the breach continues unremedied for thirty (30) days after written notice of default, the other Party may terminate for cause any Sales Order(s)



materially affected by the breach. Either Party may terminate a Sales Order immediately upon notice to the other Party if the other Party has become insolvent or involved in liquidation or termination of its business, or adjudicated bankrupt, or been involved in an assignment for the benefit of its creditors.

**4.4 Effect of Expiration/Termination of a Sales Order.**

Upon the expiration or termination of a Sales Order(s) for any reason (i) Comcast shall disconnect the applicable Service(s), (ii) Comcast may delete all applicable data, files, electronic messages, or other information stored on Comcast's servers or systems and (iii) Comcast may assess and collect from Customer applicable Termination Charges. Termination by either Party of a Sales Order does not waive any other rights or remedies that it may have under this Agreement. The non-defaulting Party shall be entitled to all available legal and equitable remedies for such breach.

**ARTICLE 5. LIMITATION OF LIABILITY;  
DISCLAIMER OF WARRANTIES**

**5.1 Limitation of Liability.**

**A. THE AGGREGATE LIABILITY OF COMCAST FOR ANY AND ALL LOSSES, DAMAGES AND CAUSES ARISING OUT OF THE AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THE PERFORMANCE OF SERVICE, AND NOT OTHERWISE LIMITED HEREUNDER, WHETHER IN CONTRACT, TORT, OR OTHERWISE, SHALL NOT EXCEED DIRECT DAMAGES EQUAL TO THE SUM TOTAL OF PAYMENTS MADE BY CUSTOMER TO COMCAST DURING THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE EVENT FOR WHICH DAMAGES ARE CLAIMED. THIS LIMITATION SHALL NOT APPLY TO COMCAST'S INDEMNIFICATION OBLIGATIONS AND CLAIMS FOR DAMAGE TO PROPERTY AND/OR PERSONAL INJURIES (INCLUDING DEATH) ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF COMCAST WHILE ON THE CUSTOMER SERVICE LOCATION.**

**B. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THE AGREEMENT, IN NO EVENT SHALL THE AGGREGATE LIABILITY OF COMCAST UNDER THIS AGREEMENT FOR ALL INDEMNIFICATION OF IP CLAIMS UNDER SECTION 6.1(i) OF THESE GENERAL TERMS AND CONDITIONS EXCEED THE GREATER OF (I) ONE (1) MILLION DOLLARS (\$1,000,000) AND (II) THE AGGREGATE AMOUNT OF FEES RECEIVED BY COMCAST FROM CUSTOMER DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE IP CLAIM FIRST AROSE.**

**C. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THE AGREEMENT, IN NO EVENT SHALL COMCAST BE LIABLE FOR ANY**

**LOSS, DAMAGE OR CLAIM ARISING OUT OF OR RELATED TO: (1) STORED, TRANSMITTED, OR RECORDED DATA, FILES, OR SOFTWARE; (2) ANY ACT OR OMISSION OF CUSTOMER, ITS USERS OR THIRD PARTIES; (3) INTEROPERABILITY, INTERACTION OR INTERCONNECTION OF THE SERVICES WITH APPLICATIONS, EQUIPMENT, SERVICES OR NETWORKS PROVIDED BY CUSTOMER OR THIRD PARTIES; OR (4) LOSS OR DESTRUCTION OF ANY CUSTOMER HARDWARE, SOFTWARE, FILES OR DATA RESULTING FROM ANY VIRUS OR OTHER HARMFUL FEATURE OR FROM ANY ATTEMPT TO REMOVE IT. CUSTOMER IS SOLELY RESPONSIBLE FOR BACKING UP ITS DATA, FILES, AND SOFTWARE PRIOR TO THE INSTALLATION OF SERVICE AND AT REGULAR INTERVALS THEREAFTER.**

**D. NOTWITHSTANDING ANYTHING TO CONTRARY CONTAINED IN THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, COVER, PUNITIVE OR CONSEQUENTIAL DAMAGES, WHETHER OR NOT FORESEEABLE, OF ANY KIND INCLUDING BUT NOT LIMITED TO ANY LOSS REVENUE, LOSS OF USE, LOSS OF BUSINESS, OR LOSS OF PROFIT WHETHER SUCH ALLEGED LIABILITY ARISES IN CONTRACT OR TORT; PROVIDED, THAT, THE FOREGOING LIMITATION SHALL NOT LIMIT CUSTOMER'S LIABILITY FOR AMOUNTS OWED FOR THE SERVICES, FOR ANY EQUIPMENT OR SOFTWARE PROVIDED BY COMCAST, OR FOR TERMINATION CHARGES.**

**5.2 Disclaimer of Warranties.** Services shall be provided pursuant to the terms and conditions in the applicable PSA(s) and Service Level Agreement, and are in lieu of all other warranties, express, implied or statutory, including, but not limited to, the implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement. **TO THE MAXIMUM EXTENT ALLOWED BY LAW, COMCAST EXPRESSLY DISCLAIMS ALL SUCH EXPRESS, IMPLIED AND STATUTORY WARRANTIES.** Without limiting the generality of the foregoing, and except as otherwise identified in a PSA(s) or Service Level Agreement, Comcast does not warrant that the Services, Comcast Equipment, or Licensed Software will be uninterrupted, error-free, or free of latency or delay, or that the Services, Comcast Equipment, or Licensed Software will meet customer's requirements, or that the Services, Comcast Equipment, or Licensed Software will prevent unauthorized access by third parties. Customer acknowledges and agrees that the Services are not fail-safe and are not designed or intended for use in situations requiring fail-safe performance or in which an error or interruption in the Services could lead to severe injury to business, persons, property or environment.



**5.3 Exclusive Remedies.** Customer's sole and exclusive remedies are as expressly set forth in the Agreement. In those states where Customer's remedies cannot be so limited, the liability of Comcast is limited to the maximum extent permitted by law.

#### **ARTICLE 6. INDEMNIFICATION**

**6.1 Comcast's Indemnification Obligations.** Subject to Article(s) 5.1(B), 5.1(C) and 5.1(D) and any other limitations contained in the Agreement, Comcast shall indemnify defend, and hold harmless Customer, its Affiliates and their respective employees, directors, officers, and agents (the "Customer Indemnified Parties") from and against all , actions, causes of actions, damages, liabilities, losses, and expenses (including reasonable attorneys' fees) arising out of (i) infringement of U.S. patent or copyright law based solely on Comcast Equipment or Licensed Software; provided, that, Comcast shall have no liability for any claim of infringement arising from: (a) Comcast's compliance with any designs, specifications, or instructions of Customer; (b) modification or alteration of the Licensed Software or Comcast Equipment by Customer or a third party without the prior knowledge and written approval of an authorized officer of Comcast; (c) use of the Licensed Software or Comcast Equipment in a way not authorized in writing by an authorized officer of Comcast; and/or (d) Customer's failure to use an updated version of the Licensed Software or Comcast Equipment which has been provided, or made available, to Customer and (ii) damage to tangible personal property or real property, and personal injuries (including death) arising out of the gross negligence or willful misconduct of Comcast while working on the Service Locations.

*DSB*  
**6.2 Customer's Indemnification Obligations.** Customer shall indemnify, defend, and hold harmless Comcast from any and all Claims arising on account of or in connection with Customer's and its users' use or sharing of the Service provided under the Agreement, including with respect to: (i) any content received or distributed by Customer or its users through the Service, (ii) libel, slander, infringement of copyright, or unauthorized use of trademark, trade name, or service mark arising out of communications via the Service; (iii) for patent infringement arising from Customer's combining or connection of Customer-Provided Equipment to use the Service and (iv) for damage arising out of the gross negligence or willful misconduct of Customer.

**6.3 Indemnification Procedures.** To the extent a Party may be entitled to indemnification under this Agreement (an "Indemnified Party"), such Indemnified Party shall (i) promptly notify the other Party (the "Indemnifying Party") in writing of any pending or threatened claim or demand that the Indemnified Party has determined has given or would reasonably be expected to give rise to such right of indemnification (an "Action") and (ii) cooperate in every reasonable way to facilitate the defense or settlement of such Action. The Indemnifying Party shall assume the defense of any Action with counsel reasonably satisfactory to the Indemnified Party. The Indemnified Party may employ its own counsel in any such

case, and shall pay such counsel's fees and expenses. The Indemnifying Party shall have the right to settle any claim for which indemnification is available; provided, however, that to the extent that such settlement requires the Indemnified Party to take or refrain from taking any action or purports to obligate the Indemnified Party, then the Indemnifying Party shall not settle such claim without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed.

#### **ARTICLE 7. CONFIDENTIAL INFORMATION AND PUBLICITY**

**7.1 Disclosure and Use.** All Confidential Information disclosed by either Party shall, during the term of the Agreement and for two (2) years after the expiration or termination thereof (or such longer period as may be required by law), be kept by the receiving Party in strict confidence and shall not be disclosed to any third party without the disclosing Party's express written consent. Notwithstanding the foregoing, (i) such information may be disclosed (A) to the receiving Party's employees, affiliates, and agents who have a need to know for the purpose of performing under this Agreement, using the Services and rendering the Services (provided that in all cases the receiving Party shall take appropriate measures prior to disclosure to its employees, affiliates, and agents to assure against unauthorized use or disclosure) or (B) as otherwise authorized by this Agreement and (ii) each Party's confidentiality obligations hereunder shall not apply to information that: (A) is already known to the receiving Party without a pre-existing restriction as to disclosure, (B) is or becomes publicly available without fault of the receiving Party; (C) is rightfully obtained by the receiving Party from a third party without restriction as to disclosure, or is approved for release by written authorization of the disclosing Party, (D) is developed independently by the receiving Party without use of the disclosing Party's Confidential Information or (E) is required to be disclosed by law or regulation. Each Party agrees to treat all Confidential Information of the other in the same manner as it treats its own proprietary information, but in no case using less than a reasonable degree of care. Notwithstanding anything to the contrary contained in this Article 7.1 or the Agreement, Customer acknowledges and agrees that Comcast shall have no liability or responsibility for content received or distributed by Customer or its users through the Service.

**7.2 Publicity.** Neither Party shall issue any publication or press release relating to, or otherwise disclose the existence of, the terms and conditions of any contractual relationship between Comcast and Customer without the prior written consent of the other Party. Notwithstanding the foregoing, Comcast may include Customer's name on Comcast's customer lists together with a description of Services purchased (financial terms not to be disclosed). If Customer wishes to remove Customer's name from such list or to limit the foregoing use of Customer's name, Customer may contact Comcast as set forth



in Article 9.3 of these General Terms and Conditions and Comcast will effect such removal.

**7.3 Remedies.** Notwithstanding any other Article of this Agreement, the non-breaching Party shall be entitled to seek equitable relief to protect its interests pursuant to this Article 7, including, but not limited to, injunctive relief.

#### **ARTICLE 8. PROHIBITED USES; USE AND PRIVACY POLICIES**

**8.1 Prohibited Uses; Comcast Use Policies.** Customer is prohibited from using, or permitting the use of, any Service (i) for any purpose in violation of any law, rule, regulation, or policy of any government authority; (ii) in violation of any Use Policy (as defined below); (iii) for any use as to which Customer has not obtained all required government approvals, authorizations, licenses, consents, and permits; or (iv) to interfere unreasonably with the use of Comcast service by others or the operation of the Network. Customer is responsible for the compliance of its users with the provisions of the Agreement. Customer may not sell, resell, sublicense, assign, license, sublicense, share, provide, or otherwise utilize in conjunction with a third party (including, without limitation, in any joint venture or as part of any outsourcing activity) the Services or any component thereof. Customer acknowledges and agrees that Customer's and its users' use of Services shall be subject to Comcast's acceptable use policies ("AUPs") and security policies (together with the AUPs, the "Use Policies") that may limit Customer's and its users' use of the Services. The Use Policies are posted on the Website, and are incorporated into this Agreement by reference. Comcast reserves the right to act immediately and without notice to (i) terminate or suspend the Services and/or to remove from the Services any information transmitted by or to Customer or users, if Comcast determines that such use or information is in violation of this Article 8.1 or the Use Policies and (ii) terminate or suspend the Services in the event of fraudulent use of Customer's Services. Customer acknowledges and agrees that Comcast may, but is not obligated to, detect or report unauthorized or fraudulent use of the Services to Customer.

**8.2 Privacy Policy.** Comcast's commercial privacy policy (the "Privacy Policy") applies to Comcast's handling of Customer confidential information. The Privacy Policy is available on the Website. Notwithstanding the foregoing or anything to the Contrary contained in the Agreement or the Privacy Policy, Comcast is not responsible for any information provided by Customer to third parties and Customer assumes all privacy and other risks associated with providing personally identifiable information to third parties via the Services.

#### **ARTICLE 9. MISCELLANEOUS TERMS**

**9.1 Force Majeure.** Neither Party nor its Affiliates shall be liable to the other Party for any delay, failure in performance, loss, or damage to the extent caused by force majeure conditions such as acts of God, fire, explosion, power blackout, cable cuts, acts of regulatory or governmental agencies,

unforeseeable third party actions, or other causes beyond the Party's reasonable control, except that Customer's obligation to pay for Services provided under the Agreement shall not be excused. Changes in economic, business or competitive condition shall not be considered force majeure events.

**9.2 Assignment or Transfer.** Customer shall not assign any right, obligation or duty, in whole or in part, nor of any other interest hereunder, without the prior written consent of Comcast, which shall not be unreasonably withheld. All obligations and duties of either Party hereunder shall be binding on all successors in interest and permitted assigns of such Party.

**9.3 Notices.** Except as otherwise identified herein, any notice sent pursuant to the Agreement shall be deemed given and effective when sent by facsimile (confirmed by first-class mail), or when delivered by overnight express or other express delivery service, in each case, to the following addresses (or to such other addresses as a Party may designate by written notice to the other Party): (i) with respect to Customer, to the address set forth on any Sales Order; or (ii) with respect to Comcast, to: Vice President of Sales Operations (Comcast Business), One Comcast Center, 1701 JFK Blvd., Philadelphia, PA 19103, with a copy to Cable Law Department, One Comcast Center, 50<sup>th</sup> Floor, 1701 JFK Blvd., Philadelphia, PA 19103. Alternatively, Customer may send termination notice to Comcast through the Comcast disconnection portal found at the following URL: <https://business.comcast.com/landingpage/disconnect> (as the same may be updated by Comcast from time-to-time).

**9.4 Amendments; Changes to the Agreement.** The Agreement may not be amended except by a written agreement executed by the Parties; provided, that, notwithstanding the foregoing, Comcast may change or modify the PSA(s) and any related policies (including the Use Policies and Privacy Policy) from time to time ("Revisions") by posting such Revisions to the Website. The Revisions are effective upon posting to the Website. Customer will receive notice of any Revisions in the next applicable monthly invoice. Customer shall have thirty (30) calendar days from the invoice notice of such Revisions to provide Comcast with written notice that the Revisions adversely affect Customer's use of the Service(s). If, after such notice, Comcast is able to verify such adverse effect but is unable to reasonably mitigate the Revision's impact on such Service(s), then Customer may terminate the impacted Service(s) without further obligation to Comcast beyond the termination date, including Termination Charges, if any. This shall be Customer's sole and exclusive remedy for any Revisions. Terms or conditions contained in any Sales Order, or restrictive endorsements or other statements on any form of payment, shall be void and of no force or effect.

**9.5 Tariffs.** Notwithstanding anything to the contrary in the Agreement, Comcast may elect or be required to file with regulatory agencies tariffs for certain Services. In such event, the terms set forth in the Agreement may, under applicable law, be superseded by the terms and conditions of the tariffs. Without limiting the generality of the foregoing, in the event of



any inconsistency with respect to rates, the rates and other terms set forth in the applicable Sales Order shall be treated as individual case based arrangements to the maximum extent permitted by law, and Comcast shall take such steps as are required by law to make the rates and other terms enforceable. If Comcast voluntarily or involuntarily cancels or withdraws a tariff under which a Service is provided to Customer, the Service will thereafter be provided pursuant to the Agreement and the terms and conditions contained in the tariff immediately prior to its cancellation or withdrawal. In the event that Comcast is required by a governmental authority to modify a tariff under which Service is provided to Customer in a manner that is material and adverse to either Party, the affected Party may terminate the applicable Sales Order(s) upon a minimum thirty (30) days' prior written notice to the other Party, without further liability.

**9.6 Entire Understanding; Construction; Survival; Headings; No Waiver.** The Agreement supersedes all prior agreement between the Parties with respect to its subject matter and constitutes a complete and exclusive statement of the terms of the agreement between the Parties with respect to the subject matter hereof. In the event that any portion of the Agreement is held to be invalid or unenforceable, the Parties shall replace the invalid or unenforceable portion with another provision that, as nearly as possible, reflects the original intention of the Parties, and the remainder of the Agreement shall remain in full force and effect. The rights and obligations of either Party that by their nature would continue beyond the termination or expiration of the Agreement shall survive termination or expiration of the Agreement. The article headings used herein are for reference only and shall not limit or control any term or provision of this Agreement or the interpretation or construction thereof. No failure by either Party to enforce any right(s) hereunder shall constitute a waiver of such right(s). The Agreement may be executed in counterpart copies. Each Party represents and warrants that the persons who executes the Agreement on its behalf are duly authorized to do so.

**9.7 Choice of Law; Compliance with Laws.** The domestic law of the state in which the Service is provided shall govern the construction, interpretation, and performance of this Agreement, except to the extent superseded by federal law. Each of the Parties agrees to comply with all applicable local, state and federal laws and regulations and ordinances in the performance of its respective obligations under this Agreement.

**9.8 No Third Party Beneficiaries; Independent Contractors.** This Agreement does not expressly or implicitly provide any third party (including users) with any remedy, claim, liability, reimbursement, cause of action, or other right or privilege. The Parties to this Agreement are independent contractors. Neither Party is an agent, representative, or partner of the other Party. Neither Party shall have any right, power, or authority to enter into any agreement for, or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other Party. This Agreement shall not be interpreted or construed to create an association, agency, joint venture, or

partnership between the Parties or to impose any liability attributable to such a relationship upon either Party.



