

**Master Services Agreement**  
**dated October 14, 2024 (“Agreement”)**  
**(Toughbook-as-a-Service)**

<b>Customer:</b> City of Aurora	<b>Provider:</b> Panasonic Corporation of North America, acting through its Panasonic Connect North America division
<b>Customer’s Place of Business and Initial Address for Notices:</b> 44 East Downer Place Aurora, IL 60505	<b>Provider’s Place of Business and Initial Address for Notices:</b> Two Riverfront Plaza, 6th Floor Newark, New Jersey 07102-5490
<b>Customer’s Form of Organization:</b> An Illinois home rule municipal corporation	<b>Provider’s Form of Organization:</b> A Delaware corporation

**1. Services.** This Agreement applies to schedules (each, a “**Schedule**”) from time to time entered into with reference to (and thereby incorporating) this Agreement. Provider will provide Customer the following services subject to the terms and conditions thereof and hereof (“**Services**”) in respect of the hardware, software, services, licenses, and other products identified in the Schedule (together with any attachments, alterations, or additions thereto, whether or not required or permitted to be made hereunder, “**Products**”):

- (a) Provider will ship Products that are equipment (“**Equipment**”) to the Delivery Location specified in the applicable Schedule, and provide Customer the right to possess and use the Equipment from delivery thereof to the end of the Service Term;
- (b) Provider will provide any operating systems or other identified software (“**Provided Software**”), and activation thereof, and the paid-up license or other rights to use the Provided Software on the terms thereof and hereof from delivery thereof to the end of the Service Term;
- (c) Provider will provide the Products (other than Equipment and Provided Software) that are to be provided during the portion of the Service Term preceding the Acceptance Date (“**Pre-Acceptance Services**”), including, if and as applicable, any identified installation, deployment, imaging, and other services;
- (d) Provider will provide the Products (other than Equipment and Provided Software) that are to be provided during the portion of the Service Term commencing with the Acceptance Date (“**Post-Acceptance Services**”), including, if and as applicable, any identified:
  - (i) Provider warranties and obligations on the Equipment and Provided Software under the Terms of Service applicable to any period on or after the Acceptance Date and for the remainder of the Service Term;
  - (ii) Provider performance or other provision of the service and other Products identified in the Schedule to be performed on or after the Acceptance Date and for the remainder of the Service Term; and
  - (iii) Provider undertaking to satisfy, on behalf of Customer, promptly as and when due, at or after the Acceptance Date, Customer’s specific obligations to Provider or third parties (including taxing authorities) to pay specific charges that would otherwise be payable by Customer in connection herewith or as otherwise identified, but only if and to the extent such specific obligations and charges are expressly identified as Provider’s responsibility in the Schedule (which undertaking may include, by way of example, Provider’s satisfaction of an “up-front” Tax imposed at the beginning of the Initial Fixed Term).

Services will be provided in accordance with “**Terms of Service**” consisting of: (x) Provider’s standard terms for the ordering, sale, and provision thereof; (y) any other written purchase, product, or solutions agreements, orders, quotes, specifications, statements of work, and related documents relating to any Products in effect between the parties at the beginning of the Service Term, including any “**Additional Terms of Service**” identified in the Schedule; and (z) for Provided Software, the terms of service, end user license agreements, and similar documents applicable thereto, issued by the owner or licensor of the Provided Software. Provider’s only obligation in respect of the delivery, performance, or license of third-party provided Products (including Provided Software) is to pass through to Customer any warranties, representations, and promises made by the third party to Provider, as-is and without recourse, and to reasonably cooperate with Customer, at Customer’s request and additional expense, in pursuing Customer’s obtaining the benefit of such rights. Notwithstanding anything to the contrary therein or herein, all Terms of Service will at all times be subject to the disclaimers herein and any inconsistent provisions hereof.

**2. Acceptance.** Customer will sign an acceptance certificate for all Services and Products, in a form designated by Provider, promptly upon

Customer’s receipt and acceptance of the Equipment, Provided Software, and Pre-Acceptance Services (“**Acceptance Date**”). All of Provider’s obligations under the Terms of Service will On the Acceptance Date be deemed duly performed and satisfied by Provider, or waived by Customer, except that notwithstanding anything to the contrary herein or in any other Terms of Service, the Post-Acceptance Services will survive the Acceptance Date continue to be enforceable in a Separate Action At Law.

**3. Term.** The “**Pre-Acceptance Term**” of the Services (including as to the delivery and provision of Equipment, Provided Software, and Pre-Acceptance Services) begins when the Schedule is executed or, as to any Services and related Products, such later date as may be provided in the Terms of Service) and then continues to the Acceptance Date. The “**Initial Fixed Term**” of the Services begins at the Acceptance Date and continues to the “**Base Term Commencement Date**” specified in the Schedule and then continues for the “**Base Term**” specified in the Schedule. Any renewal term (each, a “**Renewal Term**”) begins at the end of, as applicable, the Initial Fixed Term or next-preceding Renewal Term. The total term hereof (“**Service Term**”) consists of the Pre-Acceptance Term, the Initial Fixed Term, and all Renewal Terms at any time currently in effect, previously in effect, or that are to come into effect, as provided herein or in any other written agreement of the parties.

**4. Public Customers.** This section applies only if Customer notifies Provider at the time the Schedule is entered into that Customer is a governmental or similar public entity for which the enforceability of transactions of the kind hereby provided for are generally subject to moneys being duly appropriated on an annual basis.

Customer affirms its intention to continue the Services and pay all amounts hereunder for the entire scheduled Service Term hereof, and, to the extent permitted by law, to do all things lawfully within its power to obtain and maintain funds from which amounts hereunder may be paid, including allocating in its budget request for each fiscal year during the Service Term all amounts anticipated to become due in such fiscal year, and also using its best efforts and all reasonable and lawful means available to secure the appropriation of such amounts and any other amounts that may come due hereunder. While such appropriation is a governmental function for which Customer cannot contractually commit itself in advance (and no such a commitment is hereby made), Customer does reasonably believe moneys sufficient to make payments hereunder for the Service Term can and will lawfully be appropriated and available to permit Customer’s continued use and benefit of the Services in the performance of its essential functions.

If Customer fails to appropriate sufficient moneys in any fiscal year for amounts due hereunder and other funds are not available therefor, Customer shall give Provider notice and written evidence of the non-appropriation at least 60 days before the end of the current fiscal year or, if the non-appropriation has not occurred by then, immediately upon the occurrence thereof. At the end of the fiscal year for which appropriations have been made, the Services and the Service Term hereof will terminate, without penalty or fee to Customer, and Customer shall return all of the Products to Provider in accordance with Section 14 below on or before that date, and Customer shall in all events be pay all amounts due or to become due hereunder for which moneys shall have been appropriated or are otherwise available, and, for the avoidance of doubt, a ratable amount of Service Fees for any period in which Customer fails to return Products as required.

**5. Service Fees.** In accordance with Illinois *Local Government Prompt Payment Act*, Customer will pay Provider the periodic/recurring and one-time fees provided in the Schedule (“**Service Fees**”) and any other amounts that may become payable hereunder at such address as Provider may from time to time specify (including in any invoice). Customer’s sole remedy for Provider’s failure to issue an invoice for Service Fees is that no late interest will accrue thereon under this section or applicable law until payment has invoiced (or otherwise demanded in writing) In accordance with Illinois

*Local Government Prompt Payment Act*. Provider will apply payments received from Customer to obligations owed to Provider in such order and manner as Provider may determine in its sole discretion. **On the Acceptance Date, all Equipment and Services shall be deemed to have been received by Customer and, accordingly, Customer's obligations of payment and performance hereunder will (except to the limited extent provided in Sections 4 above and 20 below, and only to such extent) become and thereafter at all times remain fully earned, irrevocable, independent, absolute, unconditional, and not subject to rescission, cancellation, termination, modification, repudiation, excuse, substitution, abatement, reduction, offset, recoupment, compensation, crossclaim, counterclaim, demand, notice, or any other defense whatsoever, arising hereunder, under any Terms of Service, or otherwise, or against Provider, or any Assignee, or any Products' manufacturer, licensor, or provider, or any other persons, and, without limitation, Customer must pay Service Fees and other amounts hereunder regardless of its dissatisfaction with or the failure or quality of any Services or Products.** The foregoing does not limit Customer's enforcement, in a Separate Action At Law, of rights it may have against Provider for Provider's negligence or willful misconduct hereunder or breach hereof or of the Post-Acceptance Services or another written agreement between the parties. Periodic payments for partial periods will be prorated on the basis of a 360-day year, 90-day quarter, or 30-day month, as applicable. Amounts due to Provider hereunder that are not paid within 10 days of their due dates will bear interest, payable upon demand, at 12% per year, or such lesser rate as may be the maximum lawful rate (including as such rate may be established under the Illinois *Local Government Prompt Payment Act*), from their due dates.

**6. Customer's End of Term Options.** At the end of the Service Term, Customer may exercise one of these options, but only if Customer gives irrevocable notice to Provider unequivocally electing one of these options ("**Exercise Notice**") and the Exercise Notice is received by Provider at least 90 days before the end of the Service Term:

- (a) **Renewal Option.** If no Event of Default is continuing at the time of the Exercise Notice or at the end of the Service Term and Provider determines that no material adverse change in Customer's business or financial condition has occurred since the date of the Schedule, Customer may renew the Service Term for a Renewal Term of 3 months or more as specified in the Exercise Notice, at the same Service Fee, and otherwise on the provisions hereof. The parties will enter into a supplement hereto confirming the exercise of this option, but their failure to do so will not condition or affect Customer's obligations during the Renewal Term.
- (b) **Return Option.** Customer may return all of the Equipment in accordance with Section 14 below within 10 days of the end of the Service Term.

If one of the foregoing options (or an end-of-Service-Term option given in the Schedule) is not exercised, the Service Term will automatically renew for successive 1-month Renewal Terms in which case Customer will continue to pay Provider Service Fees at the rate of the total Service Fee previously in effect for the Services, and all other provisions hereof will continue to apply. Customer's end-of-Service-Term options and the automatic renewal provisions provided for in this section apply at the end of the Base Term and all optional or automatic Renewal Terms. If Customer fails to comply with the terms of any end-of-Service-Term option elected by it, Provider may in its absolute discretion terminate the Exercise Notice, in which case the automatic renewal provisions set forth above will apply as if no Exercise Notice were given, or Provider may proceed as otherwise permitted hereby, including exercising the remedies provided for herein or at law.

**7. Taxes.** Except as provided in the next paragraph, Customer will pay Provider (or pay directly to the applicable taxing authority if instructed in writing by Provider) all taxes, fees, and assessments that may be imposed by any governmental entity or taxing authority on any Services, Service Fees, or Products or any ownership, delivery, return, possession, operation, sale (by Provider to Customer) thereof, on whomever or whatever imposed ("**Taxes**"). Taxes include license and registration fees, environmental fees, and sales, use, personal property, and other taxes, and any related penalties, fines and interest, that may be imposed before the end of the Service Term and Possession Period or thereafter and relating to events or conditions theretofore occurring or existing. Customer will not be liable for: tax penalties, fines, and interest to the extent resulting from Provider's negligence or willful misconduct; taxes imposed on or measured by Provider's net income or tax preference items; overall business taxes that is in lieu of net income tax; or Provider's corporate franchise or net worth taxes. If Customer is required by law or administrative practice to make any report or return with respect to Taxes, Customer will promptly give Provider

notice and cooperate with Provider to ensure that such action is properly made and Provider's interests accurately reflected. Provider has no obligation to contest or preserve any right to contest Taxes.

If Customer (or, as a result of Customer's use or benefit of the Services or related Products, Provider) is exempt or Customer is permitted directly to file for and pay a Tax under applicable law or administrative practice, or if a Tax that Provider believes to be applicable does not in law apply, Customer shall provide Provider with satisfactory certificates or other satisfactory evidence of the exemption, direct-pay ability, or inapplicability. Customer will not be liable to Provider for such Tax to the extent Provider receives all such evidence before the imposition or accrual of the Tax. If after the imposition or accrual of a Tax Provider receives a refund or the actual benefit of an exemption from or the inapplicability of a Tax previously reimbursed to Provider by Customer, Provider shall reimburse Customer to the extent the Tax of such refund or benefit. In all events, Customer will remain liable for any Tax for which an exemption or direct-pay ability terminates or is later determined not to apply or that is otherwise later determined to apply.

**8. Covenants.** Before the end of the Service Term and Possession Period:

- (a) Customer will procure, use, and benefit from the Services and related Products only: for business purposes (except incidental personal use); for their intended purposes; in compliance with all laws applicable thereto or hereto; and in compliance with manufacturer standards.
- (b) Customer will keep the Equipment at the Delivery Location, but Customer may move Equipment to other Customer business locations in the USA (50 states and DC) with 30 days' notice, but items intended for travel may be temporarily moved without notice so long as their domicile remains at the Delivery Location or other previously notified location.
- (c) Customer will not permit any Equipment to become an accession to other property or alter or add to any Equipment except alterations or additions that are readily removable without damage to the Equipment and do not result in an encumbrance thereon.
- (d) Customer will promptly take such further actions as Provider may from time to time reasonably request to protect or perfect its rights, interests, and remedies reasonably intended to be created thereunder.
- (e) Customer will promptly furnish Provider Customer's annual certified or audited and quarterly financial statements or make them readily available on the internet through a free governmental website.
- (f) Customer will furnish Provider with opinions of counsel to Customer and certifications of the names, titles, signatures, email addresses, and authority of those persons executing documents relating hereto on behalf of Customer, and such other information and documents as Provider may reasonably request.
- (g) .
- (h) Customer will notify Provider within 30 days of any change in its name, chief executive office, or form or jurisdiction of organization.
- (i) Customer will with reasonable prior notice permit inspection of the Equipment at any reasonable time (subject to Customer's usual, reasonable security procedures) and, on request, affix to the Equipment any labels Provider may supply.

**9. Title.** The parties intend this transaction to be an operating transaction; Customer's interest in the Equipment and Provided Software is limited to that of the right to possession and use thereof as a part of the Services and Customer acquires no ownership interest in any Products, vested or contingent, and Provider or the Provided Software owner retains all ownership rights therein; and all Equipment will remain Provider's separate personal property even if physically attached to other property. Customer will keep all Services and related Products free of encumbrances other than those created hereby or by, through, or under Provider. Provider and any prospective Assignee may file financing statements give public notice of their interests or anticipated interests hereunder. The parties may have no ownership or other proprietary rights in the Provided Software and other software (which term as used herein includes all forms of intangible rights) included in the Products. Where required by Provider or a software owner or manufacturer or Provider, Customer will enter into a license or other agreement for the provision and use of any software that is not Provided Software provided hereunder as part of the Services. Any such agreement will be separate and distinct herefrom, and Provider will have no rights or obligations thereunder unless otherwise agreed by it in writing.

**10. Delivery.** The initial shipping of Equipment and Provided Software is at Provider's risk and expense and receiving and installation of such Products are Customer's responsibility and additional expense (unless part of the Services). Customer shall inspect each unit of Equipment and Provided Software delivered pursuant hereto and immediately notify

Provider of any non-delivery of any Equipment or Provided Software or any discrepancies in items or condition.

#### **11. Loss; Disrepair.**

- (a) **Possession Period; Notice of Loss or Disrepair.** From delivery of any Products to Customer, and until all Equipment is returned to and received by Provider hereunder (the ***"Possession Period"***), Customer will: (i) bear all risk and additional expense of any whole or partial loss, theft, destruction, or damage to or requisition or taking of any Products from any cause or by any person (collectively, ***"Loss"***); (b) keep the Equipment in good working order, repair, and condition and cosmetically good (***"Good Condition"***; any Equipment's ceasing to be in Good Condition from any cause other than a Loss, or for no discernible cause, means ***"Disrepair"***). Additionally, before the Possession Period, and after Customer has been advised of the delivery of any Equipment to a carrier for shipment to the Delivery Location, Customer will bear all risk of non-delivery of or damage to the Equipment for any reason (which non-delivery or damage will also be a Loss hereunder). Customer will give Provider notice within 10 days of any Loss of any Equipment and prompt notice of any Equipment coming into Disrepair, and no Loss or Disrepair will condition, reduce, or relieve Customer's obligations hereunder, including its obligation to pay Service Fees in full, except as provided in this section.
- (b) **Repair.** If any Equipment is damaged or comes into Disrepair and but the Loss or Damage can be economically repaired, Customer will have Provider effect repair, at Provider's location, at Customer's additional expense (including as to shipping and return) at Provider's then usual rates, and pursuant to Provider's usual repair terms, including as to warranties and disclaimers of warranties of workmanship; however, to the extent any Disrepair is covered under warranty as part of the Services, the applicable Terms of Service will apply.
- (c) **Replacement.** If any Equipment is subject to any other kind of Loss or otherwise comes into Disrepair, and replacement equipment is then available for supply by Provider, Customer will in its notice of Loss or Disrepair under this section continue all Service Fees without interruption and purchase from Provider, at then applicable prices, at Customer's additional expense, payable in cash and on Provider's standard sale terms, replacement equipment of identical model, manufacturer, configuration, features, and capacity, and upon delivery, installation, and acceptance by Customer thereof and payment by Customer therefor the replacement equipment will be replaced for the Equipment subject to the Loss or Disrepair, and Provider shall thereupon assign the Equipment subject to the Loss or Disrepair to Customer; however, to the extent any Disrepair is covered under warranty as part of the Services, the applicable Terms of Service will apply.
- (d) **Payment for Non-Repair/Non-Replacement.** If the repair or replacement of Equipment subject to a Loss or Disrepair is not completed within 60 days of the Loss or Disrepair (or in the case of Disrepair covered under warranty as part of the Services, such longer period as may be permitted for the repair under the applicable Terms of Service), including if the completion of the repair or replacement is hindered by any cause, whether or not under the control of any person, other than Provider's own negligence, Customer will upon Provider's demand pay Provider the Remaining Compensation (as defined in Section 16 below) ratably attributable to such Equipment, calculated by Provider as of the date of its demand, and in lieu of all Service Fees for such Equipment to become due after that date, and upon receipt of such amount and related Taxes and all other amounts then due hereunder, the Services and Service Term will terminate as to such Equipment, and Provider will assign the Equipment to Customer.

**12. Disclaimers and Limitations.** Without limiting Customer's right to enforce, in a Separate Action At Law, any rights of rights Customer may have against Provider due to its negligence or willful misconduct hereunder or its breach hereof or of the Post-Acceptance Services, **at all times on and after the Acceptance Date Customer accepts the Services and related Products AS-IS, WHERE-IS and, except as expressly provided in the Post-Acceptance Services (as enforceable only in a Separate Action At Law), Provider disclaims any and all representations or warranties, including with respect to design, compliance with specifications, durability, quality, operation, or condition (whether discoverable or not), title, merchantability, workmanship, or fitness for particular purposes, as well as the status hereof for tax or accounting classification purposes, or issues regarding or any patent, trademark, copyright infringement or any other infringement of any persons' rights.** Without limitation, the foregoing applies to any assignment of Equipment to Customer hereunder, except that Provider will warrant the absence of

encumbrances by, through, or under Provider on the Equipment assigned and, on request following the assignment Provider will provide Customer with Provider's standard bill of sale to the foregoing effect. Provider will have no liability to Customer, or its customers, or any other persons, for damages or specific performance arising hereunder or relating hereto, including direct, indirect, special, or consequential damages, or damages based on strict or absolute tort liability, and also as to any programs or data residing on any Equipment or anywhere else at any time, including upon return to or repossession of any Equipment by Provider.

**13. Net Agreement.** Based only on its and its advisors' (and not Provider's) judgment, Customer selected, evaluated, determined suitable for its needs, and approved the Services and related Products and Provider. Customer's payment obligations to Provider hereunder are net obligations. ***If and to the extent not expressly prohibited by law:*** Customer will reimburse Provider for damages, taxes, losses, penalties, expenses (including legal fees and disbursements and costs), claims, actions, and suits, whether based on a theory of strict liability or statutory or regulatory liability or otherwise incurred by Provider, directly or indirectly relating to Provider's provision of Services or related Products or their use, operation, selection, licensing, ownership, return, or sale or provision (by Provider to Customer). However, Customer will not be liable under this section to: (a) Provider (and Provider only) for Provider's negligence or willful misconduct hereunder or its breach hereof or of the Terms of Service before the Acceptance Date or of the Post-Acceptance Services on or after the Acceptance Date; or (b) in the performance of any obligation hereunder undertaken by an Assignee in writing, the Assignee's negligence, willful misconduct, or breach.

**14. Surrender of Equipment.** Whenever Customer is required or permitted to return Equipment, Customer will at Customer's additional cost and expense (or, at Provider's request, Customer will have the manufacturer or Provider or another party acceptable to Provider at their standard rates and on their standard terms of service) deinstall, inspect, and properly pack the Equipment, and return the Equipment to Provider by such common carrier as Provider may specify, to a destination within the continental USA specified by Provider, accompanied by the relocation inventory or similar form completed by the deinstaller (provided, however, Provider will be responsible for the foregoing activities to the extent expressly identified as Post-Acceptance Services). Any return of Equipment accepted by Provider releases Customer of its right to possess and use the Equipment, but will not otherwise constitute a termination of the Service Term or Customer's obligations hereunder. When received by Provider, the Equipment shall be in Good Condition and reasonably clean, in the same condition as when shipped to Customer (reasonable wear and tear excepted), and free of password protection, data, and user-installed software (***"Return Condition"***). Customer will be additionally liable to Provider for all expenses Provider incurs or would incur in placing the Equipment in the condition required hereby, up to the Fair Market Value price of the Equipment. Any additions to any Equipment not removed before return shall become Provider's exclusive property (lien free) or, at Provider's option and Customer's additional expense, removed and returned to Customer or sold, destroyed, or otherwise disposed of, all without any liability on the part of Provider or any other person to Customer or any other person, and the Equipment restored to its original condition.

**15. Remedies.** If an Event of Default is continuing or has been declared, Provider may in its absolute discretion exercise any one or more of these remedies: (a) terminate any or all Services and the related Services Term; (b) take possession of or render unusable any or all Products wherever located, without notice or process of law (but without breaching the peace and subject to any applicable law), and without liability for damages occasioned by such actions (except for direct damages to the extent caused by Provider's negligence or willful misconduct); (c) require Customer to return the Products to a location designated by Provider in accordance with Section 14 above and there surrender control to Provider as though the Service Term had expired; (d) declare all or, in one or more declarations, any portion of the Remaining Compensation, calculated by Provider as of the date of the declaration, due and payable (and in lieu of all Service Fees to thereafter become due); and (e) exercise any other right or remedy available at law or in equity.

Upon Provider's full receipt of the entire Remaining Compensation under this section, plus all other amounts that are or become due hereunder, the Services and Service Term will terminate and Provider will assign the Equipment to Customer. Upon a declaration of the entire Remaining Compensation being due and payable under this Section 15, any Service Fees remaining to come due hereunder before the end of the then effective Service Term will cease.

To the Extent permitted by state law, Customer will additionally reimburse Provider for all expenses ( ) incurred by Provider in the

enforcement hereof. Provider's sole obligation to mitigate its damages is that if it repossesses any Equipment pursuant to this section Provider will sell, rent, or otherwise dispose of the Equipment in a commercially reasonable manner, with or without notice, in a public or private transaction, and apply the net proceeds (after deducting all expenses of disposition), if any, to the amounts owed to Provider; and Customer will remain liable to Provider for any deficiency that remains after any such disposition. With respect to any notice of sale required by law, 10 days' notice is reasonable notice. The remedies provided herein are in addition to all other rights or remedies now or hereafter existing hereunder, or at law or in equity, and may be enforced concurrently therewith, and from time to time.

**16. Remaining Compensation.** "**Remaining Compensation**" means, as Provider's anticipated benefit of its bargain and profit herefrom (to which it will specifically be entitled), as liquidated damages, and in addition to any Service Fees, taxes, late interest, and other amounts due and outstanding hereunder, or (except for Service Fees) that are scheduled to become due after the date the Remaining Compensation is declared due, together with related Taxes, an amount calculated by Provider as the Present Value of:

- (a) the Service Fees scheduled to become due until the end of the then scheduled Service Term; plus
- (b) the Fair Market Value price of the Equipment at the end of the Service Term, or if Customer is given the express option herein to purchase all of the Equipment at the end of the Service Term for a price which is (or is limited to) a stated sum certain, the sum so stated; minus
- (c) Provider's estimate, as determined by it on any reasonable basis, of its cost savings, if any, of not having to perform the Post-Acceptance Services through the then effective expiration date of the Service Term, and Customer acknowledges that (i) such savings may be limited or nonexistent in a variety of circumstances, including as a result of Provider's commitments at any time made to its subcontractors, Assignees, and others, and (ii) that to the fullest extent permitted by law Provider's obligation to mitigate damages is absolutely limited as provided in Section 15 above.

Provider's calculation of the Remaining Compensation, including all arithmetic and any estimates and any determinations of Fair Market Value that are a part thereof, will be presumed correct and dispositive and binding on the parties in the absence of clear and convincing evidence to the contrary.

**17. Assignment By Provider.** Provider may unqualifiedly assign a Schedule, this Agreement as applicable thereto, and any Equipment, in whole or in part, without notice to or the consent of Customer, to any third party ("**Assignee**"). **Each party acknowledges that any such assignment will not materially change the parties' respective obligations hereunder.** No such assignment will relieve Provider of its obligations hereunder, and no Assignee will be obligated to perform any of Provider's obligations hereunder or under any Terms of Service, other than those obligations expressly undertaken by Assignee in writing; nor will Assignee be liable for Provider's action or inaction or breach hereof or of any Terms of Service or other agreements with Customer; nor will any action or inaction or such breach by Provider affect the obligations of Customer to Assignee hereunder. Customer will unless and until otherwise instructed absolutely, independently, and unconditionally pay all amounts due hereunder to Assignee without abatement, reduction, offset, recoupment, compensation, crossclaim, counterclaim, notice, demand, or any other defense whatsoever, arising hereunder, otherwise, or against any person (including as provided in Section 5 above). If notified of an assignment, Customer will execute such acknowledgments of the assignment as may be reasonably requested by Provider or Assignee and not permit any amendment hereto or any waiver hereunder without the consent of Assignee. Assignee will have all of Provider's rights, powers, benefits, and privileges hereunder, to the extent of the assignment, including the right to make further assignments. Assignee and Provider do not make any statement, representation, warranty, or promise made by the other, and are not agents of one another (even if they are affiliated or closely connected by ownership, contract, or otherwise), except to the limited extent they may agree to bill and receive amounts hereunder for one another in any of their names. Provider may provide copies hereof or of related documents or information concerning Customer and its obligations hereunder to any Assignee, prospective Assignee, affiliate, or other person.

**18. Assignment By Customer.** Customer cannot, without Provider's prior written consent, not to be unreasonably withheld: make any assignment hereof or of any benefit hereunder or of any Services or related Products; and, if Customer is a private entity (whether for-profit or not-for-profit), neither Customer nor any guarantor, may undergo a change-in-control. No such assignment or change-in-control by Customer will discharge or diminish Customer's obligations hereunder, and Customer will continue to

be primarily, absolutely, irrevocably, unconditionally, and independently liable for the full and prompt observance of all of its obligations hereunder (including as provided in Section 5 above). Subject to the foregoing, the provisions hereof bind and benefit the parties' successors and assigns.

**19. Counterparts; Electronic Signatures; Facsimiles.** This Agreement, any Schedule, and any related documents may be executed in one or more counterparts. If there is only one such counterpart, it will be the *original*, otherwise, one will be marked as and be the *original* and each other will be marked as and be a *duplicate*. No security interest herein may be perfected by possession or control except by possession or control of the original Schedule, along with possession of a duplicate or other reliably made copy of this Agreement. Customer will make only one original of any document and on request deliver any tangible original to Provider. At Provider's option documents will be signed and delivered electronically via its or its actual or prospective Assignee's account with DocuSign or another electronic signature provider under the electronic contracting process and terms applicable to the account, and such electronic signatures will be as valid and effective as manual signatures. In any proceeding relating hereto or to any Services or related Products, a party may produce a reasonable textual or graphical representation on paper of a document, however created, stored, accessed, authenticated, or communicated, including photocopies and other representations made by scanning or printing electronic files, database entries, or other electronic records, rather than a tangible or electronic original (or duplicate), and the paper representation will be considered a true and valid original for all evidentiary purposes. In signing this Agreement a party acknowledges it has received and reviewed this Agreement in full, and none of the content hereof is missing or illegible.

**20. Quiet Enjoyment.** So long as no Event of Default is continuing, Provider will not interfere with Customer's quiet enjoyment of the Equipment and Provided Software. If Provider material breach of the foregoing warranty of quiet enjoyment continues for 10 days after notice, Customer may in its absolute discretion exercise any one or more of the following remedies (which shall be its exclusive remedies for such breach): (a) by notice terminate the Services and Services Term (including its obligation to pay Service Fees) as they relate to such Products subject to such breach; or (b) proceed in a Separate Action At Law to recover all direct damages suffered by Customer resulting from such breach.

**21. Applicable Law.** The terms hereof are governed without regard to **conflicts of law principles by the law of the State of Illinois.** The provisions of the United Nations Convention on the International Sale of Goods do not apply to this Lease. The exclusive forums for any litigation arising out of this shall be the United States District Court for the Northern District of Illinois (Eastern Division) or the Circuit Court of the Sixteenth Judicial Circuit, Kane County Illinois. The parties waive any objection relating to improper venue or *forum non conveniens* or otherwise to the conduct of any proceeding in any such courts.

**22. Survival; Entire Agreement.** Notwithstanding anything to the contrary herein or in any Terms of Service, or related documents, on the Acceptance Date the Terms of Service will be fully satisfied and thereby terminate, except that the Post-Acceptance Services will survive and in all events be enforceable: only under the exclusive terms thereof in a Separate Action At Law. The indemnities, immunities, and other rights and provisions hereof will survive its performance, expiration, or termination. To the fullest extent permitted by law, this transaction is to be governed solely by the terms hereof and Customer waives any contrary terms of law, Terms of Service, or other applicable terms. A Schedule and this Agreement as applicable thereto constitute the entire agreement of the parties relating to the subject matter thereof and supersede any other agreements previous hereto except to the extent of the survival of the Post-Acceptance Services as provided in this section and Section 2 above.

**23. Notices; Waivers; Consents; Amendments.** Notices must be given in writing will be effective when delivered to the receiving party's address for notice set forth herein, which address may be changed by notice. Any waiver hereunder or failure of a party to require strict observance hereof will not constitute a waiver of any other breach of the same or any other provision hereof or of any other agreement. No waiver, consent, or approval hereunder or amendment hereto will be effective unless expressly made in a written instrument signed by the party to be bound.

**24. Force Majeure.** Provider will not be liable for any alleged loss or damages resulting from the provision of Services or related Products being delayed by acts of Customer, acts of civil or military authority, governmental priorities, fire, floods, epidemics, quarantine, energy crises, strikes, labor trouble, war, riots, accidents, shortages, delays in transportation, or any other causes beyond the reasonable control of Provider.

**25. Interpretation; Definitions.** Each Schedule is an agreement separate and distinct from this Agreement and any other Schedule and governs over this Agreement in the case of any inconsistencies. Terms hereof that are or become unenforceable will be severed, but only to the extent of their unenforceability. The page numbering of a document may be exclusive of its attachments, if any. Unless the context clearly requires otherwise, the singular includes the plural and vice versa, terms of one gender may refer to any gender, and terms of inclusion are without limitation. The terms *person* and *entity* are synonymous and may refer to any individual or organization. Headings of provisions herein are for ease of reference and not for interpretation. Capitalized terms used in this Agreement are defined in this Agreement or in the Schedule (with the redefinitions in a Schedule applying throughout this Agreement as applicable thereto). Whether not the following terms are capitalized when used:

The terms *hereunder*, *herein*, *hereof*, and similar terms refer to the applicable Schedule and this Agreement as applicable thereto, as a whole, and not just to the document or provision containing the term.

The term *separate action at law* means an action or proceeding at law, for direct damages, and not for specific performance or declaratory or equitable or other kind of relief or for rescission, cancellation, termination, or modification hereof, which action or proceeding is separate from (and not maintained by way of any offset, crossclaim, counterclaim, or defense in or to or affecting) any action, proceeding, claim, right, or remedy a liable or allegedly-liable person does or might in future maintain or assert relating hereto or to any related documents or the subject matter hereof or thereof.

The term *assign* and similar terms mean and include any kind of sale, assigning, rental, licensing, or other transferring of, or any granting of any security, collateral, or other kind of interest in, or any assignment or other delegation of an obligation under, the thing assigned, in whole or in part, including by operation of law or in connection with a sale of all or some of the assignor's assets.

The term *change-in-control* means, with respect to a person (or its guarantor, whether or not identified), an acquisition, merger, reorganization, consolidation, or other event or series of related events whereby the direct and indirect holders of more than 1/2 of its equity and voting power immediately before the event(s) do not directly and indirectly hold more than 1/2 of its or its successor's equity and voting power immediately thereafter.

The term *credit event* means, with respect to a person (or its guarantor, whether or not identified), that it is insolvent, or it seeks or makes an assignment for the benefit of creditors or an arrangement or composition with creditors, or it or any of its assets are or become subject to or it takes any action to seek or approve a proceeding under (or it otherwise acts under) any bankruptcy, reorganization, arrangement of debts, insolvency, receivership, or similar law, or it dies or takes any act or is the subject of any action taken with a view to the dissolution or termination of it or its business, or it assigns or seeks to assign any substantial portion of its inventory, equipment, or assets other than in the ordinary course of business, and, if any of the foregoing events is not voluntary and not acceded to by it, the event continues for 60 days.

The term *event of default* and similar terms mean: Customer's failure to observe any provision hereof continues for 10 days after notice in the case of nonpayment or for 30 days otherwise; Customer is or becomes the subject of a credit event, or any Products are levied against, seized, or attached, or any representation or warranty or statement made by Customer herein or in

any other instrument provided by Customer is incorrect in any material respect when made, or Customer breaches Sections 8(b) or 18 above; Customer defaults under any other agreement at any time entered into between Customer and Provider or any Assignee (as the term *default* or a similar term is defined, provided for, or used therein); or during the continuance of any of the foregoing events of default Provider in writing declares Customer to be in default hereof.

The term *fair market value* means the price or rent, as applicable, that would be obtained at arm's length between informed and willing parties, neither under compulsion to contract, for the sale or rental of Equipment assuming the Equipment is installed and in continued use by the buyer or user and otherwise in the Return Condition, as such value is determined by Provider, but if Customer objects in writing to Provider's determination within 10 days after Provider communicates its determination to Customer's representative in writing or by email, then as determined at Customer's additional expense by an independent appraiser selected by Provider and reasonably satisfactory to Customer.

The term *present value* means the present value of the amount(s) in question discounted to the date present value is to be determined at the Present Value Rate on the last day of the complete week most recently reported on the date of determination or on the Base Term Commencement Date, whichever is less; where the *present value rate* three-fifths of the annualized daily prime rate of interest, as described in Federal Reserve Statistical Release H.15 – Selected Interest Rates, or any successor publication of the US Federal Reserve System (or if there is no such publication, the lowest prime rate published in *The Wall Street Journal*).

**26. Information and Data.** As a public body, Customer's records are governed by the Illinois *Freedom of Information Act* ("**FOIA**"), which provides that any public records in its possession are subject to inspection by the public. Therefore, unless a statutory exemption applies, records relating to this Lease are considered public records under FOIA and therefore not confidential. Customer agrees that while the Services are provided to Customer in connection with Customer's performing of its governmental functions, Provider is not itself perform a governmental function on behalf of Customer. Nonetheless, Provider agrees to provide reasonable cooperation with Customer, at Customer's request and at no out-of-pocket or material expense to Provider, in Customer's responding to FOIA requests.

Provider expressly acknowledges and agrees that as between Customer and Provider, Customer is the owner of and has exclusive rights, title and interest in and to the data resident within any Equipment before its return hereunder ("**Customer Data**"). During the Possession Period, if Provider shall have the right to access and use Customer Data, any such access and use shall be solely: (a) as necessary to provide the Services, and (b) for trend analysis that may assist Provider in the provision of its services in its business generally, provided that no such trend analysis shall result in the disclosure of any personal or confidential information about or from Customer or its employees or customers. Provider will not retain, use, disclose, sell, or otherwise process Customer Data for any purpose other than the specific purpose of performing the Services specified in this Lease. However, nothing in this paragraph will limit Customer's obligation, as more particularly provided in Section 14 above, as to placing any Equipment to be returned in the Return Condition, including as to the removal of all Customer Data.

**City of Aurora, IL (Customer)**

By: \_\_\_\_\_

Name/Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Panasonic Corporation of North America (Provider),**  
acting through its Panasonic Connect North America division

By: \_\_\_\_\_

Name/Title: \_\_\_\_\_

Date: \_\_\_\_\_