

## Standard Terms and Conditions

**SCOPE.** These terms and conditions apply to any services ordered and equipment purchased from Inteconnex.

**CREDIT APPROVALS.** Fulfillment of any equipment purchase is contingent on satisfactory credit approval, and Customer agrees that Inteconnex may conduct a credit check to the extent permitted by law.

**PAYMENTS.** All payments to Inteconnex shall be made through the use of Electronic Funds Transfer, unless otherwise agreed to by Inteconnex, and are payable by the Due Date listed on the Invoice. Customer agrees to pay interest on all past due sums at the lesser of 1.5% per month or the highest rate allowed by law and to pay all costs of collection, including without limitation, all costs of litigation and reasonable attorney's fees incurred by Inteconnex to enforce any term of this Agreement. In the event Customer has any objection to any Inteconnex invoice, Customer shall object in writing within thirty (30) days of the date of such invoice or otherwise be forever barred from making any objections to the invoice. Regardless of any disputed amounts, Customer shall timely pay all charges not in dispute.

**EARLY TERMINATION CHARGE.** If Customer terminates any part of this Agreement except for cause, Customer agrees to pay the applicable Early Termination Charge ("ETC") within ten (10) business days of the termination date. For equipment sales, ETC is determined by adding any costs Inteconnex must pay to its equipment manufacturer due to such termination, plus 40% of the entire equipment order. For services, ETC is determined by multiplying the total amount for Services owed through the remaining current term of the Agreement times 50%, plus any outstanding payments due and owing prior to the termination date. The ETC constitutes a liquidated damage and is not a penalty.

**LIMITED WARRANTY.** (a) Equipment. Any equipment ordered from Inteconnex will be covered solely and exclusively by the equipment manufacturer's warranty. Any such warranty does not cover normal wear and tear or defects caused by abuse, misuse or negligence of or by the Customer, or by acts of nature, nor does this warranty cover malfunctions or defects experienced subsequent to being serviced by a vendor other than Inteconnex. Customer agrees that Inteconnex's sole obligation under this warranty is, at Inteconnex's option and expense, to either repair or replace the equipment that Inteconnex reasonably determines is covered by such warranty. Defective components will be either repaired or replaced using like quality parts at the sole discretion of Inteconnex. All warranty-related labor performed by Inteconnex shall be at Inteconnex's current rates and provided during its normal business hours according to its normal service schedule. Customer shall be responsible to pay any shipping costs and accept all risk of loss or damage on any equipment returned by Customer. (b) Services. Inteconnex warrants to Customer that the Services will be performed by Inteconnex on a commercially reasonable basis by qualified and competent personnel in accordance with industry practice and professional standards of care and practice appropriate to the nature of the Services being performed. Inteconnex also provides this limited warranty

covering all components sold and/or installed which are defective in material or workmanship within ninety (90) days of original installation. Defective components will be either repaired or replaced using like quality parts at the sole discretion of Inteconnex. Labor and materials required to repair or replace such defective components will be free of charge for the first ninety (90) days from the date of completion of the original installation. (c) EXCEPT AS EXPRESSLY PROVIDED HEREIN, NO OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, ARE MADE BY INTECONNEX, AND THE FOREGOING LIMITED WARRANTY IS IN LIEU OF ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, WHICH ARE HEREBY EXPRESSLY DISCLAIMED AND WAIVED BY CUSTOMER, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO REPRESENTATIVE OF INTECONNEX OR ANY OTHER PERSON IS AUTHORIZED TO MAKE ANY OTHER REPRESENTATION OR WARRANTY ON BEHALF OF INTECONNEX UNLESS MADE IN WRITING SIGNED BY AN AUTHORIZED INTECONNEX REPRESENTATIVE.

**LIMITATION OF LIABILITY.** AS TO ANY CLAIM OF WHATEVER NATURE ASSERTED AGAINST INTECONNEX THAT RELATES TO EQUIPMENT OR SERVICES OR THIS AGREEMENT, CUSTOMER AGREES THAT IN NO EVENT SHALL INTECONNEX OR ITS SUPPLIERS BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, ANY LOSS OF USE, LOSS OF BUSINESS, LOSS OF PROFITS OR GOODWILL, HOWEVER ARISING, INCLUDING ANY DAMAGES OCCASIONED BY INTECONNEX'S NEGLIGENCE. CUSTOMER ALSO AGREES THAT THE LIMIT OF INTECONNEX'S MAXIMUM LIABILITY REGARDING THE EQUIPMENT OR SERVICES, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OR OTHER TORT) SHALL BE THE TOTAL PURCHASE PRICE FOR EQUIPMENT PAID BY CUSTOMER TO INTECONNEX OR THE TOTAL FEES PAID BY CUSTOMER TO INTECONNEX THAT GIVE RISE TO THE CLAIM OR CAUSE OF ACTION UNDER THIS AGREEMENT. IN NO CASE SHALL INTECONNEX BE HELD LIABLE FOR DAMAGES OR INJURIES WHICH ARE THE RESULT OF NEGLIGENT ACTS OR WILLFUL MISCONDUCT OF CUSTOMER OR ANY OTHER PARTY.

**INDEMNIFICATION.** Customer shall indemnify, defend and hold harmless Inteconnex from and against any and all losses, claims, obligations, liens, encumbrances, liabilities, causes of action, costs, and expenses (including without limitation, orders, judgments, amounts paid in settlement and reasonable attorneys' fees and expenses) and/or damages of any kind (individually and collectively, the "Claim") arising from (i) any and all acts, or omissions of Customer in connection with this Agreement, (ii) any breach by Customer of this Agreement, and/or (iii) the negligence or willful misconduct of Customer or

its representatives, except to the extent attributable to Inteconnex's gross negligence or willful misconduct.

Inteconnex shall indemnify, defend and hold harmless Customer from and against any and all losses, claims, obligations, liens, encumbrances, liabilities, causes of action, costs, and expenses (including without limitation, orders, judgments, amounts paid in settlement and reasonable attorney's fees and expenses) and/or damages of any kind (individually and collectively, the "Claim") arising from (i) any and all operations, acts, or omissions of Inteconnex or its Representatives in connection with this Agreement, (ii) any breach by Inteconnex of this Agreement, and/or (iii) the negligence or willful misconduct of Inteconnex or its representatives, except to the extent attributable to Customer's gross negligence or willful misconduct, provided that the maximum amount of Inteconnex's indemnification under this Agreement per each case of such indemnification shall be as set forth above.

**FORCE MAJEURE.** Except for payment of amounts due Inteconnex by Customer, neither Party shall be responsible for failure or delay in the performance of any of its obligations hereunder due to an event of Force Majeure (hereinafter defined); provided that, the Party affected shall give the other Party a written notice to that effect within ten (10) calendar days after the Force Majeure first occurs. A "Force Majeure" means any set of circumstances which, due to an event or a legal position beyond a Party's reasonable control, renders impossible the fulfillment of the Party's obligations hereunder such as, but not limited to, acts of God, acts of terrorism, wars or war-like conditions, floods, fires not resulting from a Party's negligence, failure of transportation systems and/or infrastructure, labor disturbances, lockouts, or any law, order, proclamation, regulation, ordinance, demand or requirement of any government or of any subdivision, authority or representatives of any such government, or any event which results in Inteconnex's inability to enter the Customer's premises and perform its Services. During such period of Force Majeure, this Agreement shall not be terminated but instead shall only be suspended except that a Party may terminate this Agreement in the event that the other Party claims a Force Majeure event for 30 or more consecutive days. Inteconnex will use commercially reasonable efforts under the circumstances to promptly restore service.

**CONFIDENTIALITY.** The Parties shall maintain the confidentiality of all Confidential Information, including all confidential information that has been provided prior to the Effective Date of this Agreement, using such care as the Parties use in maintaining the confidentiality of their own confidential information, but no less than a reasonable degree of care. During the term of this Agreement and for two (2) years thereafter, unless otherwise agreed to in writing by the disclosing party, the receiving party shall: (a) not disclose or permit disclosure of Confidential Information to any third party without the prior written consent of the disclosing party; and (b) not use or permit the receiving party's representatives to use Confidential Information for any purpose other than for the purposes of this Agreement.

**TERMS OF EQUIPMENT SALE.** All Proposals, all acceptances of Customer's equipment orders, and all sales by Inteconnex are expressly limited to, and expressly made conditional upon, the

Customer's acceptance of and assent to these Standard Terms and Conditions set forth herein, notwithstanding receipt or acknowledgment of, the Customer's order form or specifications containing additional or different provisions, or conflicting oral representations by any Inteconnex employee. No waiver, change or modification of any term or condition in this Agreement shall be binding on Inteconnex unless agreed upon in writing by an Inteconnex Officer.

**TITLE; SHIPPING COSTS; RISK OF LOSS; AND SECURITY INTEREST.** Title to equipment ordered by Customer shall pass to Customer only upon payment in full to Inteconnex of all invoiced amounts. Until Inteconnex receives the full invoiced amount due hereunder, Customer grants to Inteconnex a continuing purchase money security interest in the equipment, and Customer agrees to support Inteconnex in the perfection of such security interest. Risk of loss or damage to the equipment ordered by Customer shall pass from Inteconnex to Customer upon receipt of the equipment by the delivery carrier ("FOB origin"). In addition, Customer shall be solely responsible to pay any applicable transportation, handling, insurance and associated charges, including but not limited to, additional charges for non-standard shipment ("Shipping Costs") associated with the equipment. Inteconnex shall use commercially reasonable efforts to meet Customer's requested delivery dates, but Inteconnex does not guarantee delivery dates. Title to any software purchased with the equipment shall remain with the licensor, and Customer shall be granted a non-exclusive, non-transferable license to use such software.

**ACCEPTANCE.** Upon receipt of the equipment, Customer shall promptly (within three (3) business days) inspect and inform Inteconnex of any ascertainable damage, defect and/or non-conformance. Following expiration of such time period, Customer shall be deemed to have accepted the equipment "as is" without any recourse and the entire invoiced amount shall be due and owing to Inteconnex.

**INTELLECTUAL PROPERTY RIGHTS.** Customer acknowledges and agrees that any and all intellectual property rights, titles and ownership relating in any way to the Services provided by Inteconnex, as well as any patents, trademarks, trade dress, specifications, know-how, inventions, new findings, computer software applications, improvements and trade secrets relating to such Services that arise out of or are related to this Agreement shall be owned by and vest exclusively in Inteconnex.

**CUSTOMER OBLIGATIONS.** Customer agrees to provide Inteconnex and its subcontractors with access to the Customer's equipment. Such access shall include Customer providing Inteconnex with security access badges, keys, etc. to permit Inteconnex to have unescorted access to such equipment. Customer agrees that all Services shall be performed by Inteconnex only. In the event Customer or a third party directed by Customer, makes alterations and/or repairs to the equipment, then Inteconnex, in its sole discretion, may elect to terminate this Agreement or modify the Agreement. Inteconnex is not liable for service or repairs upon any such alterations and/or repairs. Customer also agrees to pay Inteconnex for its time and expenses incurred by Inteconnex in the event Customer does not provide unrestricted access when Inteconnex attempts to provide its Services.

**TAKEOVER SYSTEMS.** If the equipment and the Customer's System is a takeover, in whole or in part, the System is subject to prior inspection by Inteconnex to determine if the System is in good operating condition and installed in a workman-like manner based on Inteconnex's established standards. Any repairs, adjustments, or corrections deemed necessary by Inteconnex to bring the System up to good operation standards, shall be presented to Customer in writing and Customer shall make such listed repairs. Customer may elect in writing to have Inteconnex make such listed repairs at Inteconnex's current time and material rates. If Customer elects not to make such repairs, Inteconnex may elect in its sole discretion to terminate this Agreement without penalty. Inteconnex reserves the right, in its sole discretion, to terminate this Agreement at any time by providing ten (10) calendar days written notice to Customer in the event Inteconnex determines, in its sole discretion, that there have been excessive activations of the System, that the System has been abused or that the number of problems or cost of service has been or may become excessive. Under such circumstances, Customer shall be entitled to reimbursement of the unearned charges paid to Inteconnex and agrees that this amount shall be the limit of Inteconnex's liability.

**OTHER KEY PROVISIONS. NOTICES.** Notices required by this Agreement shall be in writing and sent to Inteconnex, 3925 Fountains Blvd. NE Suite 100, Cedar Rapids, IA 52411, and to Customer at its address listed on the Proposal. Notices must be sent by a recognized overnight courier or deposited with the United States Postal Service as first-class certified mail.

**ASSIGNMENT.** Customer may not assign this Agreement without the express written consent of Inteconnex, which consent shall not be unreasonably withheld. **AMENDMENTS.**

This Agreement may not be amended without the written consent by both Parties. **GOVERNING LAW.** This Agreement shall be construed in accordance with the laws of the State of Iowa without regard to its conflict of laws principles.

**ARBITRATION.** Any claim arising out of this Agreement totaling more than \$5,000 or the maximum small claims jurisdictional amount at the time shall be settled exclusively by mandatory arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and any arbitration judgment may be entered in any court having jurisdiction. Each Party is responsible for its own arbitration costs, and the Parties agree to equally share the costs of the arbitrator(s). Arbitration shall be held in Cedar Rapids, Iowa.

**ENTIRE AGREEMENT.** This is the entire Agreement and supercedes any prior written or oral agreements, representations or understanding. **SEVERABILITY.** If any provision of this Agreement is held to be unenforceable, all other provisions remain valid. **ATTORNEY FEES AND COSTS.** The prevailing party in any dispute under this Agreement, whether or not litigation is commenced, shall be entitled to recover from the other party all reasonable attorney's fees and out-of-pocket costs and expenses incurred by the prevailing party which are associated with resolution of the dispute and which a court of competent jurisdiction determines to be just and reasonable under the circumstances. **PRICE QUOTES.** Price quotations for equipment or services from Inteconnex are valid only for thirty

(30) days and are subject to change or withdrawal at any time by Inteconnex without notice. **SALES OUTSIDE UNITED STATES.** In the event the sale of any equipment is made to a Customer located outside the United States, Customer agrees to be solely responsible for complying with all applicable laws and regulations regarding export/import, and shall obtain at its sole expense any and all necessary licenses, permits and regulatory approvals required by any and all governmental authorities and agencies having jurisdiction over export, re-export, transshipment, release, transfer or import of the equipment. **NO THIRD PARTY BENEFICIARIES.** This Agreement is intended for the sole and exclusive benefit of the parties to this Agreement and is not intended to benefit any third party or deemed to provide third parties with any remedy, claim, right of action or other right.

**TERM AND TERMINATION.** Unless Inteconnex or Customer provides written notice to terminate the Agreement at least 45 days prior to the end of the initial term, the Agreement will automatically renew for successive one year periods at the same rates, terms and conditions. Either Party may terminate this Agreement for cause in the event of a material breach by providing (a) written notice specifying the cause for termination and (b) if the other Party does not cure the material breach within thirty (30) days of receiving notice. Customer's right to terminate for cause is waived if Customer does not exercise this right within sixty (60) days of the event allegedly giving rise to the claim.

Notwithstanding the foregoing, either Party may immediately terminate this Agreement, without prejudice to any rights obtained hereunder, by providing the other Party with written notice if: (a) either Party becomes or is likely to become insolvent, adjudged bankrupt or otherwise placed into insolvency proceedings of any kind; (b) either Party admits in writing that it is unable to meet its debts as they become due; (c) the making by either Party of an assignment for the benefit of creditors; (d) the appointment by a court of a receiver or trustee for either Party; or (e) the written election of either Party to dissolve its business.

Authorized representatives of the parties approve these Terms and Conditions.

**Inteconnex**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Customer**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_