



VONAGE PURCHASE ORDER TERMS AND CONDITIONS

These terms and conditions are hereby incorporated into all orders for goods or services to be provided by Supplier (as defined in the Order) to Vonage that become effective as of or after the date hereof (each, a "Purchase Order" or "Order"), and these terms and conditions shall govern and supersede and render ineffective any prior or subsequent terms and conditions associated with any Purchase Order, including but not limited to (i) all terms of any "shrinkwrap," "clickwrap," "browsewrap" or other license included in any package, media (including the Internet), electronic version of any software, and of any other Supplier form not signed by an authorized officer of Vonage; and (ii) any terms or conditions on Supplier's website, unless specifically agreed upon otherwise in writing signed by both parties. Notwithstanding the foregoing, in no event shall these terms and conditions be deemed to supersede any Master Agreement agreed upon in writing and signed by the Parties prior to the execution of the Purchase Order.

1. SERVICES TO BE PERFORMED. Supplier shall (i) provide to Vonage and Vonage's Affiliates (collectively, "Vonage") the goods and materials (the "Goods") as specified in the Order and/or (ii) perform for Vonage the services (the "Services") and provide all Goods to be customized, modified, created and/or developed for Vonage ("Work Product"), as specified in the Statement of Work attached hereto and incorporated herein for the period specified therein ("SOW"), if applicable. Any applicable SOW is incorporated herein by reference.

- A. Supplier shall observe Vonage's rules and policies while working on Vonage's premises.
- B. At Vonage's reasonable request, on a monthly basis, Supplier shall deliver to Vonage monthly progress reports that include: (i) a summary of the Services performed during the month; (ii) a progress report in relation to any scheduled milestones, advising of current problems, their causes, and any Services that will not be completed as scheduled; (iii) the anticipated impact of problems encountered or anticipated in the course of performance, and recommended solutions; (iv) a list of Services scheduled for the next month, and (v) a description of any significant developments, including inventions made during the month. At Vonage's request, Supplier shall hold status meetings with Vonage to review the status of Supplier's activities.
- C. Supplier shall contact Vonage immediately upon discovery of any problem that will materially delay or impact the delivery of the Goods or the performance or costs of the Services hereunder.
- D. Unless otherwise approved in writing by Vonage, all individuals assigned by Supplier to participate in the performance of the Services shall be employees of Supplier, or employees or personnel of a subcontractor approved by Vonage in writing. In employing subcontractors, Supplier agrees to accept full and total responsibility for the actions or omissions of its subcontractors and each reference in the Order or applicable SOW to "Supplier" shall include any subcontractors providing Services on behalf of Supplier.
- E. Neither Supplier nor its employees or subcontractors shall be or shall be deemed to be an employee or agent of Vonage for any purpose whatsoever, and shall not act or appear to act as a representative of Vonage.
- F. All Goods, Services and Work Product delivered by Supplier shall be subject to inspection and acceptance by Vonage.

2. SUPPLIER WARRANTIES & REPRESENTATIONS. Supplier warrants and represents to Vonage that:

- A. Supplier has the full corporate right, power and authority to enter into this Order and to perform the acts required of it hereunder.
- B. Supplier's execution of this Order and Supplier's performance of its obligations and duties hereunder, do not and will not violate any agreement to which Supplier is a party or by which it is bound.
- C. When delivered with an order for goods or services which has not been rejected in writing by Supplier within three (3) business days, this Order will constitute the legal, valid and binding obligation of Supplier, enforceable against Supplier in accordance with its terms.**
- D. Supplier's employees and subcontractors performing Services are bound by the terms of this Order and all applicable Vonage rules, policies, standards, guidelines and procedures, as updated or replaced from time to time.
- E. All Goods and/or Work Product are free from design, material and workmanship defects. All Goods delivered under this Order are fit for the particular purpose stated in this Order. If no purpose is stated, the Goods are fit for the purpose for which such Goods are ordinarily used.
- F. No violation of any federal, state or local law or regulation will result from the processing, manufacturing, labeling, sale or shipment of the Goods or the provision of Services covered by this Order.
- G. All Services rendered under this Order will be performed in a competent and professional manner and in accordance with industry standards. Supplier shall deliver good and marketable title to all Work Product to be delivered hereunder and all intellectual property rights therein, free and clear of any liens and encumbrances and/or claims of co-ownership, including without limitation those of its and its subcontractor's present and past employees.
- H. Supplier represents and warrants that all Goods and/or Work Product will be delivered as specified in the Order and/or SOW. Supplier acknowledges and agrees that strict requirements are necessary to insure accurate market testing. Supplier agrees to be responsible for any and all costs and expenses incurred by Vonage as a result of Supplier's failure to meet such requirements, including but not limited to, any and all costs necessary to rerun applicable marketing tests, such as costs of production, list, postage, mailing, etc.
- I. Supplier shall perform its responsibilities under this Order or cause them to be performed in a manner that does not infringe, or misappropriate any patent, copyright, trademark, trade secret or other interest, proprietary or otherwise, of any individual or entity, and that the work prepared for Vonage hereunder and Vonage's use thereof shall not be improperly derived from any copyrighted or trade secret material or otherwise be subject to or infringe upon any patent, copyright, trademark, trade secret or other interest, proprietary or otherwise, of any individual or entity.
- J. Vonage, relying on the representations and warranties contained in this Order, may offer, sell or otherwise provide the Goods or Work Product to its customers or other third parties.
- K. In addition to the warranties given, Supplier agrees that Vonage shall have all other warranties and guaranties implied or given by law.
- L. Vonage makes no representations, warranties or agreements that are not expressly provided for in this Order.

3. RIGHTS TO WORK PRODUCT; OWNERSHIP. Vonage shall own all patent, copyright, trademark, trade secret and other intellectual property rights in and to all Work Product, including without limitation, any deliverable which Supplier creates or develops for Vonage and are paid for by Vonage, whether produced solely or jointly with others, and is first conceived, fixed in tangible form, illustrated in a drawing, described in a written record or actually or constructively reduced to practice during the term of this Order or, if related to the subject matter of the Services, within six months following the end of such term. Such ownership rights shall be exclusive, fully vested in Vonage and indefeasible as of the date of this Order. Without limiting the foregoing, Vonage's ownership rights shall be further in accordance with the following:

- A. Supplier agrees to assign and does hereby assign to Vonage all right, title and interest in and to any and all inventions, patent applications, patents, continuations, continuations-in-part, divisionals, reissues, extensions, renewals, patents of addition and the like, worldwide, together with Supplier's rights of priority to apply for patent protection under international conventions, constituting or relating to any Work Product.
- B. All materials, including, but not limited to artwork, film and/or dies, furnished to Supplier by Vonage, as well as the materials created by Supplier from materials furnished by Vonage and diskettes or other materials provided by Vonage for duplication by Supplier ("Supplied Materials"), are and shall remain the property of Vonage. Supplier shall take no ownership, lien, security interest, or any other interest in such materials. Supplier shall use such materials solely to provide the Goods or Services and Work Product covered hereunder as authorized by Vonage, shall not otherwise use or manipulate such materials for any other purpose and shall not pledge or transfer such materials or any portion thereof to any other party.
- C. Upon the expiration or termination of this Order, Supplier shall deliver to Vonage all completed and partially completed Work Product and Supplied Materials,



and with respect to Goods, Vonage shall have the option to receive all Goods or a refund of amounts paid, in its sole discretion.

- D. Vonage's ownership rights shall include the copyrights and copyright applications in and to any and all works of authorship constituting or relating to any Work Product, including without limitation writings, reports, computer programs (including source code), manuals, presentation slides or graphics, videotapes, audiotapes, photographs, negatives, computer tapes or disks, listings and any programming documentation. All such matter shall be deemed works made for hire to the extent permissible under applicable copyright law, and to the extent such matter may not be so deemed, Supplier agrees to assign and does hereby assign to Vonage all right, title and interest in and to any copyrights and copyright applications with respect to such matter.
- E. Vonage shall have the right to obtain and to hold in its own name patents, copyrights, trademark registrations, or such other protection as may be appropriate to the subject matter, and any extensions and renewals thereof. Supplier shall provide Vonage, and cause its employees and subcontractors to provide to Vonage and any persons designated by Vonage any and all duly executed and acknowledged instruments of assignment, affidavits and other documents, and render all lawful assistance reasonably required (including the giving of live testimony at Vonage's expense (only with respect [to reimbursement of reasonable travel expenses]), in order to perfect, defend and enforce the rights of Vonage defined in this section. Supplier further agrees to periodically review the material prepared for Vonage hereunder to insure that no portion of such material is derived from any material which Supplier does not have the right to use due to such materials being subject to a copyright, patent, trade secret or other proprietary right of a third party.
- F. Supplier shall not incorporate third-party or open source code into any Work Product without first informing and receiving express written permission from Vonage as to each third-party or open source code to be so incorporated.

4. TERMS OF PAYMENT.

Vonage shall pay Supplier the amounts set forth in the Purchase Order for the Goods, and/or in the SOW for the Services and Work Product. Unless otherwise stated in the Purchase Order or SOW, Vonage will pay all amounts owing to Supplier within thirty (30) days of the later of (i) receipt of invoice or (ii) accepting the Goods or Services and Work Product in accordance with Section 1.F. above. Payments under this Order are subject to deduction of valid claims by Vonage against Supplier arising from this or other transactions. Unless otherwise specified by Vonage, all Goods will be picked up by a transportation company ("Transportation Supplier") chosen by Vonage, but all orders must be addressed to the Vonage entity specified in the Order. Any expense resulting from misrouted shipments shall be borne by Supplier.

A. Vonage shall reimburse Supplier only for expenses approved in advance by Vonage in writing which are evidenced by original (which may be electronic, as necessary) receipts for travel, living, and other out-of-pocket expenses if the expenses are expressly authorized in the SOW, reasonably incurred and documented and otherwise in accordance with VONAGE's then current Travel Policy. B. Supplier shall maintain accurate and complete records and supporting documentation as to time spent and expenses incurred in its performance of the Services (in accordance with generally accepted accounting principles applied on a consistent basis), all amounts paid or reimbursed by Vonage, and all taxes paid either by Supplier or by Vonage to Supplier. All such records shall be subject to examination and verification by Vonage at such times as the parties shall determine, and authorization shall not be unreasonably withheld, and shall be retained by Supplier for a period required by law and in any case, no less than seven (7) years from the commencement of the performance of the Services. Vonage and its authorized agents and representatives shall have access to such records for purposes of examination and audit during normal business hours during the period for which Supplier is required to maintain such records. If, as a result of such examination or audit, Vonage determines that Supplier misreported any time spent or amount charged, Vonage shall promptly furnish to Supplier a copy of the report of its auditors or accountants setting forth the discrepancy, and showing, in reasonable detail, the basis for its determination. Supplier and its authorized agents and representatives may conduct its own investigation of Vonage's results within thirty (30) days of receiving Vonage's audit result. If, after Vonage and Supplier have concluded their respective investigations, Supplier does in fact owe an amount to Vonage, Supplier shall remit to Vonage a sum equal to the amount within thirty (30) days. If such discrepancy is greater than ten (10) percent of the total amount reported by Supplier for the period audited, or if any such examination is made because Supplier has not made timely delivery to Vonage of any report required hereunder, then Supplier shall also reimburse Vonage for the cost of the audit.

5. **DEFECTIVE GOODS.** All Goods and/or Work Product that do not conform to this Order and/or SOW, or warranties implied by law, or which do not meet quality standards set forth prior to this Order shall be deemed defective. Payment for Goods and/or Work Product prior to inspection shall not constitute an acceptance thereof.

Upon Vonage's determination that a Good and/or Work Product is defective, Supplier will refund the purchase price of such defective Good and/or Work Product and pay to Vonage, Vonage's acceptance test costs or repair or replace the defective Goods and/or Work Product, at Vonage's option, to Vonage's satisfaction. Defective Goods and/or Work Product will not be shipped back to Supplier and shall not be replaced without a new Order.

In lieu of the rights set forth in the preceding paragraph, Vonage may choose to accept the defective Goods and/or Work Product under terms and conditions mutually agreed upon by the parties (e.g., discounted price, free future Goods, etc.). In the event defective Goods and/or Work Product have already been distributed to potential customers, Vonage shall be entitled, at its election, to (i) a full refund of the purchase price plus Vonage's acceptance test costs, or (ii) an accommodation (e.g., partial refund, free future Goods, etc.) mutually agreed upon by the parties.

6. **QUALITY CONTROL.** Supplier will maintain adequate quality control programs to assure that its Goods or Work Product meet Vonage's quality expectations for appearance, performance, durability and reliability. Supplier shall from time to time furnish the results of these programs at Vonage's request. Supplier may also be required to submit Goods for quality inspection by Vonage. In such event, Supplier must submit, at no cost to Vonage, two samples of the final packaged product. Vonage will test the product samples and provide results and disposition to Supplier. If the product is proven defective, any unfulfilled Order previously submitted to secure production will be considered terminated. Supplier must submit a proofing instrument for approval by Vonage, and must wait for approval prior to printing, replicating, imaging, assembling or otherwise manufacturing product. Without limiting any of Vonage's rights and remedies hereunder, in the event there is a problem of any kind with the Goods or Work Product which requires additional inspection or other additional action before orders for such Goods or Work Product can be fulfilled or distributed by Vonage, Vonage shall so notify Supplier and Supplier and Vonage shall attempt to work out a resolution of the problem in good faith. At a minimum, Vonage shall have the right to require Supplier to elect one of the following options:

- (i) Supplier shall be solely responsible for remedying any such problem within twenty-four (24) hours of such notification, or
- (ii) Vonage will address the problem itself, or will engage the services of a designated agent or other third party, and charge Supplier all amounts charged by such party.

If Supplier does not elect one of the foregoing options within six (6) hours of written notification, or does not send out staff to remedy the problem within twenty-four (24) hours of written notification, Supplier will be deemed to have elected the option listed in (ii) above. Shipment terms are F.O.B (Destination) unless otherwise specified in the Order.

7. **PRICES.** Unless otherwise specified in the Order or the SOW, if Supplier subsequently reduces the price on any Goods, Services or Work Product sold to Vonage hereunder, which Goods, Services or Work Product have not yet been delivered to Vonage by Supplier or which Goods or Work Product are currently in Vonage's inventory, Supplier shall give Vonage a credit equal to the price difference for such Goods or Work Product multiplied by the number of such Goods or Work Product to be delivered by Supplier and/or currently in Vonage's inventory under such Order. Supplier will provide Vonage with reasonable advance notice of any subsequent price reduction(s) on any Goods, Services or Work Product purchased by Vonage hereunder. The price set forth on the Order or SOW is not subject to escalation unless an escalation formula is expressly provided for on the face of such Order or SOW.

8. **DELIVERY.** Unless previously authorized by Vonage, Vonage reserves the right to cancel or refuse any shipment or delivery of Goods, Services or Work Product which deviate from the quantity or delivery, ship and mail dates specified in this Order. In such event, Vonage shall be entitled to a full refund of the purchase price plus Vonage's acceptance test costs. Notwithstanding the foregoing, acceptance of late shipments shall not create a course of dealing with Vonage. If late shipment is accepted, unless such delay is the result of an act of nature, fire, natural disaster, war, acts of public enemy, riots, insurrections or embargoes, blockages, actions, restrictions, regulations or order of any government (US or foreign), agency of subdivision thereof, or any cause beyond the reasonable control of Supplier (each, a "Force Majeure Event"), a minimum penalty of one (1) percent of the total Order amount per day will be applied until received by Vonage or a



Vonage designated third party.

9. RISK OF LOSS. For F.O.B Destination: (i) Supplier shall bear the risk of loss for Goods or Work Product until such Goods are picked up by the Transportation Supplier, and (ii) Supplier shall bear the risk of loss and is responsible for physical loss or damage to any Goods or Work Product while in transit or while held in storage by the Transportation Supplier. Vonage's responsibility begins upon acceptance/possession of the Goods or Work Product by the Transportation Supplier. Vonage reserves the right to subrogate for damages against the Transportation Supplier in the event that damage to the Goods or Work Product is caused by or results from a negligent act by the Transportation Supplier. All transit fees associated with this Order are net of any transit insurance premiums.

10. TAXES. Any applicable US sales, use, excise or other similar taxes shall be itemized separately on the relevant invoice and Supplier shall accept any tax exemption certificates supplied by Vonage. Supplier, and not Vonage, shall be liable for the payment of any applicable taxes not set forth on the relevant invoice. If any manufacturer's excise tax or other tax is included in, or added to, the prices paid to Supplier for the Services provided to Vonage under the Order, and if any portion of the tax is later refunded to Supplier, Supplier shall immediately pay the amount of the refund to Vonage.

11. ASSIGNMENT. Supplier shall not assign this Order without the prior written consent of Vonage. In the event Vonage provides such written consent, Supplier shall provide Vonage with direct contact information for the employees of such subcontractors who are responsible for performing such completed or substantially completed Work Product, which employees shall be available during business hours for consultation with Vonage. Supplier will be responsible for ensuring that all consultants and subcontractors comply with this Order and Supplier shall be liable for any breaches of this Order caused by any subcontractor.

12. CHANGES. Vonage reserves the right at any time to make written changes to the Order including quantities, drawings, specification, method of shipment, packing, and time, place and manner of delivery. In such event, any claim for an increase or decrease in price or in the time required for performance shall be settled by negotiation between the parties.

13. WAIVER. The failure of Vonage to insist upon or enforce strict performance by Supplier under any provision of the Order to exercise any right under the Order will not be considered a waiver of Vonage's right to assert or rely upon any such provision or right or any other terms and conditions. The terms of the Order and those of any other Order placed by Vonage with Supplier shall remain in full force and effect.

14. COMPLIANCE WITH LAW. Supplier shall comply with all applicable local, state and federal laws in performing this Order.

15. HAZARDOUS MATERIALS. Prior to shipment or transfer of any chemical substance compiled and published by the Environmental Protection Agency as Hazardous Material as defined under federal law or standards, Supplier shall provide Vonage with the appropriate Material Safety Data Sheets.

16. EXPORT RESTRICTIONS. Both parties shall comply with all applicable laws, regulations, and rules relating to the export of commodities, software, regulations and technical data, and shall not export or re-export any commodities, software or technical data, any products received from the other party, or direct product of such commodities, software or technical data, to any proscribed country, party or entity listed in such applicable laws, regulations and rules, unless properly authorized by the US government. Supplier agrees that it shall comply with and not violate any of the provisions of the Foreign Corrupt Practices Act, as amended, the *U.K. Bribery Act (if applicable)* and the rules and regulations thereunder.

17. TERMINATION. Vonage reserves the right to terminate upon written notice all or any part of the Order for any Work Product which has not been delivered or Services which have not been rendered, in the event of:

- A. An interruption in the business of Vonage caused by a Force Majeure event or any other cause beyond the reasonable control of Vonage;
- B. A breach by Supplier of any provision of this Order.
- C. The Supplier (i) ceases to do business in the normal course; (ii) becomes or is declared insolvent or bankrupt; (iii) is the subject of any proceeding related to its liquidation or insolvency (whether voluntary or involuntary) which is not dismissed within ninety (90) calendar days; (iv) makes an assignment for the benefit of creditors, or (v) is under investigation for fraud or other criminal activity.
- D. For Vonage's convenience, in whole or in part, by written notice at any time. In such cases, Vonage shall be responsible only for Supplier's reasonable out-of-pocket unrecoverable direct costs as mutually agreed by the parties in good faith.

18. CONFIDENTIALITY. Upon execution of this Order and for a period of three (3) years following the termination or expiration of this Order, neither party shall disclose to any third party for any purpose without the prior written consent of the other party any information relating to or disclosed in the course of, or in connection with this Order, which is, or should be reasonably understood to be, confidential and/or proprietary information to the disclosing party, including, but not limited to, the existence or terms of this Order. Notwithstanding the foregoing, if, for any reason, Vonage discloses or Supplier has access to personally identifiable information about its clients or customers, including, but not limited to, name, address, social security number, telephone number, account number, or the fact that a client or customer does business with VONAGE to Supplier, Supplier's confidentiality obligations shall be perpetual. Supplier shall not use any Vonage materials, any Vonage trade name, trademark or service mark, any Vonage samples or Work Product in any manner whatsoever, including, without limitation, in Supplier's marketing, websites or other promotional materials, absent Vonage's prior written consent. Additionally, Supplier is precluded from referencing the relationship with Vonage in any way, including, but not limited to, client lists, interviews, sales calls with third party clients and supplier contacts without Vonage's prior written approval. Supplier shall comply with Vonage's privacy policy with respect to any and all information about Vonage customers that Supplier receives from Vonage or pursuant to this Order.

Upon the expiration or termination of this Order, Supplier shall, upon the written request of Vonage, return or destroy (at the option of Vonage) all confidential information, documents, manuals and other materials specified in the request.

19. LIABILITY, INDEMNITY AND INSURANCE. Supplier shall be solely responsible for all injuries, including deaths, to persons and all damage to property occurring as a result of the negligence or willful misconduct of its employees in connection with this Order and the performance of the Services hereunder and shall indemnify and save harmless Vonage from any loss or liability arising out of such negligence or willful misconduct, including but not limited to liability for the payment of workers' compensation and disability benefits, upon any and all claims on account of such injuries to persons or damage to property, and from all costs and expenses arising from claims brought against Vonage on account of such injuries to persons or damage to property, including, but not limited to, Vonage's legal costs and expenses in defending against same and/or in settlement thereof. Supplier shall be solely responsible for any loss or expense incurred by Vonage as a result of any theft of material or services by any of Supplier's employees.

A. NEITHER PARTY NOR ITS RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, OR REPRESENTATIVES, SHALL BE LIABLE FOR LOST PROFITS, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES ARISING FROM THIS ORDER WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT IN THE EVENT OF INTELLECTUAL PROPERTY INFRINGEMENT, INDEMNIFICATION OBLIGATIONS, NEGLIGENCE FOR PERSONAL INJURY (INCLUDING DEATH) OR PROPERTY DAMAGE, WILLFUL MISCONDUCT, OR A BREACH OF CONFIDENTIALITY, NEITHER VONAGE NOR THE SUPPLIER SHALL IN ANY EVENT BE LIABLE FOR ANY DAMAGES EXCEEDING THE CHARGES ACTUALLY PAID BY VONAGE TO SUPPLIER..

B. Supplier hereby agrees to indemnify, defend and hold harmless Vonage, and its officers, directors, employees, insurers and agents, from and against any and all suits, claims, losses, judgments, costs and expenses (including legal fees), damages or liabilities of any kind whatsoever (collectively, "Losses") to Vonage may be subjected (i) by reason of the breach or untruthfulness of any of the foregoing representations and warranties (ii) relating to or arising from the sale, delivery, storage, use or other handling of Goods or Work Product supplied by Supplier, including Losses for injuries (including death) to persons and damage to property, or (iii) with respect to any copyright, trademark, trade secret, patent or other proprietary right infringement claims against Vonage based on use, sale or transfer of any Goods, Services, Work Product, material or deliverable provided by the Supplier. In the event of the assertion of any such claims, Vonage must provide Supplier prompt notice of the assertion thereof and permit the indemnifying party to assume the full control of the defense and/or settlement thereof, provided that no settlement of a claim which would affect Vonage's rights, including without limitation any rights with respect to the Work Product, shall be entered into



without Vonage's written consent. In the event that the Supplier requests Vonage's assistance, Vonage shall reasonably cooperate at Supplier's expense. In the event that Supplier becomes aware of an actual or potential Indemnified Claim relating to any copyright, trademark, trade secret, patent or other proprietary right infringement claim related to Work Product, Supplier shall at its expense: (i) obtain for Vonage the right to continue using the Work Product; (ii) replace or modify the Work Product so that it becomes non-infringing; or (iii) if, and only if, options (i) and (ii) are not commercially reasonable, Supplier shall reimburse Vonage for the costs of the Work Product and all costs associated with finding an alternative to the infringing Work Product.

C. Supplier shall carry sufficient insurance to cover its obligations to Vonage hereunder. Supplier shall be required to provide and maintain insurance coverage at minimum as follows: (i) Statutory Workmen's Compensation Insurance Employers Liability in the amount of \$100,000 bodily injury/person; \$100,000 bodily injury/disease and \$500,000 bodily injury/accident; (ii) Commercial General Liability insurance in the amount of \$1,000,000 per occurrence; (iii) Property Damage insurance which provides replacement cost and all risk coverage in an amount sufficient to cover damage to Goods and/or Work Product and property of Vonage stored or utilized by Supplier; (iv) Automobile Liability insurance in the amount of \$1,000,000 combined single limit; and (v) Umbrella policy in the amount of \$3,000,000. All insurance policies shall be carried by an insurer rated A- or better by A.M. Best. All insurance policies shall name Vonage as an additional insured and Vonage shall be immediately notified of the cancellation or material alteration of any of the above-mentioned policies. Supplier shall provide Vonage a certificate of insurance, including Vonage as a named insured, upon the acceptance of this Order and a written copy of such policy or policies at any time at Vonage's request to Vonage's Legal Dept., 23 Main Street, Holmdel, NJ 07733 Fax: 732-202-5221.

21. ENTIRE AGREEMENT. The terms and conditions set forth in this Order, and any applicable SOW, constitute the entire agreement between Supplier and Vonage and replace and supersede any and all prior agreements of the parties with respect to the transaction set forth herein. In the event of any conflict or inconsistency between this Order and the SOW, this Order shall control, except to the extent the SOW explicitly waives or refers to the conflicting provision of this Order.

22. GOVERNING LAW. This Order shall be governed by and in accordance with the laws of New Jersey. However, if any version of the Uniform Computer Information Transactions Act (UCITA) is enacted as part of the law of New Jersey, said statute will not govern any aspect of this Order or the resulting agreement, and instead the law as it existed prior to such enactment will govern. Vonage hereby reserves all rights and remedies of a purchaser under the Uniform Commercial Code (the "Code") whether or not a breach has occurred. Supplier hereby acknowledges all of its duties as a Supplier under the Code. Unless otherwise agreed by the parties in writing, Supplier agrees and expressly consents to the exclusive jurisdiction of, and venue in, the courts of New Jersey in connection with any dispute arising under this Order.

23. SECURITY. Supplier shall ensure that no other parties, other than Vonage and Supplier's employees pre-identified to Vonage, shall have access to or be able to view the operations or restricted areas of Vonage, without the prior written consent of Vonage (which may include compliance with Vonage's security access policies applicable to visitors).

24. NOTICE. Any notice, approval, request, authorization, direction or other communication under this Order shall be given in writing, except with respect to standard and ordinary contract communications between the parties (e.g., change orders), and shall be deemed to have been delivered personally to the party to whom the same is delivered; (i) one (1) business day after deposit with a commercial overnight carrier, with written verification of receipt, or (ii) five (5) business days after the mailing date, whether or not actually received, if sent by US mail, return receipt requested, postage and charges prepaid, or any other means of rapid mail delivery for which a receipt is available. In the case of Vonage, such notice will be provided to both the relevant Vonage Officer responsible for this Order and the Chief Legal Officer, each at the Vonage address specified in the Order. In the case of Supplier, except as otherwise specified in the Order, the notice address shall be the address for Supplier set forth in the Order, with the other relevant notice information of Supplier as reasonably identified by Vonage.

25. SURVIVAL. Sections 2, 3, 4, 10, 11, 13, 17, 18, 19, 21, 22, 23 25 of this Order shall survive the completion, expiration, termination or cancellation of this Order. In addition, all payment terms of this Order and any provision that expressly states that it shall survive or which, but its nature, must survive the completion, expiration, termination or cancellation of this Order.

26. TIME OF THE ESSENCE. Whether this order is for Goods or Services, time will be of the essence in Supplier's fulfillment of this Order.

26. REMEDIES. The parties shall be entitled to seek the remedies of injunction, specific performance, and other equitable relief to stop or prevent any breach or threatened breach hereof (excluding for non-payment) by the other party without the necessity of proving actual damages, in addition to, and independent of, any damages.

Except where otherwise specified, the rights and remedies granted to a party under this Order are cumulative and in addition to, not in lieu of, any other rights or remedies which the party may possess at law or in equity.

27. NONSOLICITATION. Unless otherwise mutually agreed to by the parties in writing, or except pursuant to general solicitation for employment which is not directed to any specific individual, Supplier agrees not to solicit the employment of any Vonage employee during the term of this Order and for a period of one (1) year thereafter

28. AGREEMENT MODIFICATIONS.

A. Amendment. No change, amendment or modification (except with respect to change orders) shall be valid unless set forth in a written instrument signed by a party subject to enforcement of such amendment.

B. Change Orders. No Order modification (i.e., a change order) shall be valid unless Vonage has delivered evidence of such modification to Supplier in a written instrument (e.g., email notification or written change order).

C. Headings. The captions and headings used in this Order are inserted for convenience only and shall not affect the meaning or interpretation of this Order.