



SPARKLIGHT BUSINESS HIGH-SPEED INTERNET SERVICE AGREEMENT

THE PARTIES AGREE AS FOLLOWS:

SECTION 1: DATA SERVICES

During the term of this Agreement, Cable One, Inc. d/b/a Sparklight Business ("Sparklight") shall provide the high-speed Internet service ("Data Service") indicated by Subscriber and to locations on the Business Service Agreement.

SECTION 2(A): MANAGED SERVICES

Subscriber may, at its option purchase Sparklight's Managed Services to run for a term consecutive with Subscriber's Data Services, including Managed Router Service or Managed Security Service. Managed Router Service provides a router/security appliance installed at the Subscriber's site delivering common network security functions including firewall, Secure VPN, and SD-WAN. Managed Security Service includes the features of Managed Router Service, plus content filtering and intruder prevention and detection, monitoring external internet threats at designated access points to the Subscriber's computer network using the firewall appliance placed at Subscriber's premises, managed by Sparklight. Sparklight will configure each router/security appliance to subscriber's firewall policy, to operate in accordance with that firewall policy and the manufacturer's specifications for the particular router/security appliance. Sparklight will implement changes to Subscriber's firewall policy within four business hours of receiving Subscriber's request.

In addition to other limitations of liability included herein, the following limitation of liability applies to the Managed Service product(s) identified in this Section 2(A):

SPARKLIGHT'S MANAGED SERVICE AND EQUIPMENT PROVIDED THEREWITH DOES NOT CAUSE AND CANNOT ELIMINATE OCCURRENCES OF THE EVENTS THEY ARE INTENDED TO DETECT OR AVERT. SPARKLIGHT MAKES NO GUARANTY OR WARRANTY, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, THAT THE MANAGED SERVICE OR EQUIPMENT SUPPLIED WILL DETECT OR AVERT SUCH EVENTS OR THE CONSEQUENCES THEREFROM. ACCORDINGLY, SPARKLIGHT DOES NOT UNDERTAKE ANY RISK THAT SUBSCRIBER'S PERSON OR PROPERTY, OR THE PERSON OR PROPERTY OF OTHERS, MAY BE SUBJECT TO INJURY OR LOSS IF SUCH AN EVENT OCCURS. THE ALLOCATION OF SUCH RISK REMAINS WITH SUBSCRIBER, NOT SPARKLIGHT. INSURANCE, IF ANY, COVERING SUCH RISK SHALL BE OBTAINED BY SUBSCRIBER. SPARKLIGHT SHALL HAVE NO LIABILITY FOR LOSS, DAMAGE OR INJURY DUE DIRECTLY OR INDIRECTLY TO EVENTS, OR THE CONSEQUENCES THEREFROM, WHICH THE MANAGED SERVICE IS INTENDED TO DETECT OR AVERT. SUBSCRIBER SHALL LOOK EXCLUSIVELY TO ITS INSURER AND NOT TO SPARKLIGHT TO PAY SUBSCRIBER IN THE EVENT OF ANY SUCH LOSS, DAMAGE OR INJURY. SUBSCRIBER RELEASES AND WAIVES FOR ITSELF AND ITS INSURER ALL SUBROGATION AND OTHER RIGHTS TO RECOVER FROM SPARKLIGHT ARISING AS A RESULT OF PAYING ANY CLAIM FOR LOSS, DAMAGE OR INJURY OF SUBSCRIBER OR ANOTHER PERSON.

SECTION 2(B): SECURITY ADVANTAGE

Subscriber may, at its option, purchase network security products ("Security Advantage") via Sparklight during the term of this Agreement. Subscriber acknowledges that Security Advantage is owned and provided by a third-party supplier and that Sparklight does not own or have any control over the content or functioning of Security Advantage.

Subscriber shall designate a single administrator to be the sole point of contact for Sparklight as to Subscriber's Security Advantage services. Subscriber shall inform Sparklight as soon as reasonably practical if the designated administrator changes, including providing the new administrator's name, contact information, and any other information reasonably requested by Sparklight. Subscriber shall validate any legacy equipment that it will use in the provision of Security Advantage. In addition, if Subscriber uses a legacy network, then Subscriber shall be responsible for updating the configurations of those devices that must communicate to, with, or through the agent or software deployed as part of Security Advantage in order to ensure connectivity and operation. Implementation services will be performed during normal business hours (local time) based on a single address provided by Subscriber on its order.

Security Advantage is designed to allow Subscriber to self-serve in the administration and modifications of the security portal. Subscriber is responsible for any software download(s) necessary for Security Advantage. Sparklight's support for any moves, adds, or changes shall be limited to five (5) requests per month from Subscriber via its designated administrator. Sparklight may provide support in addition to the support that is specifically guaranteed herein, and shall charge for such additional support by the hour at Sparklight's current engineering services rate. Notwithstanding the foregoing, PC support is specifically excluded from Security Advantage.

In addition to other limitations of liability included herein, the following limitation of liability applies to the Security Advantage product(s) identified in this Section 2(B), wherein any reference to Sparklight shall include Sparklight and its suppliers:

SPARKLIGHT DOES NOT IN ANY MANNER GUARANTEE THAT THE INFORMATION ACCESSED BY SECURITY ADVANTAGE WILL BE ACCURATE OR COMPLETE. SUBSCRIBER ACKNOWLEDGES THAT THE PERFORMANCE OF SECURITY ADVANTAGE MAY BE AFFECTED BY MULTIPLE FACTORS, INCLUDING WITHOUT LIMITATION TECHNICAL FAILURE, THE ACTS OR OMISSIONS OF THIRD PARTIES, AND OTHER CAUSES BEYOND SPARKLIGHT'S REASONABLE CONTROL. SPARKLIGHT MAKES NO GUARANTEE OR WARRANTY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AS TO THE PERFORMANCE OF SECURITY ADVANTAGE. ACCORDINGLY, SPARKLIGHT DOES NOT UNDERTAKE ANY RISK THAT SUBSCRIBER'S PERSON OR PROPERTY, OR THE PERSON OR PROPERTY OF OTHERS, MAY BE SUBJECT TO INJURY OR LOSS DUE TO THE PERFORMANCE OF SECURITY ADVANTAGE. IN ADDITION, SUBSCRIBER IS SOLELY RESPONSIBLE FOR THE ADEQUATE PROTECTION AND BACKUP OF ANY DATA AND EQUIPMENT USED IN CONNECTION WITH SECURITY ADVANTAGE. TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL SPARKLIGHT BE LIABLE TO SUBSCRIBER OR ANY THIRD PARTY FOR ANY DAMAGES ARISING OUT OF THE PERFORMANCE OR FAILURE TO PERFORM OF SECURITY ADVANTAGE UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER THEORY, FOR (a) ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS), OR FOR LOSS OF OR CORRUPTION OF DATA, OR FOR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR TECHNOLOGY, IRRESPECTIVE OF WHETHER SPARKLIGHT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND (b) THE THIRD-PARTY APPLICATIONS AND SUBSCRIBER'S SYSTEMS, INCLUDING WITHOUT LIMITATION THE PERFORMANCE OF THIRD-PARTY APPLICATIONS AND SUBSCRIBER'S SYSTEMS AND CONTENT THEREIN.

SECTION 3: ENGINEERING REVIEW

Activation of Data Service and Managed Service, as applicable, is subject to Sparklight's engineering review for distribution availability by existing cable plant as well as review of other external factors and may require additional fees.

In the event Sparklight determines that Data Service is not available to the Premises of Subscriber, this Agreement shall be void, and Subscriber shall be entitled to a refund of all prepaid charges in accordance with Sparklight's refund policies.

SECTION 4: INSTALLATION & MAINTENANCE OF SPARKLIGHT EQUIPMENT

Subscriber hereby grants to Sparklight (subject to any necessary governmental or third-party approvals) the right to install all necessary equipment for receiving Data Service. Subscriber, at no cost to Sparklight, shall secure throughout the term of service from building owners, managers, government authorities or any other parties any easements, leases, licenses, right of entry agreements or any other agreements necessary to allow Sparklight to use existing pathways into and in each Building. Sparklight-owned equipment provided to Subscriber hereunder shall be maintained by Sparklight in good operating condition. Such maintenance obligation is contingent upon Subscriber notifying Sparklight, in a timely manner, when repair or maintenance is necessary. Except for Sparklight's maintenance obligations as set forth herein, Subscriber shall indemnify Sparklight and hold it harmless from and against any and all losses, claims and expenses relating to the equipment provided hereunder to Subscriber, including without limitation, losses caused by accident, fire, theft or misuse of equipment. Subscriber shall provide Sparklight with reasonable access to the Premises during normal hours for purposes of performing required maintenance. Sparklight shall retain ownership of all equipment provided hereunder, including all data transmission equipment, drop and fiber optic material required to provide Service to the business. Subscriber shall not, directly or indirectly, sell, mortgage, pledge, or otherwise dispose or encumber any Sparklight-owned equipment provided to Subscriber, nor shall it change the location of, tamper with, damage, mishandle or alter in any manner such equipment. Subscriber also shall not relocate Sparklight-owned equipment within its Premises. In addition, if Subscriber decides to move Premises, Subscriber shall notify Sparklight of its move. Sparklight will relocate the Sparklight-owned equipment for Subscriber within Subscriber's Premises or, in accordance with Section 4, to another Premises; Subscriber acknowledges that it may incur additional charges for such relocation. Subscriber shall, upon the expiration or earlier termination of this Agreement, promptly return to Sparklight all of such equipment in good condition (or pay the full replacement value therefore). If services are no longer provided to the Subscriber's Premises, Subscriber shall provide Sparklight with reasonable access to such Premises for purpose of removing any Sparklight-owned equipment. Sparklight shall have no obligation to install, operate or maintain subscriber provided facilities or equipment.

SECTION 5: USE OF DATA SERVICE AND EQUIPMENT

Subscriber's use of the Data Service and equipment is subject to adherence to all relevant laws and Sparklight's acceptable use policy where applicable. Subscriber shall not use the Data Service or equipment to directly or indirectly:

- a) invade another person's privacy, unlawfully use, possess, post, transmit or disseminate obscene, profane or pornographic material; post, transmit, distribute or disseminate content that is unlawful, threatening, abusive, libelous, slanderous, defamatory, materially false, inaccurate or misleading or otherwise offensive or objectionable; unlawfully promote or incite hatred; or post, transmit or disseminate objectionable information, including, without limitation, any information constituting or encouraging conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any municipal, provincial, federal or international law, order, rule, regulation for policy or any network accessed using the Service;
- b) access any computer, software, data, or any confidential, copyright protected or patent protected material of any other person or entity, without the knowledge and consent of such person or entity, nor use any tools designed to facilitate such access;
- c) collect a listing or directory of Sparklight subscribers, or if any such directory is made available, use, copy or provide to any person or entity (whether or not for a fee) such directory or any portion thereof;
- d) upload, post, publish, deface, modify, transmit, reproduce, or distribute in any way, information, software or other material obtained through Sparklight that is protected by copyright, or other proprietary right, or related derivative works, without obtaining permission of the copyright owner or right holder; or otherwise violate the rights of any person or entity, including the misuse, misappropriation or other violation of any intellectual property of any person or entity;
- e) alter, modify or tamper with the equipment or any feature of the Data Service, including, without limitation, attempt to disassemble, decompile, create derivative works of, reverse engineer, modify, sublicense, distribute or use the equipment for any purpose other than as expressly permitted;

- f) restrict, inhibit or otherwise interfere with the ability of any other person to use or enjoy the Data Service or the Internet generally or create an unusually large burden on Sparklight's network, including, without limitation: posting or transmitting any information or software that contains a virus, lock, key, bomb, worm, Trojan horse or other harmful or debilitating feature, distributing mass or unsolicited messages, chain letters, surveys, third party advertising or promotional materials, commercial solicitations (*i.e.*, spam) or mass chat room or bulletin board posts, or otherwise generating levels of traffic sufficient to impede others' ability to send or retrieve information;
- g) interfere with computer networking, cable or telecommunications services to or from any Internet user, host or network, including but not limited to denial of service attacks, overloading a service, improper seizure and abuse of operator privileges ("hacking") or attempting to "crash" a host; or
- h) falsely assume the identity of any other individual or entity, including, without limitation an employee or agent of Sparklight, for any purpose, including, without limitation, accessing or attempting to access any account for which Subscriber is not an authorized user.
- i) resell or share any portion of this Data Service to a third party.

In addition to our termination rights set out elsewhere in this Agreement and otherwise available at law, Sparklight may suspend service or terminate this Agreement if Subscriber engages in one or more of the above prohibited activities. Additionally, Sparklight reserves the right to charge Subscriber for any direct or indirect costs incurred by Sparklight or its affiliates in connection with Subscriber's breach of any provision of this Agreement, including costs incurred to enforce Subscriber's compliance with it.

SECTION 6: MANAGED WIFI

Managed Wi-Fi provides the Subscriber with the ability to extend and change coverage of Subscriber's property through multiple or more Wi-Fi access points and exert substantial control over the managed Wi-Fi service including configurations through a mobile Android or IOS app. Primarily designed for small to medium businesses, the managed Wi-Fi service is intended to enable complete property coverage. A Subscriber to Managed Wi-Fi may request a further extension of WiFi coverage throughout Subscriber's property at additional cost. Sparklight will manage the extenders for the Subscriber. Subscriber acknowledges that while Sparklight has taken reasonable steps to secure the wireless service, with among other features, built-in malware scanning and blocking, Sparklight cannot guarantee that third parties will never hack or otherwise gain access to Subscriber's Wi-Fi transmissions and you agree that Sparklight will not be liable for among other things, any interception or transmissions, computer viruses, loss of data, file corruption or damage to Subscriber's computer(s) or network.

SECTION 7: MANAGED WIFI SUBSCRIBER RESPONSIBILITIES

Notwithstanding the more specific Subscriber responsibilities, Subscriber may not use the Wi-Fi service for any unlawful purpose or to disseminate any information that is harassing, threatening or that constitutes Spam. Subscriber also agrees that as the account holder, Subscriber is responsible for the use of the Wi-Fi service by its guests or any parties that, with or without permission, use the Subscriber's account to access the Wi-Fi service.

SECTION 8: INTERNET SERVICE PROTECTION

Internet Service Protection provides the subscriber with a temporary LTE-based failover solution which re-directs the Subscriber's internet traffic from non-operating wired service to a wireless network as backup connectivity until the wired link is restored. Subscriber agrees and understands that the Internet Service Protection is dependent on the availability of a wireless signal, which signal is not provided by Sparklight. Sparklight under no circumstances guarantees or warrants the availability of wireless connectivity sufficient to provide the Internet Service Protection, and Sparklight will not be liable for any claims, losses, actions, suits, or damages arising out of or related to Subscriber's inability to access wireless connectivity sufficient to provide the Internet Service Protection.

Section 9: CONTENT ACCESSED AND PURCHASES MADE THROUGH SPARKLIGHT

Subscriber acknowledges and agrees that there is some content accessible through the Data Service and the Internet that may be offensive, or that may not be in compliance with applicable law. For example, it is possible to obtain access to content that is pornographic, obscene, or otherwise inappropriate or offensive, particularly for children. Sparklight does not

assume any responsibility for or exercise any control over the content accessible through the Data Service. Subscriber accesses and uses all content obtained through the Data Service at Subscriber's own risk, and Sparklight will not be liable for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to Subscriber's access to or use of such content. In addition, Sparklight shall not be responsible for any of Subscriber's purchases or charges on the Internet.

SECTION 10: COPYRIGHTED MATERIALS

Subscriber shall hold Sparklight harmless for any improper use of copyrighted materials accessed through Sparklight's Data Service. Sparklight bears no responsibility for, and Subscriber agrees to assume all risks regarding, the alteration, falsification, misrepresentation, reproduction, or distribution of copyrighted materials without the proper permission of the copyright owner. If Sparklight receives notice under the Digital Millennium Copyright Act, 17 U.S.C. § 512, that Subscriber has allegedly infringed the intellectual property rights of a third party, under the Act Sparklight will have the right to take down or disable access to the allegedly infringing material. In appropriate circumstances, Sparklight will terminate the accounts of subscribers who repeatedly infringe the intellectual property rights of third parties. Sparklight also will take such other action as appropriate under the circumstances to preserve its rights.

Section 11: SUBSCRIBER'S RESPONSIBILITY FOR SECURITY

Sparklight uses resources that are shared with many other subscribers. Moreover, Sparklight provides access to the Internet, a public network, which is used by millions of other users. Information (personal and otherwise) transmitted over such public network necessarily may be subject to interception, eavesdropping or misappropriation by unauthorized parties. Subscriber shall be solely responsible for taking the necessary precautions to protect itself and its equipment, files and data against any risks inherent in the use of this shared resource. While Sparklight also permits Subscriber to change its SSID and password for its wireless service and also to engage in port forwarding, Subscriber acknowledges that such manipulation injects an additional possibility of outside party intrusion and Subscriber undertakes such action at its own risk and will hold Sparklight harmless from any problems, costs, expenses and damages that result. Sparklight will not be liable for any claims, losses, actions, damages, suits or proceedings resulting from, arising out of or otherwise relating to Subscriber's failure to take appropriate security measures.

SECTION 12: RIGHT TO MONITOR AND DISCLOSE CONTENT

Sparklight has no obligation to monitor content provided through the Data Service. However, Subscriber agrees that Sparklight has the right to monitor content electronically from time to time and to disclose any information as necessary to: (a) conform to the edicts of the law or comply with legal process served on Sparklight, (b) protect and defend the rights or property of Sparklight, its Data Service or the users of the Data Service, whether or not required to do so by law, or (c) protect the personal safety of users of Sparklight's Data Service or the public. We reserve the right to either refuse to post or to remove any information or materials, in whole or in part, that we decide are unacceptable, undesirable, or in violation of this Agreement.

SECTION 13: SUBSCRIBER PASSWORDS

Subscriber is responsible for all use of Subscriber's account(s) and for maintaining the confidentiality of passwords. Subscriber shall immediately notify Sparklight about: (a) any loss or theft of Subscriber's password, or (b) any unauthorized use of Subscriber's password or of the Service. If any unauthorized person obtains access to the Service as a result of any act or omission by Subscriber, Subscriber shall use best efforts to ascertain the source and manner of the unauthorized acquisition. Subscriber shall additionally cooperate and assist in any investigation relating to any such unauthorized access.

SECTION 14: SUBSCRIBER PRIVACY

Sparklight is committed to protecting the privacy of Subscriber's personal information. Sparklight's privacy policy regarding the collection, use and disclosure of personal information is posted on Sparklight's website (business.sparklight.com). Subscriber acknowledges that he or she has read and accepted the terms and conditions of such statement.

SECTION 15: ASSIGNMENT

Subscriber shall not assign its rights or delegate its duties under this Agreement without the prior written consent of Sparklight, which consent shall not be unreasonably withheld. Any assignment of this Agreement by Subscriber without Sparklight's written consent shall be void and shall, at the Sparklight's option, constitute a breach hereof by Subscriber. In the event Subscriber is a business entity and ceases to do business at the Premises, Subscriber shall return to Sparklight all Sparklight-owned equipment installed at the Premises; such cessation shall not, however, reduce Subscriber's payment obligations hereunder unless Sparklight otherwise agrees in writing. This Agreement shall be fully assignable by Sparklight. Subject to the foregoing, this Agreement shall be binding upon and shall inure to benefit of the parties and their respective successors, representatives and assigns.

SECTION 16: TERMINATION BY SPARKLIGHT

If Subscriber fails to perform any of its obligations hereunder, does not cure such breach within thirty (30) days after written notice thereof from Sparklight, or if Subscriber becomes insolvent or bankrupt, Sparklight, in addition to all other rights it may have under law or its Agreement, shall have the right (a) to declare all amounts to be paid by Subscriber during the remaining term hereof immediately due and payable, (b) to cease providing services to Subscriber, and (c) immediately to enter the Premises and take possession of all Sparklight-owned equipment without liability to Subscriber therefore and without relieving Subscriber of its obligations under this Agreement. Subscriber shall reimburse Sparklight for all costs and expenses, including reasonable attorney's fees and court costs, incurred in connection with Sparklight's exercise of its rights under this Agreement.

Sparklight may, in its sole discretion, immediately terminate this Agreement in the event that it is unable to provide service due to any law, rule, regulation, Force Majeure event, or judgment of any court or government agency. In the event Sparklight is declared to be a common carrier by a law, rule, regulation, or judgment of any court or government agency, Sparklight may terminate this Agreement.

SECTION 17: TERMINATION BY SUBSCRIBER

If Sparklight fails to perform any of its obligations hereunder, does not cure such breach within thirty (30) days after written notice thereof from Subscriber, or if Sparklight becomes insolvent or bankrupt, Subscriber, in addition to all other rights it may have under law or its Agreement, shall have the right to terminate this Agreement without penalty and will only be responsible for any fees it incurs prior to cessation of service. If Subscriber exercises its termination right, Sparklight shall remove all Sparklight-owned equipment without cost or fee to Subscriber. Should Subscriber engage in early termination of the Agreement but without the justification of a Sparklight breach, Subscriber will be required to pay an early termination penalty consisting of 100% of the monthly fees for the remaining period of the term.

SECTION 18: DATA SERVICE AND EQUIPMENT ARE PROVIDED "AS IS"

- a) SPARKLIGHT'S DATA SERVICE AND EQUIPMENT ARE PROVIDED "AS IS", "AS AVAILABLE" WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND. SPARKLIGHT DOES NOT WARRANT THAT SUBSCRIBER'S USE OF THE DATA SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, BUG- FREE OR VIRUS-FREE. IN ADDITION, SPARKLIGHT DOES NOT WARRANT THAT ANY DATA OR FILES SENT BY OR TO SUBSCRIBER WILL BE TRANSMITTED IN A SECURE OR UNCORRUPTED FORM OR WITHIN A REASONABLE PERIOD OF TIME. IN THE EVENT THAT SUBSCRIBER'S BUSINESS REQUIRES CONTINUOUS AND UNINTERRUPTED SERVICE, SUBSCRIBER MAY WISH TO OBTAIN A SECONDARY SERVICE FROM AN ALTERNATE PROVIDER. ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED ARE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, HEREBY EXCLUDED.
- b) Sparklight's liability for mistakes, errors, omissions, interruptions, delays, outages, or defects in transmission or switching of any Service (individually or collectively), excluding any Instance caused by force majeure events or Subscriber actions, omission or equipment, shall be limited solely to a credit of 1/30th of the Monthly Recurring Charge, for the affected portion of the Service, for one or more instances of at least four (4) hours in duration in

any 24-hour period that is not coincident with any other instance, provided that the Instance is reported by Subscriber within 24 hours.

SECTION 19: LIMITATION OF LIABILITY

UNLESS OTHERWISE SPECIFIED IN THIS AGREEMENT, SPARKLIGHT SHALL NOT BE LIABLE TO SUBSCRIBER FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF SPARKLIGHT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING DIRECTLY OR INDIRECTLY FROM: (A) THE USE OR THE INABILITY TO USE THE DATA SERVICE; (B) UNAUTHORIZED ACCESS TO OR ALTERATION OF SUBSCRIBER'S TRANSMISSIONS OR DATA; (C) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE DATA SERVICE; OR (D) ANY OTHER MATTER RELATING TO SPARKLIGHT'S DATA SERVICE OR EQUIPMENT. This Section shall survive any termination of this Agreement.

SECTION 20: INDEMNIFICATION

Subscriber shall indemnify, defend, and hold Sparklight, its subsidiaries, members, affiliates, officers, directors, employees, and agents harmless from any claim, demand, liability, expense, or damage, including costs and reasonable attorneys' fees, asserted by any third party relating to or arising out of Subscriber's use of or conduct on the Sparklight Data Service. Sparklight will notify Subscriber within a reasonable period of time about any claim for which Sparklight seeks indemnification and will afford Subscriber the opportunity to participate in the defense of such claim, provided that Subscriber's participation will not be conducted in a manner prejudicial to Sparklight's interests, as reasonably determined by Sparklight. This Section shall survive termination of this Agreement.

SECTION 21: NONDISCLOSURE

- a) Unless prior written consent is obtained from a Party hereto, the other Party will keep in strictest confidence all information identified by the first Party as confidential, or which, from the circumstances, in good faith and in good conscience, should be treated as confidential; provided that (a) the owner thereof has taken reasonable measures to keep such information secret; and (b) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by the public. Such information includes but is not limited to all forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures programs, or codes, whether tangible or intangible, and whether or not stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing. A Party shall be excused from these nondisclosure provisions if the information has been, or is subsequently, made public by the disclosing Party, is independently developed by the other Party, if the disclosing party gives its express, prior written consent to the public disclosure of the information, or if the disclosure is required by any law or governmental or quasi-governmental rule or regulation.
- b) If either Party is compelled to disclose confidential information through lawful process in judicial or administrative proceedings, such Party will give the other Party the opportunity, in advance of such disclosure, to seek suitable protective arrangements and will fully cooperate with the other Party in that regard before the confidential information is disclosed.
- c) Each Party agrees that violation of this Section 20 would result in irreparable injury and the injured Party shall be entitled to seek equitable relief, including injunctive relief and specific performance in the event of any breach hereof.

SECTION 22: MISCELLANEOUS:

- a) This Agreement is governed by the laws of the State of Arizona. Subscriber hereby consents to the exclusive jurisdiction and venue of courts in Maricopa County, AZ in all disputes arising out of or relating to this Agreement and/or use of the Data Service and/or Sparklight-owned equipment.

- b) This Agreement constitutes the entire Agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, conversations, representations, promises of warranties (express or implied) whether verbal or written. No modification of this Agreement shall be valid unless made in writing and signed by both parties.
- c) The waiver of a breach of any provision of this Agreement shall not be construed as waiver of any subsequent breach of the same or a different provision of this Agreement.
- d) If any clause or provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the term hereof, then, and in the event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby.

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