

## EMBARQ CONSULTING SERVICES ANNEX

The following terms and conditions, together with the applicable Embarq cover agreement and the Embarq Standard Terms and Conditions for Communications Services (collectively, the "Agreement"), will govern Embarq's provision of consulting services ("Services") specified in the applicable order for consulting services.

### 1. SERVICES.

- 1.1. **Statement of Work ("SOW").** The SOW will list the Embarq technical skills assigned to Customer, the consulting services to be performed, and any other applicable terms and conditions not in this Annex.
- 1.2. **Warranties.** Embarq will refer to Customer only Embarq employees qualified to meet the Customer's requests. Embarq warrants that none of its referred or assigned employees are unauthorized aliens as defined in the Immigration Reform and Control Act of 1986. Embarq warrants that services performed by its employees under this Annex will be performed in a good, workmanlike manner, satisfying at least generally accepted practices or procedures.
- 1.3. **Employee Benefits.** Embarq will pay and be fully responsible for applicable federal, state and local taxes, and FICA requirements for Embarq employees' services while on assignment to Customer. Embarq will indemnify Customer based on any claims for unpaid federal, state, or local taxes or FICA requirements from Embarq employees' services performed while assigned to Customer. Embarq will also indemnify Customer for any Fair Labor Standards Act claims for minimum wage and overtime payments to Embarq employees under this Agreement.
- 1.4. **Non-Solicitation.** During the Term of this Annex and for one year following its termination, each party agrees that it will not hire the other party's employee without the other party's written permission. If one party, or its affiliates, extends an employment offer to any of the other party's employees, the hiring party will pay the other party, as liquidated damages, an amount equal to 50% of the accepting employee's new annual salary. The non-hiring party will also be entitled to any other remedies at law or in equity, to obtain injunctive relief.

### 2. TERM.

- 2.1. **Term.** The term of this Annex starts on the effective date of the Agreement. The Term will continue for one year and will automatically renew until either party provides 60 days prior written notice of their intent not to renew this Annex. Either party may terminate this Annex with 60 days written notice to the other party.

### 3. INTELLECTUAL PROPERTY.

- 3.1. **Embarq Materials.** The ideas, concepts, know-how, techniques, methodologies, and frameworks developed before any Agreement by Embarq employees and Embarq contractors or any derivative materials developed by Embarq (the "Embarq Materials") will be the sole property of Embarq. All programs processes, documentation and deliverables developed by Embarq for Customer under this Agreement (the "Customer Materials") are to be considered works made for hire except to the extent that any Embarq Materials are incorporated into or used in connection with the Customer Materials. Subject to Customer's rights to the Customer Materials and the confidentiality obligations of the parties, nothing in this section will be construed to prohibit Embarq from creating customized products or services for other parties that are the same general format, rely on the same procedures, or arise out of services provided to another party that are similar to those provided to Customer. Subject to Customer's proprietary rights and the terms of this Agreement, Embarq retains the right to develop, use and distribute works that are substantially similar to the Customer Materials.

**3.2. License.** To the extent that any Embarq Materials are incorporated into or used in connection with the Services provided to Customer, Embarq grants to Customer, its subsidiaries, affiliates and successors in interest an irrevocable, royalty-free, paid up, non-exclusive, non-transferable, worldwide license to use such intellectual property for such parties' own use, and not for rent, lease or sublicensing to any other third parties. Such right includes, for example, the right to copy, modify and use copyrighted works subject to the limitations in this provision.

**3.3. Survival.** The provisions of this Section 3 shall survive the termination or expiration of this Agreement.

**4. MISCELLANEOUS.**

**4.1. Work Hours.** Unless otherwise agreed, Embarq employees assigned to Customer to provide services will observe Customer's standard office hours, including holidays.

**4.2. Cost of Living Adjustment.** Embarq reserves the right to increase the rates for Services by up to 10% in any year after the first 12 months of the Term. Embarq will provide Customer 60 days prior written notice of the new rates.