

MARCH NETWORKS TERMS OF SERVICE

PLEASE READ THESE TERMS OF SERVICE CAREFULLY. BY ISSUING AN ORDER TO ACCESS A MARCH NETWORKS HOSTED SERVICE, SUBSCRIBER AGREES TO THESE TERMS OF SERVICE.

These Terms of Service constitute an agreement (this "Agreement") by and between March Networks (as defined below) and the corporation, LLC, partnership, sole proprietorship, or other business entity executing the order referencing this Agreement ("Subscriber"). This Agreement is effective as of the date March Networks provides Subscriber access to the System (the "Effective Date"). Subscriber's use of and March Networks' provision of March Networks' System (as defined below in Section 1.1) are governed by this Agreement.

EACH PARTY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS, AND THAT THE PERSON EXECUTING ON ITS BEHALF HAS BEEN AUTHORIZED TO DO SO. THE PERSON EXECUTING THIS AGREEMENT ON SUBSCRIBER'S BEHALF REPRESENTS THAT HE OR SHE HAS THE AUTHORITY TO BIND SUBSCRIBER TO THESE TERMS AND CONDITIONS.

1. DEFINITIONS & LOCATIONS.

1.1. Definition. The following capitalized terms will have the following meanings whenever used in this Agreement.

- (a) "Activation Date" means the date March Networks informs User that the System is available.
- (b) "AUP" or "Terms of Use" means March Networks' acceptable use policy posted at <https://www.marchnetworks.com/acceptable-use-policy/>.
- (c) "Command Client Software" means the software installed on the Users' personal work stations required in order to login to certain Systems.
- (d) "Command Mobile App" or "Mobile Plus App" means March Networks' Searchlight for Retail software for mobile devices.
- (e) "CSP" means a reseller authorized by March Networks to market, sell and support March Networks products and services, including without limitation the System.
- (f) "Documentation" means March Networks' standard manual related to use of the System and/or Services, as well as the material at <https://www.marchnetworks.com/software-downloads/> or any successor website, as such material may change from time to time.
- (g) "March Networks" means:
 - (i) if U.S. Terms apply to this Agreement (as defined in Section 1.2, Location): March Networks, Inc., a Delaware corporation, with its principal offices at The Pinnacle Building, 3455 Peachtree Road North East, 5th Floor Atlanta, Georgia 30326; or
 - (ii) if Canada Terms apply to this Agreement (as defined in Section 1.2, Location): March Networks Corporation, a Canadian corporation, with its principal offices at Suite 200, 303 Terry Fox Drive, Ottawa, Ontario, K2K 3J1.
- (h) "March Networks Technology" means the System and for certain Systems if indicated in the applicable March Networks product datasheet, the Command Mobile App, Mobile Plus App and Command Client Software.
- (i) "Order" means an order from Subscriber placed with a CSP or directly with March Networks for access to the System or for the provision of Services where applicable.
- (j) "Privacy Policy" means March Networks' privacy policy, currently posted at <https://www.marchnetworks.com/public-privacy-policy/>.
- (k) "Professional Services" means on-site support and maintenance, incident reporting, and such other services as may be called for in the Order.
- (l) "Services" means the services listed in the Order and such other services as the parties may agree to be performed from time to time.
- (m) "Subscriber Data" means data in electronic form input or collected through the System by or from Subscriber, including without limitation by Subscriber's Users. Subscriber Data may include but is not limited to video and point of sale information.
- (n) "System" means the March Networks' software as a service offering listed in the Order as described in the applicable March Networks published product datasheet available at <http://www.marchnetworks.com/SaaS/Services/>.
- (o) "Term" is defined in Section 13.1 below.
- (p) "User" means any individual who uses the System on Subscriber's behalf or through Subscriber's account or passwords, whether authorized or not.

1.2. Location. As used herein: (a) "U.S. Terms" apply to this Agreement if the first Order lists Subscriber's address in the United States; and (b) "Canada Terms" apply to this Agreement if the first Order lists Subscriber's address outside of the United States.

2. THE SYSTEM.

2.1. Use of the System. During the Term, Subscriber may access and use the System, solely in support of the sites listed on the Order, pursuant to: (a) the terms of any outstanding Order, including such features and functions as the Order requires; and (b) March Networks' policies posted on its Website at www.marchnetworks.com, as such policies may be updated from time to time. March Networks may revise System features and functions at any time, including without limitation by removing such features and functions. March Networks may change the means and methods of delivery of the System, including without limitation, support services, and may upgrade, update and otherwise modify the software used to provide the System, Command Client the Command Mobile App and/or Mobile Plus App, at its sole discretion with reasonable notice to Subscriber.

2.2. Documentation: Subscriber may reproduce and use the Documentation solely as necessary to support Users' use of the System.

2.3. User Terms. March Networks may require that any User execute a separate user agreement to access the System.

3. PROVISION AND USE OF SERVICES

3.1. Services. March Networks will provide the Services to the Subscriber in accordance with the terms of this Agreement. March Networks will provide the Services in accordance with the Documentation and a good, diligent and professional manner consistent with industry standards. Subscriber will use the Services in accordance with the terms of this Agreement and solely for its own internal business purposes.

3.2. Professional Services. March Networks may provide Professional Services (if ordered), and Subscriber will provide any assistance and cooperation necessary or convenient to facilitate the Professional Services.

4. THE COMMAND MOBILE APP, MOBILE PLUS APP and COMMAND CLIENT SOFTWARE

4.1. License. For the applicable System(s), March Networks hereby grants Subscriber a nonexclusive license to reproduce one copy of the Command Mobile App or Mobile Plus App for each User's mobile device and install and use it on such mobile device, and one copy of the Command Client for each User's personal computer and install and use it on such computer provided Subscriber complies with the restrictions set forth in this Section 4.1 and in Section 4.2 below (Restrictions on Software Rights). Subscriber may only use the Command Mobile App, Mobile Plus App and Command Client Software ("Licensed Software") as necessary for Subscriber's internal business purposes and solely to interface with the System. Such internal business purposes do not include use by any parent, subsidiary, or affiliate of Subscriber, or any other third party, and Subscriber will not permit any such use. Subscriber recognizes and agrees that Users receive no rights to the Licensed Software other than as Subscriber's agents, and March Networks may require Users to agree in a written contract not to exceed Subscriber's rights in their use of the Licensed Software and may require other reasonable and customer terms related to licensed software.

4.2. Restrictions on Software Rights. Copies of the Licensed Software created or transferred pursuant to this Agreement are licensed, not sold, and neither Subscriber nor any User receives title to or ownership of any copy or of the Licensed Software itself. Furthermore, Subscriber and Users receive no rights to the Licensed Software other than those specifically granted in Section 4.1 above. Without limiting the generality of the foregoing, Subscriber shall not, and will not permit Users to: (a) modify, create derivative works from, distribute, publicly display, publicly perform, or sublicense the Licensed Software; or (b) reverse engineer, decompile, disassemble, or otherwise attempt to derive any of the Licensed Software's source code.

4.3. Hosting & Management. March Networks will have no responsibility or liability for any failure of the System resulting from interaction between the Command Mobile App or Mobile Plus APP and any mobile device or third party software installed on a mobile device.

5. FEES. Subscriber shall pay the fees set forth in the Order (collectively, the "Fees") for use of the System (the "Subscription Fee"), and for any Professional Services (the "Professional Services Fee").

5.1. No Refunds. March Networks will not be required to refund Fees under any circumstances.

5.2. Fee Changes. March Networks may change the applicable Fees for any renewal Term by providing written notice to Subscriber of such changes 45 or more days prior to the end of the then current Term.

5.3. CSP Replacement. If Subscriber Ordered through a CSP, March Networks reserves the right and Subscriber hereby consents to the assignment of the Order(s) placed with the CSP and associated payment obligations in the event the CSP is no longer an authorized reseller for March Networks for any reason. In such event the payment obligations for the Subscription Fees may be assigned to March Networks or an alternative CSP, at March Networks discretion upon notice to the Subscriber.

6. SUBSCRIBER DATA & PRIVACY.

6.1. Use of Subscriber Data. March Networks may collect, use, process and store information about Subscriber, its Users, and their use of the System and/or Service and transfer such information outside of the jurisdiction where Subscriber is located. Such information and any additional information submitted to March Networks in connection with the System and/or Service will be handled in accordance with the Privacy Policy, which is available at https://www.marchnetworks.com/wp-content/uploads/2016/04/MN_Public_Privacy_Policy_EN.pdf Unless it receives Subscriber's prior written consent, March Networks: (a) shall not access, process, or otherwise use Subscriber Data other than as necessary to provide and/or improve the System, Services, and/or other March Networks Technology; and (b) shall not intentionally grant any third party access to Subscriber Data, including without limitation March Networks' other

customers, except subcontractors that are subject to a reasonable nondisclosure agreement. Notwithstanding the foregoing, March Networks may disclose Subscriber Data as required by applicable law or by proper legal or governmental authority.

6.2. Privacy Policy. The Privacy Policy applies only to the System and does not apply to any third party website or service linked to the System or recommended or referred to through the System or by March Networks' staff. The Privacy Policy is subject to change at March Networks' sole and absolute discretion, at any time, and, except as set forth herein, such changes shall be effective immediately from the date of posting of the revised Privacy Policy on March Networks' website currently available at www.marchnetworks.com ("Website"). Subscriber acknowledges and agrees that: (i) March Networks may notify Subscriber of such changes by posting a revised Privacy Policy to the Website; and (ii) use of the System and/or Service after such changes or modifications have been made (as indicated by the date of posting of the revised Privacy Policy to the Website) shall constitute acceptance of this Privacy Policy as last revised. If Subscriber does not agree to such amended Privacy Policy, then it must immediately stop using the System and/or Service. March Networks may use information it collects from Subscriber, including technical or diagnostic information, and Subscriber suggestions or feedback, to maintain, improve and enhance the System and/or Service.

6.3. Risk of Exposure, Accuracy & Deletion. Subscriber recognizes and agrees that hosting data online involves risks of unauthorized disclosure or exposure and that, in accessing and using the March Networks Technology and Professional Services, Subscriber assumes such risks. March Networks offers no representation, warranty, or guarantee that Subscriber Data will not be exposed or disclosed through errors or the actions of third parties. Further Subscriber acknowledges and agrees that: (a) March Network may overwrite and delete Subscriber Data or cap data storage any time Subscriber exceeds the data capacity set forth in the Order; and (b) retention of Subscriber Data is not guaranteed, regardless of whether deletion or loss results from overwriting. March Networks will have no responsibility or liability for the retention and/or accuracy of data uploaded to or stored in March Networks Technology or provided through Professional services, including without limitation Subscriber Data and any other data uploaded by Users. March Networks may permanently erase Subscriber Data if Subscriber's account is delinquent, suspended, or terminated for 30 days or more.

6.4. Personal Information: Subscriber represents that Personal Information transferred by Subscriber or at Subscriber's direction to March Networks has been collected in accordance with applicable privacy laws, and March Networks agrees that it shall only process the Personal Information as needed to perform the Services, or as required or permitted by law in the jurisdiction where the Services are performed. To the extent that Subscriber uses the System and/or Service to collect Personal Information about individuals resident outside Canada or the United States, Subscriber represents and warrants: (i) the processing of that Personal Information, including the transfer itself, has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection and privacy laws; (ii) its instructions to March Networks regarding the processing to be performed shall be in accordance with the applicable data protection laws; (iii) it has given the data subjects appropriate notices, and obtained any required consents; (iv) if it implements the System and/or Services to collect any sensitive data elements (or special categories of data), Subscriber shall comply with any additional requirements for the processing of these data elements; and (v) it shall be responsible for respecting all individual rights of access, correction or deletion and for responding to any individual or regulatory inquiries relating to such Personal Information

6.5. Excluded Data. Subscriber represents and warrants that Subscriber Data does not and will not include, and Subscriber has not and shall not upload or transmit to March Networks Technology or other March Network computers or media any data ("Excluded Data") regulated pursuant to Payment Card Industry Data Security Standard (PCI DSS), the Gramm-Leach-Bliley Act, or other financial privacy regulations (the "Excluded Data Rules"). SUBSCRIBER RECOGNIZES AND AGREES THAT: (a) MARCH NETWORKS HAS NO LIABILITY FOR ANY FAILURE TO PROVIDE PROTECTIONS SET FORTH IN THE EXCLUDED DATA RULES OR RELATED REGULATIONS OR STANDARDS, OR OTHERWISE TO PROTECT EXCLUDED DATA; AND (b) MARCH NETWORKS' SYSTEMS ARE NOT INTENDED FOR MANAGEMENT OR PROTECTION OF EXCLUDED DATA AND MAY NOT PROVIDE ADEQUATE OR LEGALLY REQUIRED SECURITY FOR EXCLUDED DATA.

6.6. Aggregate & Anonymized Data. Notwithstanding any contrary provision of this Article 6, March Networks may use, reproduce, sell, publicize, or otherwise exploit Aggregate Data in any way, in its sole discretion. ("Aggregate Data") refers to Subscriber Data with the following removed: personally identifiable information and the names and addresses of Subscriber and any of its Users or customers and may also include aggregate information, such as demographic statistics, number of visitors, average time per transaction.)

7. SUBSCRIBER'S RESPONSIBILITIES & RESTRICTIONS.

7.1. Acceptable Use. Subscriber shall comply with the AUP. Subscriber shall not: (a) use the March Networks Technology or Professional Services for service bureau or time-sharing purposes or in any other way allow third parties to exploit the March Networks Technology or Professional Services; (b) provide March Networks Technology passwords or other log-in information to any third party; (c) share non-public March Networks Technology features or content with any third party; (d) access or use March Networks Technology or Professional Services in order to build a competitive product or service, to build a product using similar ideas, features, functions or graphics of March Networks Technology, or to copy any ideas, features, functions or graphics of March Networks Technology or Professional Services; or (e) use March Networks Technology with a non-March Networks video recording platform or other equipment not approved in writing by March Networks. If it suspects any breach of the requirements of this Section 7.1, including without limitation by Users, March Networks may suspend Subscriber's access to the System without advanced notice, in addition to such other remedies as March Networks may have. Neither this Agreement nor the AUP requires that March Networks take any action against Subscriber or any User or other third party for violating the AUP, this Section 7.1, or this Agreement, but March Networks is free to take any such action it sees fit.

7.2. Unauthorized Access. Subscriber shall take reasonable steps to prevent unauthorized access to the March Networks Technology, including without limitation by protecting its passwords

and other log-in information. Subscriber shall notify March Networks immediately of any known or suspected unauthorized use of March Networks Technology or breach of its security and shall use best efforts to stop said breach.

7.3. Compliance with Laws. In its use of the System, Services, and/or March Networks Technology, Subscriber shall comply with all applicable laws, including without limitation laws governing the protection of personally identifiable information and other laws applicable to the protection of Subscriber Data, privacy and use of video surveillance. Subscriber agrees to obtain all applicable permits and licenses necessary for the use of System, Services and/or March Networks Technology.

7.4. Users & System Access. Subscriber is responsible and liable for: (a) Users' use of March Networks Technology and Professional Services, including without limitation unauthorized User conduct and any User conduct that would violate the AUP or the requirements of this Agreement applicable to Subscriber; and (b) any use of March Networks Technology or Professional Services through Subscriber's account, whether authorized or unauthorized.

7.5. Internet Connectivity. Subscriber recognizes and agrees that: (a) certain network infrastructure is necessary to make full use of March Networks Technology ("Network Infrastructure"); (b) March Networks does not provide or maintain Subscriber's Network Infrastructure; (c) Internet access at reasonable speeds (as recommended by March Networks) is necessary to use March Networks Technology; and (d) March Networks does not provide Internet access. March Networks is not responsible or liable for any failure of March Networks Technology related to Network Infrastructure or Internet access. Subscriber recognizes and agrees that System performance will vary based on Subscriber's usage of March Networks Technology and Subscriber's Network Infrastructure and Internet speeds. March Networks has no responsibility or liability pursuant to this Agreement for any equipment Customer uses in conjunction with the System.

8. IP & FEEDBACK.

8.1. IP Rights to the System. March Networks retains all right, title, and interest in and to March Networks Technology and Professional Services, including without limitation all software used to provide the System and all graphics, user interfaces, logos, and trademarks reproduced through the System. This Agreement does not grant Subscriber any intellectual property license or rights in or to the System or any of its components. Without limiting the generality of the foregoing, Subscriber receives no license to any software used to run the System, except as applicable for the Command Mobile App, Mobile Plus App and Command Client Software, and Subscriber shall not reverse engineer, decompile, disassemble, or otherwise attempt to derive any of such software's source code. Subscriber recognizes that March Networks Technology and its components are protected by copyright and other laws.

8.2. Feedback. March Networks has not agreed to and does not agree to treat as confidential any Feedback (as defined below) Subscriber or Users provide to March Networks, and nothing in this Agreement or in the parties' dealings arising out of or related to this Agreement will restrict March Networks' right to use, profit from, disclose, publish, keep secret, or otherwise exploit Feedback, without compensating or crediting Subscriber or the User in question. Notwithstanding the provisions of Article 9 below ("Confidential Information"), Feedback will not be considered Confidential Information, provided information Subscriber transmits with Feedback or related to Feedback may be considered Confidential Information. ("Feedback") refers to any suggestion or idea for improving or otherwise modifying March Networks Technology, Professional Services, or any of March Networks' other products or services.)

9. CONFIDENTIAL INFORMATION. "Confidential Information" refers to the following items March Networks or CSP discloses to Subscriber: (a) any document March Networks marks or orally designates "Confidential"; (b) prices charged for March Networks Technology or Professional Services and any marketing plans or strategies related to either; and (c) any other nonpublic, sensitive information Subscriber should reasonably consider a trade secret or otherwise confidential. Notwithstanding the foregoing, Confidential Information does not include information that: (i) is in Subscriber's possession at the time of disclosure; (ii) is independently developed by Subscriber without use of or reference to Confidential Information; (iii) becomes known publicly, before or after disclosure, other than as a result of Subscriber's improper action or inaction; or (iv) is approved for release in writing by Subscriber. Subscriber is on notice that the Confidential Information may include March Networks' valuable trade secrets.

9.1. Nondisclosure. Subscriber shall not use Confidential Information for any purpose other than use of the System (the "Purpose"). Subscriber: (a) shall not disclose Confidential Information to any employee or contractor of Subscriber unless such person needs access in order to facilitate the Purpose and executes a nondisclosure agreement with Subscriber with terms no less restrictive than those of this Article 9; and (b) shall not disclose Confidential Information to any other third party without March Networks' prior written consent. Without limiting the generality of the foregoing, Subscriber shall protect Confidential Information with the same degree of care it uses to protect its own confidential information of similar nature and importance, but with no less than reasonable care. Subscriber shall promptly notify March Networks of any misuse or misappropriation of Confidential Information that comes to Subscriber's attention. Notwithstanding the foregoing, Subscriber may disclose Confidential Information as required by applicable law or by proper legal or governmental authority. Subscriber shall give March Networks prompt notice of any such legal or governmental demand and reasonably cooperate with March Networks in any effort to seek a protective order or otherwise to contest such required disclosure, at March Networks' expense.

9.2. Injunction. Subscriber agrees that breach of this Article 9 would cause March Networks irreparable injury, for which monetary damages would not provide adequate compensation, and that in addition to any other remedy, March Networks will be entitled to injunctive relief against such breach or threatened breach, without proving actual damage or posting a bond or other security.

9.3. Termination & Return. With respect to each item of Confidential Information, the obligations of Section 9.1 above ("Nondisclosure") will terminate 3 years after the date of disclosure; provided that such obligations related to Confidential Information constituting March Networks' trade secrets will continue so long as such information remains subject to trade secret protection pursuant to applicable law. Upon termination of this Agreement, Subscriber shall return all copies of Confidential Information to March Networks or certify, in writing, the destruction thereof.

9.4. **Retention of Rights.** This Agreement does not transfer ownership of Confidential Information or grant a license thereto. March Networks shall retain all right, title, and interest in and to all Confidential Information.

9.5. **Exception & Immunity.** Pursuant to the Defend Trade Secrets Act of 2016, 18 USC Section 1833(b), Recipient is on notice and acknowledges that, notwithstanding the foregoing or any other provision of this Agreement:

- (a) **Immunity.** An individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that- (A) is made- (i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.
- (b) **Use of Trade Secret Information in Anti-Retaliation Lawsuit.** An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual- (A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order.

10. REPRESENTATIONS & WARRANTIES.

10.1. **From Subscriber.** Subscriber represents and warrants that: (a) it has the full right and authority to enter into, execute, and perform its obligations under this Agreement and that no pending or threatened claim or litigation known to it would have a material adverse impact on its ability to perform as required by this Agreement; (b) it has accurately identified itself and it has not provided any inaccurate information about itself to or through the System; and (c) it is a corporation, the sole proprietorship of an individual 18 years or older, or another entity authorized to do business pursuant to applicable law.

10.2. **Warranty Disclaimers.** SUBSCRIBER ACCEPTS THE MARCH NETWORKS TECHNOLOGY AND THE PROFESSIONAL SERVICES "AS IS" AND AS AVAILABLE, WITH NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, OR ANY IMPLIED WARRANTY ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING: (a) MARCH NETWORKS HAS NO OBLIGATION TO INDEMNIFY OR DEFEND SUBSCRIBER OR USERS AGAINST CLAIMS RELATED TO INFRINGEMENT OF INTELLECTUAL PROPERTY; (b) MARCH NETWORKS DOES NOT REPRESENT OR WARRANT THAT MARCH NETWORKS TECHNOLOGY OR PROFESSIONAL SERVICES WILL PERFORM WITHOUT INTERRUPTION OR ERROR; AND (c) MARCH NETWORKS DOES NOT REPRESENT OR WARRANT THAT MARCH NETWORKS TECHNOLOGY OR PROFESSIONAL SERVICES ARE SECURE FROM HACKING OR OTHER UNAUTHORIZED INTRUSION OR THAT SUBSCRIBER DATA WILL REMAIN PRIVATE OR SECURE. Without limiting the generality of the foregoing, Subscriber recognizes and agrees that March Networks may make the System unavailable for maintenance without incurring liability.

11. **INDEMNIFICATION.** Subscriber shall defend, indemnify, and hold harmless March Networks and its Associates (as defined below) against any "Indemnified Claim," meaning any third party claim, suit, or proceeding arising out of or related to Subscriber's alleged or actual use of, misuse of, or failure to use the March Networks Technology or Professional Services, including without limitation: (a) claims by Users or by Subscriber's employees, as well as by Subscriber's own customers; (b) claims that use of March Networks Technology or Professional Services violates a third party's right to privacy or any related rights, including claims related to unauthorized recording of persons, whether or not such recording violates the law; (c) claims related to unauthorized disclosure or exposure of personally identifiable information or other private information, including information in Subscriber Data; (d) claims related to infringement or violation of a copyright, trademark, trade secret, or privacy or confidentiality right by written material, images, logos or other content uploaded to the March Networks Technology through Subscriber's account, including without limitation by Subscriber Data; and (d) claims that use of the March Networks Technology through Subscriber's account harasses, defames, or defrauds a third party or violates the law. Indemnified Claims include, without limitation, claims arising out of or related to March Networks' negligence. Subscriber's obligations set forth in this Article 11 include, without limitation, retention and payment of attorneys and payment of court costs, as well as settlement at Subscriber's expense and payment of judgments. March Networks will have the right, not to be exercised unreasonably, to reject any settlement or compromise that requires that it admit wrongdoing or liability or subjects it to any ongoing affirmative obligations. (March Networks' "Associates" are its officers, directors, shareholders, parents, subsidiaries, agents, successors, and assigns.)

12. LIMITATION OF LIABILITY.

12.1. **Dollar Cap.** MARCH NETWORKS' LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL NOT EXCEED THE SUBSCRIPTION FEES PAID TO MARCH NETWORKS FOR THE SYSTEM DELIVERED TO SUBSCRIBER HEREUNDER DURING THE 12 MONTHS PRECEDING THE INJURY GIVING RISE TO THE LIABILITY.

12.2. **Exclusion of Consequential Damages.** IN NO EVENT WILL MARCH NETWORKS BE LIABLE TO SUBSCRIBER FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, OR PUNITIVE OR SPECIAL DAMAGES OR ANY DAMAGES WHATSOEVER RESULTING FROM LOSS OF USE, DATA OR PROFITS ARISING OUT OF OR RELATED TO THIS AGREEMENT.

12.3. **Clarifications & Disclaimers.** THE LIABILITIES LIMITED BY THIS ARTICLE 12 APPLY: (a) TO LIABILITY FOR NEGLIGENCE; (b) REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, STRICT PRODUCT LIABILITY, OR OTHERWISE; (c) EVEN IF MARCH NETWORKS IS ADVISED IN ADVANCE OF THE POSSIBILITY OF THE DAMAGES IN QUESTION AND EVEN IF SUCH DAMAGES WERE FORESEEABLE; AND (d) EVEN IF SUBSCRIBER'S REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE. If applicable law limits the application of the provisions of this Article 12, March Networks' liability will be limited to the

maximum extent permissible. For the avoidance of doubt, March Networks' liability limits and other rights set forth in this Article 12 apply likewise to March Networks' affiliates, licensors, suppliers, advertisers, agents, sponsors, directors, officers, employees, consultants, and other representatives.

13. TERM & TERMINATION.

13.1. **Term.** The term of this Agreement (the "Term") begins on the Effective Date and continues for the period set forth in the Order. Thereafter, the Term will renew for successive periods (of the same duration as the initial Term), unless either party refuses such renewal by written notice 30 or more days before the renewal date.

13.2. **Termination for Cause.** Either party may terminate this Agreement for the other's material breach by written notice. Such notice will specify in detail the nature of the breach and will be effective in 30 days, or more if specified in the notice, unless the other party first cures the breach.

13.3. **Early Termination for Convenience.** Subscriber may terminate this Agreement without cause via written notice to both CSP and March Networks, effective 30 days after March Networks' receipt of such notice, provided this Agreement and Subscriber's payment obligations hereunder will not terminate until Subscriber has paid the early termination fee. The early termination fee is equal to the remaining unpaid balance of the total Fees shown on the applicable Order(s).

13.4. **Effects of Termination.** Upon termination of this Agreement, Subscriber shall: (a) cease all use of the System, Command Client Software and Command Mobile App and Mobile Plus App; (b) delete, destroy, or return all copies of the Documentation in its possession or control. The following provisions will survive termination or expiration of this Agreement: (a) any obligation of Subscriber to pay Fees incurred before termination; (b) Articles and Sections 8 (*IP & Feedback*), 9 (*Confidential Information*), 10.2 (*Warranty Disclaimers*), 11 (*Indemnification*), and 12 (*Limitation of Liability*); and (c) any other provision of this Agreement that must survive to fulfill its essential purpose.

14. **Temporary Trials.** Notwithstanding the foregoing, for the purposes of any no charge trials and temporary proof of concept access to the System, the Term shall be three (3) months from the date March Networks activates Subscriber's access to the System ("Trial Term"). March Networks may terminate any Trial Term early for any reason with notice to the Subscriber. Upon expiration or termination of the Trial Term this Agreement and Subscriber's access to the System will be terminated unless the Trial Term is extended by March Networks or is converted to a paid subscription by Subscriber by issuing an Order and paying the applicable subscription fees. Notwithstanding anything in this Agreement to the contrary, any and all access to the System provided by March Networks at no charge is provided 'as is' and 'as available' with no warranty or representations made to Subscriber whatsoever. March Networks may delete any data associated with a "no charge" trial or proof of concept at the end of the Trial Term.

15. MISCELLANEOUS.

15.1. **Independent Contractors.** The parties are independent contractors and shall so represent themselves in all regards. Neither party is the agent of the other, and neither may make commitments on the other's behalf.

15.2. **Notices.** Notices to Subscriber shall be sent to the contact points listed in the Order, and Notices to March Networks shall be sent to the contact points listed below or to such others as March Networks may provide to Subscriber, in writing. Notices sent by email will be deemed given as of the date the email was properly addressed and transmitted. Notices sent by fax will be deemed given as of the date the fax was properly addressed and transmitted. Notices sent by mail shall be sent postage prepaid, certified or registered mail, return receipt requested, or sent by air express courier (e.g. DHL, Federal Express, etc.) charges prepaid, return receipt requested, and shall be deemed given on the date of receipt. March Networks' contact points are

E-mail: legal1@marchnetworks.com.

Fax: 1-613.591.5210

Mail: March Networks, Legal, 200-303 Terry Fox Dr., Ottawa, ON Canada, K2K J31.

15.3. **Force Majeure.** No delay, failure, or default, other than a failure to pay fees when due, will constitute a breach of this Agreement to the extent caused by acts of war, terrorism, hurricanes, earthquakes, other acts of God or of nature, strikes or other labor disputes, riots or other acts of civil disorder, embargoes, or other causes beyond the performing party's reasonable control.

15.4. **Assignment & Successors.** Subscriber may not assign this Agreement or any of its rights or obligations hereunder without March Networks' express written consent. Except to the extent forbidden in this Section 15.4, this Agreement will be binding upon and inure to the benefit of the parties' respective successors and assigns.

15.5. **Severability.** To the extent permitted by applicable law, the parties hereby waive any provision of law that would render any clause of this Agreement invalid or otherwise unenforceable in any respect. In the event that a provision of this Agreement is held to be invalid or otherwise unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement will continue in full force and effect.

15.6. **No Waiver.** Neither party will be deemed to have waived any of its rights under this Agreement by lapse of time or by any statement or representation other than by an authorized representative in an explicit written waiver. No waiver of a breach of this Agreement will constitute a waiver of any other breach of this Agreement.

15.7. **Choice of Law & Jurisdiction:** This Section 15.7 governs all claims arising out of or related to this Agreement, including without limitation tort claims. The parties hereby expressly exclude the application of the United Nations Convention on Contracts for the International Sale of Goods (the Vienna Convention, 1980).

- (a) If U.S. Terms apply to this Agreement, this Agreement shall be governed in accordance with the laws of the State of New York and applicable U.S. federal law (excluding conflicts of laws provisions that would apply the substantive laws of any other jurisdiction), and the federal and state courts located in New York will have exclusive jurisdiction over all matters arising hereunder.

- (b) If Canada Terms apply to this Agreement, this Agreement will be governed by the domestic laws of the Province of Ontario, Canada (excluding conflicts of laws provisions that would apply the substantive laws of any other jurisdiction), and the federal and provincial courts located in Ontario will have exclusive jurisdiction over all matters arising hereunder.

15.8. Technology Export. Subscriber shall not: (a) permit any third party to access or use March Networks Technology in violation of any U.S. or Canadian law or regulation; or (b) export any March Networks Technology except in compliance with all applicable laws and regulations. Without limiting the generality of the foregoing, Subscriber shall not permit any third party to access or use March Networks Technology in, or export such software or hardware to, a country subject to a United States embargo (as of the Effective Date, Cuba, Iran, North Korea, Sudan, and Syria).

15.9. Construction. In the event of any conflict between this Agreement and any March Networks policy posted online, including without limitation the AUP or Privacy Policy, the terms of this Agreement will govern. Notwithstanding Section 15.10 below (*Amendment*), and without limiting any other rights of March Networks, March Networks may revise the Privacy Policy and Acceptable Use Policy at any time by posting a new version of either at the Website, and such new version will become effective on the date it is posted. This Agreement sets forth the entire agreement of the parties and supersedes all prior or contemporaneous writings, negotiations, and discussions with respect to its subject matter. Neither party has relied upon any such prior or contemporaneous communications.

15.10. Amendment. March Networks may amend this Agreement from time to time by posting an amended version at its Website and sending Subscriber written notice thereof. Such amendment will be deemed accepted and become effective 30 days after such notice (the "Proposed Amendment Date") unless Subscriber first gives March Networks written notice of rejection of the amendment. In the event of such rejection, this Agreement will continue under its original provisions, and the amendment will become effective at the start of Subscriber's next Term following the Proposed Amendment Date (unless Subscriber first terminates this Agreement pursuant to Article 3, *Term & Termination*). Subscriber's continued use of the March Networks Technology or Professional Services following the effective date of an amendment will confirm Subscriber's consent thereto. This Agreement may not be amended in any other way except through a written agreement by authorized representatives of each party.