



Terms and Conditions of Purchase or Rental and Use of Equipment and Communications and Other Services

These Terms and Conditions (collectively, the "Agreement") set forth the terms and conditions which will apply to and govern the purchase or rental of equipment and/or communications, integration, training, support and/or other services from Remote Satellite Systems International, Inc. ("RSS") and/or equipment and/or satellite network service provider(s) for which RSS is a dealer and the provision and use of the same. By manual or electronic execution of this Agreement or a quote or order form referencing this Agreement or acceptance or use of any such equipment or services by you or your Representative (as such terms are defined below), you confirm that your authorized Representative has read, and you have accepted and agree to be bound by all of the terms and conditions set forth in this Agreement. You agree as follows:

1. **Definitions.** As used in this Agreement:

(i) The terms "we", "our", "us" and "RSS" mean, collectively, Remote Satellite Systems International, Inc. and its subsidiaries and divisions from time to time.

(ii) The term "you", "your" or "Customer" means the person or entity which is agreeing to this Agreement and/or purchasing or renting and/or accepting or using any Equipment or Service.

(iii) The term "Authority" means any government agency or instrumentality or regulator.

(iv) The term "Equipment" means any and all satellite telephones, modems and other hardware or equipment that we or any manufacturer or Network Provider for which we act as a dealer may provide to you or a Representative from time to time, including any software or firmware provided or used in connection therewith.

(v) The terms "including" or "includes" are intended to identify some, but not all, examples relevant to the subject matter and, therefore, should be read as "including, but not limited to" or "includes, but not limited to;".

(vi) The term "Network" means a satellite communications network(s), the services of which or access to which is provided to you or a Representative, which may include Globalstar, Iridium, Inmarsat, MSAT, Thuraya, PanAmSat and others.

(vii) The term "Network Provider" means a sponsor or provider Network Services.

(viii) The term "Network Services" means any voice, data, sound, video or other communications or other services whatsoever that may be provided to you or a Representative or access to which may be provided to you or a Representative by, through or in connection with a Network.

(viii) The term "Network Terminal(s)" means collectively, any satellite telephone, modem or other Equipment that is used to access or use a Network or Network Services.

(ix) The term "RSS Parties" means collectively, RSS, our officers, directors, control persons, employees and agents.

(x) The term "RSS Services" means any Services that are provided for a fee directly by RSS and not directly or indirectly by a Source.

(xi) The term "Representative" means individually, and the term "Representatives" means collectively, any and all of your officers, directors and employees and any person(s) and/or entity(ies) which is(are) authorized to act on your behalf, and the officers, directors and employees of such person(s) and/or entity(ies).

(xii) The term "Service" means individually, and the term "Services" means collectively, any and all Network Services, RSS Services and other services whatsoever that were, are or will be from time to time provided by us or any Source to you or a Representative, or access or use of which was, is or will be from time to time directly or indirectly provided to you or a Representative, including any and all (A) rental of Equipment, (B) Network Services, (C) video, audio and image encoding and communication; (D) consultation, training, integration, support and maintenance, and (C) other application, software, system, tool, internet capability, site or service, hardware, device, content or communications facility and other services whatsoever.

(xiii) The term "Source" means individually, and the term "Source(s)" means collectively, the Network Providers, the manufacturers, distributors and dealers of the Equipment and the direct and indirect third party licensors, vendors, service providers, subcontractors and sources of any of the same or any of the Services.

(xvi) the term "Taxes" means any and all taxes, surcharges, tariffs and similar charges assessed by any Authority, including Universal Service Fund contributions assessed by the U.S. Federal Communications Commission.

2. **Customer Representations.** The individual entering into this Agreement represents and warrants that either: (i) (s)he is entering into this Agreement as principal and is the Customer; or (ii) if (s)he is not the Customer, that (s)he has the express authority to enter into this Agreement on behalf of and to bind the Customer to its terms. If the Customer breaches this latter representation, the individual entering into this Agreement acknowledges and agrees that (s)he will be responsible for all obligations of the Customer.

3. **Responsibility of RSS & Disclaimers.** TO THE EXTENT PERMITTED BY APPLICABLE LAW AND SUBJECT TO OUR EXPRESS OBLIGATIONS IN THIS SECTION AND THE OBLIGATIONS OF ANY SOURCE UNDER ANY EXPRESS WARRANTY ISSUED BY SUCH SOURCE, RSS PROVIDES NO GUARANTIES OR WARRANTIES WHATSOEVER, EITHER EXPRESS OR IMPLIED, INCLUDING ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, REGARDING ANY NETWORK, NETWORK SERVICE, EQUIPMENT, OTHER SERVICE PROVIDED BY A SOURCE OR INFORMATION REGARDING THE SAME, AND THE NETWORK PROVIDERS PROVIDE NO GUARANTIES OR WARRANTIES WHATSOEVER, EITHER EXPRESS OR IMPLIED, INCLUDING ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, REGARDING ANY EQUIPMENT, PROVIDED, HOWEVER THAT TO THE EXTENT TIMELY REQUESTED BY YOU, PERMITTED AND REASONABLY PRACTICAL, RSS WILL PASS ON ANY APPLICABLE WARRANTIES PROVIDED TO RSS BY THE APPLICABLE SOURCE. ALTHOUGH AS PART OF ITS CUSTOMER SERVICE, RSS GENERALLY ENDEAVORS TO PROVIDE REASONABLE ASSISTANCE IN RESOLVING ANY SIGNIFICANT DEFECTS, FAILURES, INTERRUPTION OR OTHER PROBLEMS (AN "ISSUE") OF WHICH IT RECEIVES TIMELY NOTICE WITH SUFFICIENT DETAIL OR OBTAINING AVAILABLE WARRANTY SERVICE FROM THE APPLICABLE EQUIPMENT SOURCE, RSS ASSUMES NO RESPONSIBILITY FOR RESOLVING ANY ISSUE OR THE AVAILABILITY OR EFFICACY OF ANY SUCH WARRANTY SERVICE OR ASSISTANCE. TO THE EXTENT THAT RSS PROVIDES ANY RSS SERVICES, RSS WILL USE REASONABLE EFFORTS TO PROVIDE SUCH SERVICE IN A WORKMANLIKE MANNER, BUT RSS MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EITHER EXPRESS OR IMPLIED, REGARDING THE EFFECTIVENESS OR RESULTS OF ANY RSS SERVICES OR THAT ANY RSS SERVICES WILL BE FREE OF ANY ISSUE. YOUR SOLE REMEDY FOR ANY FAILURE BY RSS TO PROVIDE ANY RSS SERVICES IN ACCORDANCE WITH THE WARRANTY IN THE IMMEDIATELY PRECEDING SENTENCE IS TO REQUEST WITHIN 30 DAYS OF SUCH FAILURE A PRO-RATA REFUND OF ANY FEES CHARGED AND PAID FOR THE RSS SERVICES WHICH WERE SUBJECT TO SUCH FAILURE AND HAD AN ISSUE THAT MATERIALLY AND ADVERSELY AFFECTED THE USEFULNESS TO YOU OF SUCH RSS SERVICES. THE LIMITED WARRANTY IN THIS AGREEMENT GIVES YOU SPECIFIC LEGAL RIGHTS. YOU MAY HAVE OTHER RIGHTS WHICH VARY FROM STATE/JURISDICTION TO STATE/JURISDICTION.

4. **Right to Reject Orders & Sales.** We reserve the right to limit or reject orders or to terminate any Services at any point, without explanation, such termination to be effective immediately.

5. **Transmission and Capacity Limitations.** You understand and acknowledge that satellite communications service is provided subject to the availability of capacity on the applicable Network which is limited by the space technology involved and availability of assigned radio spectrum and the applicable satellite footprint. Satellite communications service may become unavailable or limited because of capacity limitations or emergency preemption by governmental authorities who have jurisdiction over the Network, and may be interrupted or curtailed by modifications, upgrades, repairs, and similar activities of the Network Provider. Each Network Provider has reserved the right to allocate satellite capacity among all uses of the Network. Satellite communications service is subject to transmission and reception limitations caused by: (1) the user's location, including topographical conditions, whether man-made or natural, that obstruct the line of transmission between the user and the Network satellites; (2) the condition of the Network's equipment; (3) the condition of your Network Terminal; (4) acts of God, (5) weather conditions, atmospheric conditions (i.e., space debris, solar flares, and other atmospheric anomalies or disturbances), magnetic interference, environmental and other like conditions. In particular, due to the technical nature of data setups and the inherent sophistication of data transmission through a variety of operating systems, RSS makes no representation as to the success of data transmission or calls through any Network. Customer agrees that all data transmission or calls attempts regardless of ultimate successful transmission and termination will be paid for and no credits will be given in the event of dispute of this nature. Along with potential incorrect use (i.e.: next to a building/obstruction), the Globalstar and Iridium systems (consisting of low earth orbiting satellite constellations) have inherent flaws and anomalies that can create dropped calls of either voice or data nature. Dropped calls will not be credited.

6. **Satellite Network Service Only.** You understand and acknowledge that the Network Providers do not provide terrestrial, cellular or PCS service or any service other than satellite communications service. In the event that you elect to utilize any service in conjunction with Network Services, you understand and acknowledge that neither RSS nor any Network Provider is responsible for, and neither warrants nor represents the quality or availability of, such service and expressly disclaims any warranty regarding the interoperability of such service with satellite communications service.

7. **Privacy Limitations.** You understand that because Network Services involve radio technology, voice and data communications transmitted over the Network may not be completely private. You understand that calls to emergency referral services, such as "911," are typically recorded and consents to the recording of such calls. Also, you consent to the Network Provider's monitoring and recording your calls to the Network Provider in order to ensure the quality of Network Services.

8. **Abuse and Fraudulent Use.** You are responsible for taking care of the Equipment and ensuring that it is used responsibly. Network Service may not be used (1) to make foul or profane expressions, to impersonate another person with fraudulent or malicious intent, or to call another person so frequently or at such times of the day or in any manner so as to annoy, abuse, threaten or harass, or (2) for any purpose in violation of law, or (3) in any manner which interferes unreasonably with the use of satellite communications service by any other customer or with RSS's reasonable ability to provide service to others. If you fails to adhere to these rules of satellite communications service, RSS may terminate this Agreement in accordance with Section 21 below.

9. **Regulatory Authority Affecting this Agreement.** You agree that RSS may amend this Agreement upon written notice to you to comply with FCC or other U.S. or foreign Authority requirements or other reasons, and such amendment(s) does not constitute a repudiation or breach of this Agreement. You agree to abide by such amended terms and requirements.

10. **Telephone Numbers/Fax Numbers/Fax Email.** A telephone number may not be used in more than one Network Terminal. You have

no property right or other continuing right in any assigned telephone/fax number or email address, and none can be acquired by usage or otherwise. RSS reserves the right to assign, designate, or change any such telephone/fax numbers or email address when reasonably necessary in the conduct of its business. RSS may reassign the telephone/fax numbers or email address formerly held by you immediately upon the deactivation of your Network Terminal. or Fax Services.

11. **Designation of Authorized User(s).** You may notify RSS at any time of your designation of authorized user(s) on your account. By so doing, you give RSS permission (1) to provide account information and services directly to such user(s) to the extent such information and services would otherwise be available to you, and (2) to make changes to your account as such user(s) may request from time to time. You agree to accept financial responsibility for all decisions and changes made by such user(s) relating to your account. You may remove an authorized user(s) from the account at any time by notifying RSS in writing.

12. **Network Terminal Loss or Theft; Return of Rentals.** In the event your Network Terminal is lost, stolen, or otherwise absent from the your possession or control or used by an unauthorized person, you shall be liable for all usage and toll, long distance and roaming charges originating from your telephone number until the loss, theft or other occurrence is reported to RSS and RSS is able to terminate the Network Service of such number. You shall provide a police report of such loss or theft upon RSS's request. Thereafter, you shall not use the telephone number assigned to your Network Terminal until you give RSS notice that such Network Terminal is in the your possession and you request restoration of the ability to use such telephone number. Such restoration may be subject to a charge. Monthly charges shall continue until Network Services are terminated. If you fail to timely return any rental Equipment, RSS may charge you for the full replacement cost of the Equipment, so well as all applicable charges for Services for so long as provided or used in connection therewith.

13. **Responsibility for Usage and Charges and Payment.** You are responsible for the timely payment of all charges and fees for all Services furnished to you, including all (a) activation, monthly service, service usage fees, (b) air time and other Network Services charges, including all toll, long distance and roaming charges, that are identified by our or the applicable Source's systems as originated from or connected with Network Terminals (i) sold or rented to you or your Representative or (ii) which you or your Representative have indicated is used by you or your Representative, (c) other fees and charges for Services we provide you or a Representative at your or any such Representative's request, and (d) Taxes related to any of the foregoing, in each case in clause (a), (b), (c) or (d) above, without any deduction, withholding or offset of any kind. You further agree and acknowledge that the records generated by our or the applicable Source's systems of such access or use will be presumed to be accurate records of such access or use and charges in connection therewith.

14. **Payment Terms & Invoices.** RSS generally will invoice you monthly. You shall pay the full amount within thirty (30) days of the date of the invoice and in accordance to the instructions on the billing statement or invoice. You may pay your bill by direct debit, credit card or by mailing a check or money order to the remittance address set forth in the invoice sent to you. Payment must be made in U.S. Dollars. Your requests for direct billing are subject to credit approval and may be subject to required deposits and/or direct payment by credit card or a guarantee authorized against a valid accepted credit card. If we do not receive or are charged back for payment, we may suspend any Service until outstanding charges are paid in full. If you have problems with or questions regarding information contained in any invoice or billing statement we send to you, you must notify us in writing immediately. Absent such notice, we will have the right to assume that you have received all billing statements and invoices sent to you and all information therein is correct.

15. **Credit Cards.** Foreign credit cards will be accepted only after a complete verification has been done with the issuing bank. The issuing bank must contact the credit card holder and confirm the authorization for the charge to be approved. Verification of foreign credit cards may delay order processing for up to 72 hours. All deposits will still apply. RSS reserves the right to decline any credit card transaction. You shall inform us of any changes to your credit card details.

16. **Taxes.** The rates, charges and prices for Services and the sale or rental of Equipment are exclusive of applicable Taxes. You will be solely responsible for and you shall pay all Taxes arising from the provision of Services and the sale or rental of Equipment, excluding any taxes or other charges based on RSS's net income, but not excluding taxes or other charges based on RSS revenues. You must provide RSS with all applicable tax or Universal Service Fund exemption certificates, and RSS will use reasonable efforts to work with you to obtain applicable tax exemptions to the extent consistent with applicable law. In the absence of applicable exemption certificates, RSS may invoice you and you shall pay 100% of all Taxes that are payable by RSS.

17. **Credit Information & Approval & Deposits.** Sales and rentals of Equipment and provision of Services are subject to RSS credit approval. RSS requires the establishment of credit or the ability to pay invoices according to the established terms. You authorize RSS to obtain credit information concerning you from trade references and credit reporting agencies and such other sources as RSS deems necessary to augment credit information supplied by you. Based on such credit information, and other factors RSS deems relevant to your creditworthiness, including your payment history and/or usage patterns, RSS may require you to make a deposit as a payment guarantee. Deposits may also be required for Non-US citizens. RSS may, in its sole discretion, provide Service to you prior to a credit review without waiving its right to require a deposit from you, and RSS may discontinue any or all Service if you do not remit a deposit. Deposits may be subject to increase or reduction as RSS deems necessary in its sole discretion to ensure timely payment of invoices. Such deposit shall not accrue interest unless required by law. Customers will generally be advised prior to service activation if a deposit is required. Deposits will be refunded at Service termination, or when RSS in its discretion determines that the Customer has established good credit history. If RSS refunds the deposit to you, the refund will generally be sent to you by first class U.S. mail to your last address according to RSS's records.

18. **Late or Deficient Payments; Failures to Make Payments; Credit Limits.** Payments received after the due date on the bill may incur late payment charges on all amounts past due in the amount of 1.5% per month (18% per annum) or the maximum rate allowed by law, whichever is lower. If payment is returned or rejected by a bank or other financial institution for any reason (e.g., non-sufficient funds, overdrawn account for direct debit, over the credit limit, expired date on credit card), then you shall pay a \$25 return or rejection charge (or such other fee then being charged by RSS). Moreover, RSS reserves the right to (i) decommission or suspend your and your Representatives' Network Terminals for non-payment, and/or (ii) charge a \$75.00 fee per Network Terminal for reactivation of the suspended Network Terminals. RSS may refer your account, if past due, to attorneys and/or collection agencies for further action. You shall pay any and all costs, fees and expenses that RSS incurs to collect any charges from you, including all court costs, attorneys' fees and collection agency fees and commissions to the extent allowed by law. RSS reserves the right to interrupt the provision of any Service at any time without notice and to require accelerated interim payments in the event that (1) RSS deems your usage unusual or excessive in relation to your security deposit, credit limit and/or normal usage patterns, or (2) your payment is returned or rejected as described above.

19. **Sales & Rentals Are Final.** All sales and rentals of Equipment and Services orders by you or a Representative that are accepted by us are final and irrevocable.

20. **Modifying Services.** We and/or the Source(s), at any time (i) with or without notice, may modify any aspect the Services, any capability accessible through any of the Services, and (ii) upon written notice to you, may modify any applicable charges or fees. In addition, we may from time to time modify this Agreement as may be necessary to accommodate changes to the Applicable Laws, the requirements of any Sources or as we determine is necessary to avoid inappropriate risk. You may change your pricing plan to a higher bundle free of charge. Moving to a lower pricing plan with fewer included minutes will incur a fee of \$50.00 and will renew the twelve month contract period.

21. **Terminations.** Early terminations during the first year of Network Service for Globalstar are subject to a \$250.00 cancellation fee per Network Terminal. You may renew for successive one (1) year service periods at the same terms and conditions contained herein. Early terminations during the 12 months of service for MSAT are subject to a \$300.00 cancellation fee per Network Terminal. After the end of the initial 12 month term the rates and charges for the Service are subject to change upon thirty (30) days' written notice to Customer. For Inmarsat, Iridium and Thuraya services, RSS reserves the right to charge a \$250.00 fee for early termination of service. Notice of termination should be made in writing to RSS at the address set forth in this Agreement or such other address of which we give you notice. Termination notice will be sent no less than thirty (30) days prior to the expiration of any term of this Agreement. RSS reserves the right to terminate any Services at any time. The terms and provisions of this Agreement shall survive the termination or expiration of any service agreement, rental period and the provision of Services.

22. **Compliance with Applicable Laws.** You hereby assume full responsibility for, and shall ensure, compliance with any and all requirements and restrictions of Applicable Laws whatsoever, that may apply to (i) export of any Equipment outside the United States or Canada, or (ii) use of any of the Services outside the United States or Canada and (iii) any communication to or from you or any other person who accesses any of the Services. If you wish to operate a Network Terminal while in a foreign territory, you assume responsibility for obtaining any and all licenses, consents or approvals that may be required to operate within that territory. The Network Providers do not guarantee any authority to communicate with their networks other than those allowing trans-border operations of their equipment.

23. **Disclaimer of Warranties & Limits of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND SUBJECT TO OUR EXPRESS OBLIGATIONS UNDER THIS AGREEMENT AND THE OBLIGATIONS OF ANY SOURCE UNDER ANY EXPRESS WARRANTY ISSUED BY SUCH SOURCE, WE AND THE SOURCES HEREBY EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES, GUARANTIES, CONDITIONS, COVENANTS AND REPRESENTATIONS RELATING TO ANY AND ALL EQUIPMENT, NETWORKS AND SERVICES, INCLUDING ANY RELATING TO MERCHANTABILITY, QUALITY, ACCURACY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, TIMELINESS, CURRENCY, ABSENCE OF VIRUSES OR DAMAGING OR DISABLING CODE, ANY WARRANTIES OR REPRESENTATIONS THAT ANY EQUIPMENT, NETWORKS AND SERVICES, OR ACCESS TO ANY PORTION OF IT WILL BE (i) UNINTERRUPTED OR ERROR-FREE, OR (ii) THAT DEFECTS IN SUCH EQUIPMENT, NETWORKS AND SERVICES WILL BE CORRECTABLE OR CORRECTED, OR OTHER ATTRIBUTES, WHETHER EXPRESS OR IMPLIED (IN LAW OR IN FACT), ORAL OR WRITTEN, OR FROM A COURSE OF DEALING OR USAGE OF TRADE. NEITHER WE NOR ANY SOURCE HAS ANY RESPONSIBILITY TO INFORM YOU OF ANY DIFFICULTIES WE OR OTHER THIRD PARTIES EXPERIENCE CONCERNING USE OF EQUIPMENT, NETWORKS AND SERVICES OR TO TAKE ANY ACTION IN CONNECTION WITH THOSE DIFFICULTIES. NEITHER WE NOR ANY SOURCE HAS ANY DUTY OR OBLIGATION TO VERIFY, CORRECT, COMPLETE OR UPDATE ANY INFORMATION DISPLAYED IN OR AVAILABLE THROUGH ANY SERVICES OR FROM ANY OTHER SOURCE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND SUBJECT TO OUR EXPRESS OBLIGATIONS UNDER THIS AGREEMENT AND THE OBLIGATIONS OF ANY SOURCE UNDER ANY EXPRESS WARRANTY ISSUED

BY SUCH SOURCE, ALL EQUIPMENT AND SERVICES ARE BEING PROVIDED AS IS AND YOU ASSUME THE ENTIRE RISK OF AND AGREE TO RELEASE AND DISCHARGE RSS PARTIES AND THE APPLICABLE SOURCE(S) FROM ANY AND ALL RESPONSIBILITY AND LIABILITY FOR ANY LOSS, COST, CLAIM OR DAMAGE (INCLUDING DIRECT, INDIRECT OR CONSEQUENTIAL DAMAGES OR LOST PROFITS) ARISING OUT OF OR OTHERWISE RELATING TO YOUR ACCESS TO ANY OF THE EQUIPMENT, NETWORKS AND SERVICES, OR ANY USE OF ANY OF EQUIPMENT, NETWORKS AND SERVICES OR ANY MALFUNCTION, DELAY, INTERRUPTION, OMISSION OR FAILURE OF ANY OF EQUIPMENT, NETWORKS AND SERVICES, EVEN IF WE OR THE APPLICABLE SOURCE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES. ANY IMPLIED WARRANTIES THAT CAN NOT BE EXCLUDED ARE LIMITED TO 90 DAYS OR THE SHORTEST PERIOD PERMITTED BY APPLICABLE LAW, WHICHEVER IS GREATER. YOU UNDERSTAND AND AGREE THAT THE FOREGOING DISCLAIMERS AND LIMITATIONS AND THE INDEMNITY IN SECTION 25 ALLOCATE THE RISKS BETWEEN US AND YOU AS AUTHORIZED BY APPLICABLE LAWS. THE FEES CHARGED BY US REFLECT AND ARE SET IN RELIANCE UPON THIS ALLOCATION OF RISK AND THE EXCLUSION OF DAMAGES SET FORTH IN THIS AGREEMENT. SOME STATES/JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. MOREOVER, THESE LIMITATIONS DO NOT APPLY TO ANY LIABILITIES THAT CAN NOT BE EXCLUDED OR LIMITED BY APPLICABLE LAW.

24. **Force Majeure.** Notwithstanding anything else in this Agreement, RSS will not be liable to you or anyone else for any failure or issue regarding any Service or Equipment due to causes beyond RSS' reasonable control ("Force Majeure"), including acts of God, fire, explosion, vandalism, cable cut, storm or other catastrophes, national emergency, insurrections, terrorism, war, equipment failure or problems, satellite or other Network failure or problems, acts or omissions of any Source, riots, direction, action or request of any government or authority or instrumentality thereof. RSS' obligation to perform will be suspended for the duration of a period of Force Majeure, but Force Majeure does not suspend in any way payment obligations under this Agreement.

25. **Indemnification Obligations.** YOU AGREE TO INDEMNIFY AND HOLD ALL RSS PARTIES AND THE APPLICABLE SOURCE(S) HARMLESS AGAINST ANY AND ALL COSTS, EXPENSES, LOSSES, LIABILITIES, OBLIGATIONS, DAMAGES, PENALTIES, TO WHICH ANY SUCH RSS PARTIES OR THE APPLICABLE SOURCE(S) MAY BECOME SUBJECT, INCLUDING REASONABLE LEGAL AND OTHER PROFESSIONAL FEES INCURRED IN INVESTIGATING, DEFENDING OR APPEALING PENDING OR THREATENED CLAIMS, ACTIONS, SUITS, PROCEEDINGS, ARBITRATIONS, AMOUNTS PAID IN SETTLEMENT THEREOF AND AMOUNTS AWARDED THEREUNDER (ALL OF THE FOREGOING COLLECTIVELY, "EXPENSES"), ARISING OUT OF OR RELATING ANY BREACH OF THIS AGREEMENT OR FAILURE BY YOU TO CARRY OUT ANY OBLIGATION OR RESPONSIBILITY HEREUNDER, ANY VIOLATION BY YOU, ANY AFFILIATE OR CUSTOMER OR ANY OF YOUR OR THEIR EMPLOYEES OR AGENTS OF ANY APPLICABLE LAWS, OR ANY USE OF ANY OF THE EQUIPMENT OR SERVICES, EXCEPT TO THE EXTENT A COURT OF APPLICABLE JURISDICTION FINDS IN A NON-APPEALABLE JUDGMENT THAT SUCH EXPENSES RESULTED DIRECTLY AND PRIMARILY FROM THE APPLICABLE INDEMNIFIED PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

26. **Consent to Monitoring Use.** You consent to the monitoring of your use of the Equipment and the Services by us and the Network Providers and use of information compiled based on such use for purposes of enabling us and or Network Providers to maintain, operate provide and/or improve the Network and the Services you use and or calculate fees and charges. In addition, we may disclose such information to the extent that we determine in good faith to be required by any applicable laws or order or in enforcement of our rights or the defense of claims.

27. **Electronic Documents.** You consent to the delivery of billing statements or invoices, any other communication or agreement and any agreements or changes in the terms and conditions of any Services, by e-mail, Web site or other electronic means, subject to compliance with

any applicable laws, rules or regulations. Any such documents that are delivered to you electronically are deemed to be "in writing." If your signature, agreement, consent or acknowledgment is required or requested with respect to any such document or otherwise by any Services and such signature, agreement, consent or acknowledgment is communicated electronically (by a "click" in the appropriate space or such other action as may be indicated on the Services), you will be deemed to have signed or acknowledged the document to the same extent and with the same effect as if you had signed the document manually. You acknowledge your understanding that you have the right to withdraw your consent to the electronic delivery and signature of documents at any time by providing prior written notice to us. However, if you revoke your consent, your access to or use of the Services may be restricted or terminated.

28. **Cumulative Rights and Remedies; Survival.** Our rights and remedies and your obligations in this Agreement are cumulative and are in addition to our rights and remedies and your obligations under law or any agreement between you and any Source(s), as any of the same may be amended or supplemented from time to time. This Agreement shall be binding upon you and your respective successors and assigns and inure to the benefit of RSS Parties, the Source(s) and their respective successors and assigns. This Agreement is irrevocable and shall survive the termination of any such Agreement, use of the Services, and your account with us.

29. **Agreement Modifications; Headings.** This Agreement may be modified or waived only by a written instrument duly executed by one of our executive officers. Any failure by us at any time to enforce performance by you of any provision of this Agreement shall in no way affect our rights thereafter to enforce the same, nor shall the waiver by us of any breach of any provision hereof be deemed to be a waiver by us of any other breach of the same or any other provision hereof. Any and all headings in the text of this Agreement are solely for convenience or reference and do not constitute a part of this Agreement, nor do they affect the meaning, construction or effect of this Agreement.

30. **Assignments & Transfers.** You shall not transfer, sell or rent any Network Terminal, Network Service or other Service. This Agreement cannot be assigned without the express written consent of RSS.

31. **Governing Law.** This Agreement will be governed and construed in all respects by the laws of the State of California (without reference to the choice or conflicts of law provisions thereof) and applicable federal laws.

32. **Dispute Resolution.** Notwithstanding anything set forth in this Agreement, any controversy concerning the subject matter of this Agreement between you or any Representative, on the one hand, and any RSS Parties, on the other hand, that cannot be resolved by negotiation and mutual agreement will be resolved exclusively by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Arbitration between the Parties will be conducted in San Francisco, CA and in the English language. An award rendered by the arbitration tribunal will be final and binding on the Parties, and enforceable by any court or competent jurisdiction. Each Party hereby consents to the jurisdiction of such a court and waives, to the fullest extent permitted by law, any defense or objection relating to the enforcement of the award. If for any reason the arbitration provisions described below do not apply or are waived, then any such controversy shall be submitted exclusively to Federal or state courts in the State of New California. You consent to personal jurisdiction in any applicable court for purposes of any such litigation. To the extent permitted by law, all parties to this Agreement hereby waive any right to trial by jury with respect to any claim or action.