

Master Terms

These terms and conditions of purchase (these “**Terms**”) govern the purchase of those “**Services**” defined and described in that certain “**Service Order**” and/or the purchase of those certain “**Products**” defined and described in that certain “**Purchase Order**,” in each case, that references these Terms and that is signed by an authorized representative of each of Concise Networks, LLC (“**Concise Networks**”) and the customer named therein (“**Customer**”). In the event of a conflict between any term or condition in these Terms and in the Service Order or in the Purchase Order, as the case may be, the former prevails unless the latter expressly provides otherwise. These Terms, together with each Service Order or each Purchase Order, as the case may be, and any addendum thereto, constitutes a separate legally binding agreement between Concise Networks and Customer effective as of the “**Effective Date**” set forth therein (collectively, the “**Agreement**”).

1. **Services.**

a. Subject to the terms and conditions set forth in the Agreement, Concise Networks agrees to exercise commercially reasonable efforts to perform the Services by the delivery dates and in exchange for the timely payment of the fees and expenses, in each case, set forth in the Service Order (the “**Service Fees**”). The scope of the Services may not be modified other than in a writing signed by authorized representatives of each party hereto, which modifications Customer acknowledges could affect such delivery dates and the Service Fees. No Service Order that has been accepted by Concise Networks may be cancelled by Customer except with the written agreement of an authorized representative of Concise Networks, and may result in a cancellation fee, as set forth in such agreement.

b. Concise Networks will install the Products pursuant to the applicable Service Order. Upon installation, the Products will be tested for operability. Once the Products are operational, Concise Networks will provide Customer with a project completion certificate. Unless Customer provides Concise Networks with written notice of a material error or defect with the Products within five (5) business days after its receipt thereof, Customer acknowledges and agrees Customer accepted the Services and invoicing will commence in accordance with the

Agreement. To the extent set forth in a Service Order, training will be provided remotely and with electronic manuals provided by Concise Networks.

c. Technical and customer support Services, if any, will be performed pursuant to the terms set forth in a support Services addendum attached to a Service Order. If and to the extent required in connection with such support Services, Customer agrees Concise Networks will have unrestricted right to access the Products remotely or on location for the purposes of servicing, maintaining and updating the Products and otherwise performing the Services. Any additions made by Customer to Products installed at the location designated by Customer, or any additions electronically identified by Concise Networks, automatically will be added to support Service coverage and charged to Customer at Concise Networks' then current monthly prices. In the event a Third Party Manufacturer (as defined below) declares end of life, service or support for a Product, Concise Networks will continue to provide the support described in such addendum to the extent continuation of support is provided by such Third Party Manufacturer.

2. Products.

a. Subject to the terms and conditions set forth in the Agreement, in exchange for Customer's timely payment of the prices and other fees set forth in a Purchase Order (the "**Product Fees**," together with the Service Fees, the "**Fees**"), Concise Networks agrees to exercise commercially reasonable efforts to supply and deliver to Customer the purchased or leased Products, as set forth in such Purchase Order, in the quantities, by the delivery dates, and to the location(s) set forth in the Purchase Order. Except as otherwise expressly agreed to in writing by Concise Networks, additional, modified, or conflicting terms or conditions set forth in a Purchase Order will not modify or amend this Agreement and will be considered of no force or legal effect. A Purchase Order will not be deemed effective or legally binding on Concise Networks until it has been accepted by Concise Networks in writing. Except as otherwise set forth in Section 2(b) below, the Products purchased pursuant to a valid Purchase Order will be delivered by Concise Networks F.O.B. (as such term is defined in *IncoTerms 2010*) Concise Networks' facility or the applicable Third Party Manufacturer's facility, as applicable. Concise Networks will have the right to make partial shipments without penalty or liability.

b. Notwithstanding delivery and the passage of risk in the Products, or any other term or condition set forth in this Agreement, title in Products purchased by Customer will not pass to Customer until Concise Networks has received in cash or cleared funds payment in full of the

purchase price for the Products then delivered. Customer hereby grants to Concise Networks a purchase money security interest in the products to secure the payment of the purchase price of the Products and all other amounts due to Concise Networks from Customer.

Customer agrees to provide Concise Networks financing statements and other documents requested by Concise Networks to evidence the same.

c. If Customer leases Products pursuant to a Purchase Order, such Products are and will remain the property of Concise Networks and Customer will hold them on a fiduciary basis as Concise Networks' bailee and will ensure them with coverages, and in amounts, set forth in the Purchase Order therefor. Customer represents and warrants it will keep such Products free and clear of any and all liens, restrictions, reservations, security interests, and encumbrances. Customer will maintain the leased Products in good order and condition subject to normal wear and tear. Leased Products lost or damaged will be replaced by Customer at Customer's sole cost and expense.

d. Customer acknowledges and understands the Products may be developed, controlled and/or owned by third parties unaffiliated with Concise Networks (each, a **"Third Party Manufacturer"**). Notwithstanding anything to the contrary set forth herein, except with respect to Refurbished Products (as defined below), each Product will be subject to the warranties, return policies, performance levels, rebates, delivery, and other terms provided by the Third Party Manufacturer thereof (collectively, the **"Third Party Terms, Conditions, and Warranties"**), which may be provided with the Products or made available by Concise Networks to Customer upon request. Except with respect to Refurbished Products, Customer understands and acknowledges: (i) it will look only to such applicable Third Party Manufacturer for any violations thereof, claims related thereto or for the satisfaction thereof, as applicable; and (ii) Concise Networks is not and will not be liable for a Third Party Manufacturer's breach of any Third Party Terms, Conditions, and Warranties. Further, Customer hereby agrees to use the Products in strict accordance with the Third Party Terms, Conditions, and Warranties, if and as applicable. Regardless of the recommendation, provision, or use of such Products by Concise Networks, except as otherwise expressly set forth herein, Concise Networks does not make any representations, warranties, or guarantees with respect to any Products. While Concise Networks may rely on data or information provided or generated by such Products in the course of providing the Services, Customer hereby acknowledges Concise Networks

specifically does not warrant the accuracy, reliability or completeness of any such data or information, and agrees Concise Networks will not be liable for any acts or omissions based on its reliance thereon. Concise Networks may provide certain retrofitted, refurbished, and/or Concise Networks-modified materials, as identified in a Purchase Order (the “**Refurbished Products**”). The Refurbished Products will be subject to the warranty set forth in Section 9(c)(i) below.

e. In the event that the Product Fees for a Product change between the Effective Date and the date of shipment of such Product, Concise Networks will notify Customer and provide Customer with an opportunity to cancel such Purchase Order (in which case Customer will receive a refund of any amounts prepaid for such Products) within ten (10) days of delivery of such notification. Customer’s failure to respond to such notification within such ten (10)-day period is deemed its agreement to pay such changed Product Fees. Except as set forth in the immediately preceding sentence, no Purchase Order that has been accepted by Concise Networks may be cancelled by Customer except with the written agreement of an authorized representative of Concise Networks, and may result in a cancellation fee, as set forth in such agreement.

f. Unless Concise Networks agrees otherwise in a Purchase Order, any upgrades or modifications to Customer’s network in order to ensure compatibility with the Products is Customer’s sole cost and responsibility.

3. Facilities and On-site Personnel. If any portion of the Services to be performed pursuant to a Service Order is required to be performed on location at Customer’s facility(ies), Customer will provide Concise Networks and its personnel (the “**On-site Personnel**”) with reasonable access thereto, including, without limitation, to networks and workstations, as may be reasonably required in connection with such performance. Any such requirement must be set forth in reasonable detail in the applicable Service Order.

4. Payments. As consideration for Concise Networks’ performance of the Services and delivery of the Products, Customer will promptly pay Concise Networks the Fees. Unless otherwise agreed in a Service Order or Purchase Order, as the case may be, Customer will pay Concise Networks for reasonable out-of-pocket expenses incurred in the performance of the Services by Concise Networks, including, without limitation, travel, lodging, meals, etc. Except as otherwise set forth in a Service Order or Purchase Order, as the case may be, all

Fees will be due and payable in United States dollars fifteen (15) days after Customer's receipt of an invoice therefor. All payment disputes must be in good faith. In the event of any dispute with regard to a portion of an invoice, the undisputed portion must be paid as provided herein. If any unpaid amounts not subject to Customer's good faith dispute are unpaid after five (5) days after Customer's receipt thereof, Concise Networks may charge an additional late fee of one and one half percent (1.5%) per month on such unpaid amounts, until such amounts are paid in full. In addition, for amounts unpaid and outstanding for more than fifteen (15) days following the date of invoice, Customer is responsible for, and agrees to pay, reasonable costs and expenses of collection, including, but not limited to, court and attorneys' fees and expenses. From time to time, Concise Networks may require reasonable credit guarantees before continuing performance of Service hereunder. All Fees are exclusive of any taxes, duties, tariffs and other government-imposed charges, however designated, levied or based (collectively, "**Taxes**"). All Taxes will be paid by Customer, excluding only Taxes based on Concise Networks' net income. Applicable Taxes will be billed as a separate item on the invoice if and as practicable.

5. Intellectual Property. As between Concise Networks and Customer, Concise Networks is and will remain the sole and exclusive owner of all right, title and interest in and to all intellectual property rights, titles and interests throughout the world in, to, and under the contents of all documents and information provided to Customer by Concise Networks (the "**Intellectual Property**"); provided that, Concise Networks hereby grants Customer a license to use the Intellectual Property solely in conjunction with, and to the extent of, its use of the Products and/or Services. Accordingly, the parties agree that any improvements or other inventions relating in any way to such documents or information that are developed by Customer are owned exclusively by Concise Networks. Customer agrees not to infringe upon the Intellectual Property. Except as expressly set forth herein, no right, title or interest in or to the intellectual property is granted by Concise Networks to Customer, whether by implication, estoppel or otherwise.

6. Confidential Information. Each Receiving Party (as defined below) will hold in strict confidence, not use except as otherwise authorized herein, and protect from disclosure to unauthorized third parties the Confidential Information of the Disclosing Party (as defined below). For purposes hereof, "**Confidential Information**" means any information disclosed by

or on behalf of one party (the “**Disclosing Party**”) to the other party (the “**Receiving Party**”) that relates to such Disclosing Party that reasonably should be known by the Receiving Party to be confidential or proprietary to the Disclosing Party under the circumstances of disclosure or in light of the nature of the information disclosed. For purposes of avoiding doubt, Concise Network’s Confidential Information includes its Products’ lists and the Fees. Confidential Information will not include information that: (a) was publicly available, or that subsequently becomes publicly available, except by wrongful disclosure hereunder by the Receiving Party; (b) was in the Receiving Party’s possession prior to receipt of the same hereunder, as evidenced by the Receiving Party’s prior written records; (c) was received from a third party who was not known by the Receiving Party to be under any obligation of confidentiality with respect to such information or to have violated any applicable law; or (d) can be proven by competent written evidence to have been independently developed by the Receiving Party. Nothing set forth herein shall be construed to prohibit Concise Networks from disclosing Customer’s Confidential Information to any third party that has a need to know such information in connection with the Services or with the enforcement of its rights hereunder. From time to time, the Receiving Party may be required to disclose the Disclosing Party’s Confidential Information by order or other requirement of a court (e.g. subpoena), administrative agency, or other governmental body or applicable law, as determined by such Receiving Party or its legal counsel. In such event, the Disclosing Party hereby permits the Receiving Party to disclose such information to the extent necessary to comply with such order or legal requirement; provided that such Receiving Party provides such Disclosing Party with prompt notice of such required disclosure (to the extent not prohibited under applicable law) and with reasonable assistance contesting such disclosure.

7. Non-solicitation. During the term of this Agreement and for a period of one (1) year after its termination or expiration, as partial consideration for Concise Networks’ performance hereunder, Customer hereby agrees not to, directly or indirectly, solicit or hire, or attempt to solicit or hire, any On-site Personnel, or otherwise cause any such employee or independent contractor to terminate its relationship with Concise Networks, without first seeking and obtaining Concise Networks’ written consent thereto. Customer hereby agrees that this restriction is reasonable and necessary to protect the business interests of Concise Networks. If Customer hires any On-site Personnel in breach of this Section 7, Customer agrees to pay to

Concise Networks a one (1)-time fee equal to one and a half times (1.5x) such On-site Personnel's annualized compensation with Concise Networks.

8. Specific Performance. Each party hereto hereby acknowledges and agrees that the terms, conditions and restrictions set forth in Sections 5, 6 and 7 hereof are reasonably necessary for the protection of the other party's business and goodwill, and that due to the likelihood any breach or suspected breach thereof will result in substantial and irreparable harm for which monetary damages alone may not be adequate, the aggrieved party has the right to seek immediate injunctive relief and/or specific performance, in addition to any other remedies available at law or in equity.

9. Representations and Warranties; Disclaimer.

a. Each party represents and warrants to the other party that: (i) its performance under the Agreement will not violate any applicable law; (ii) it is duly formed, validly existing and in good standing under the laws of the jurisdiction of its formation; (iii) it has the full right, power and authority to enter into this Agreement and to perform its obligations hereunder; and (iv) this Agreement has been duly executed by its authorized representative and is legally binding upon it, enforceable in accordance with its terms, and does not conflict with any agreement, instrument, or understanding, oral or written, to which it is a party or by which it may be bound.

b. Customer represents and warrants to Concise Networks that: (i) Customer is the owner, or otherwise has sufficient right to grant to Concise Networks the rights, accesses and licenses, if any, required in order for Concise Networks to provide the Services to Customer; (ii) Customer will not use the Products for any illegal, nefarious or illegal purposes; and (iii) Customer maintains, and will continue to maintain, a safe and legally-compliant working environment for all On-site Personnel, implements, and will continue to implement, appropriate safety policies and procedures, and provides, and will continue to provide proper safety training and information, in accordance with OSHA standards and other applicable federal, state and local laws and regulations.

c. Concise Networks represents and warrants to Customer that: (i) except as set forth on the applicable Purchase Order, the Refurbished Products are free from material defects in design, materials and workmanship for a period of twelve (12) months following delivery to Customer; ; and (ii) upon Customer's payment of all applicable Fees, it will have the right to use leased Products in accordance with the terms thereof, and/or will be the sole and exclusive owner of

the purchased Products, which will be free from any liens, claims, security interests or encumbrances of any kind whatsoever. In the event of a failure to meet the limited warranty set forth in Section 9(c)(i) within the twelve (12)-month warranty period described herein, Customer will notify Concise Networks and ship such Refurbished Products to the address provided by Concise Networks. In the event Concise Networks determines, in its sole discretion, that such Refurbished Products are defective, as Customer's sole remedy and Concise Networks' sole liability, Concise Networks, in its sole discretion, will replace the Refurbished Products (or the part in question) at its sole cost and expense or will refund to Customer the price of such Refurbished Products (or a proportionate part of such price). If the Services are performed incorrectly and other than in a professional and workmanlike manner in accordance with generally accepted industry standards and Customer notifies Concise Networks thereof within ten (10) days after the date of Concise Network's performance thereof, as Customer's sole remedy and Concise Networks' sole liability, Concise Networks, in its sole discretion, will re-perform such Services at its sole cost and expense in order to correct such incorrect performance or refund to Customer amounts paid therefor.

d. Notwithstanding anything to the contrary set forth herein, Customer acknowledges and agrees the warranties expressly set forth herein, including in the Third Party Terms, Conditions and Warranties, do not apply to defective Products or Services to the extent the defect results from: (i) Customer's improper use, handling or storage of the Products or otherwise in contravention with written instructions therefor; (ii) a force majeure event; (iii) damage to the Products which occurred during the shipment thereof; (iv) the combination of the Products with any product or service not approved or recommended by Concise Networks; or (v) any modification or alteration of the Products not approved or performed under the direction of Concise Networks. After the expiration of any warranty period set forth herein, and except to the extent set forth in a Service Order or Purchase Order, as the case may be, all costs and expenses associated with shipping and replacing defective Products shall be borne by Customer.

EXCEPT TO THE EXTENT EXPRESSLY SET FORTH HEREIN, THE SERVICES AND THE PRODUCTS ARE PROVIDED "AS IS," WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AND EXCEPT TO THE EXTENT EXPRESSLY SET FORTH HEREIN, CONCISE NETWORKS AND ITS

AFFILIATES, SUBSIDIARIES, DISTRIBUTORS, DEALERS AND SUPPLIERS (COLLECTIVELY, THE “**REPRESENTATIVES**”) DISCLAIM ANY AND ALL REPRESENTATIONS AND WARRANTIES, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, OR STATUTORY, INCLUDING (WITHOUT LIMITATION) ANY WARRANTY AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, TITLE, OR NON-INFRINGEMENT, WITH RESPECT TO THE SERVICES AND THE PRODUCTS. THE REPRESENTATIVES DO NOT WARRANT THAT THE SERVICES OR THE PRODUCTS WILL MEET CUSTOMER’S REQUIREMENTS NOR DO THEY GIVE ANY WARRANTY ABOUT THE RESULTS THAT MAY BE OBTAINED BY USING THE SERVICES OR THE PRODUCTS. CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THE SERVICES AND THE PRODUCTS MAY RELY UPON THIRD-PARTY SOFTWARE AND HARDWARE FOR CERTAIN FUNCTIONS AND, EXCEPT AS SET FORTH EXPRESSLY HEREIN, CONCISE NETWORKS MAKES NO REPRESENTATION, WARRANTY, PROMISE OR GUARANTEE TO CUSTOMER THAT SUCH SOFTWARE OR HARDWARE WILL BE ERROR FREE, ACCOMPLISH A SPECIFIED PURPOSE OR PERFORM IN ACCORDANCE WITH ANY PARTICULAR STANDARD, LEVEL OR METRIC AND CONCISE NETWORKS WILL NOT BE LIABLE TO CUSTOMER FOR ANY FAILURE THEREOF. FURTHER, CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT CONCISE NETWORKS DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. ACCORDINGLY, CONCISE NETWORKS IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

10. **Indemnification.** Each party hereto (in such case, the “**Indemnifying Party**”) agrees to defend, indemnify and hold harmless the other party and its directors, officers, shareholders, members, managers, partners, agents and employees from and against all demands, claims, losses, liabilities, or damages of any kind (including reasonable attorneys’ fees, costs and expenses) (each, a “**Loss**”) to the extent that such Loss results from or arises out of third party action based on the Indemnifying Party’s: (a) material breach of this Agreement or of any representation, warranty or covenant made herein by the Indemnifying Party; or (b) gross

negligence or willful misconduct. In addition, Customer agrees to defend, indemnify, and hold harmless Concise Networks and its directors, officers, shareholders, members, managers, partners, agents and employees from and against any Loss arising from any claim asserted against Concise Networks that is in any way associated with any damage or injury to an On-site Personnel's person or property that occurs at Customer's facility(ies) except to the extent caused by such On-site Personnel's negligence or intentional misconduct.

11. Limitation of Liability. EXCEPT TO THE EXTENT RESULTING FROM ITS INDEMNIFICATION OBLIGATIONS HEREUNDER, IN NO EVENT WILL CONCISE NETWORKS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, LOSS OF PROFITS, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY DAMAGES ARISING FROM LOST PROFITS) ARISING IN CONNECTION WITH THIS AGREEMENT, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL CONCISE NETWORKS' TOTAL CUMULATIVE LIABILITY FOR CLAIMS OF ANY KIND, WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, INDEMNITY OR OTHERWISE, FOR ANY LOSS OR DAMAGE ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE SERVICES, OR THE PRODUCTS EXCEED THE FEES (EXCLUDING EXPENSES) ACTUALLY PAID BY CUSTOMER UNDER THE APPLICABLE PURCHASE ORDER OR SERVICE ORDER (AS APPLICABLE) FROM WHICH SUCH CLAIM OR LIABILITY AROSE. THE PARTIES EXPRESSLY ACKNOWLEDGE AND AGREE THAT EACH PARTY HAS ENTERED INTO THIS AGREEMENT IN RELIANCE UPON THE LIMITATIONS OF LIABILITY SPECIFIED HEREIN, WHICH ALLOCATE RISK BETWEEN THE PARTIES AND FORM A BASIS OF BARGAIN BETWEEN THE PARTIES.

12. Export Restriction. Customer acknowledges that the Products may be subject to U.S. or other countries' export control laws and regulations. Accordingly, Customer agrees not to export, or transfer for the purpose of re-export, the Products (including technical data) in violation of any U.S. or other applicable export control laws and regulations.

13. Relationship of the Parties. Each of Concise Networks and Customer acknowledges and agrees that the relationship between the parties hereunder shall be that of an independent contractor, and that nothing contained herein shall be construed or interpreted as creating any

other relationship between the parties including, but not limited to, employer/employee, principal/agent, partnership, or joint venture.

14. Governing Law; Dispute Resolution. This Agreement and the rights and obligations of the respective parties hereunder shall be governed by, and interpreted and enforced in accordance with, the laws of the State of North Carolina, except for those conflicts of law rules thereof that would require or permit the application of the laws of another jurisdiction. Upon demand of either party, any dispute, claim or controversy arising out of, connected with or relating to this Agreement between the parties will be resolved by binding arbitration in accordance with the then current Commercial Arbitration Rules and Mediation Procedures of the American Arbitration Association. All arbitration hearings shall be conducted in Chapel Hill, North Carolina. A judgment upon the award may be entered in any court having appropriate jurisdiction. All costs of such arbitration shall be split equally between Customer and Concise Networks.

15. Notices. Notices or other communications hereunder shall be in writing, and shall be deemed effectively given: upon personal delivery; upon confirmed delivery by facsimile or electronic email without notice of transmittal failure; on the third (3rd) day following delivery by a reputable overnight courier; or on the fifth (5th) day following mailing by registered or certified mail, postage prepaid; in each instance, addressed to the address set forth on a Service Order or Purchase Order (or such other addresses so designated in accordance with this Section 15).

16. Force Majeure. Except with respect to its payment obligations hereunder, each party shall be excused from performing its obligations under this Agreement if its performance is delayed or prevented by any event beyond such party's reasonable control and without its fault or negligence, including, but not limited to, acts of God, acts of the public enemy, insurrections, riots, embargoes, labor disputes, including strikes, lockouts, job actions or boycotts, fires, explosions or floods, provided that such performance shall be excused only to the extent of, and during the reasonably unavoidable continuance of, such disability that cannot be mitigated by the reasonable actions of the delayed party. Any time specified for completion of performance falling due during or subsequent to the occurrence of any such events shall be automatically extended for a period of time equal to the reasonably unavoidable period of such disability.

17. Termination.

a. Unless earlier terminated in accordance with this Section 17, the term of this Agreement commences on the Effective Date and remains in force until: (a) in the case of an agreement that solely includes a Purchase Order, the date of the delivery of the Products ordered thereunder; and/or (b) in the case of an agreement that includes a Service Order, twelve (12) months after the Effective Date, at which time, this Agreement will renew automatically for twelve (12)-month periods until a party provides written notice of non-renewal at least sixty (60) days prior to the expiration of the then-current term. Notwithstanding any termination or expiration of this Agreement, terms set forth herein which by their nature should survive Agreement termination or expiration will survive.

b. A party may terminate this Agreement by providing the other party with thirty (30) days' prior written notice if: (i) the other party breaches any term or condition set forth herein and fails to remedy the breach within ten (10) days after being notified thereof; (ii) is or becomes insolvent; (iii) is or becomes a party to any bankruptcy or receivership proceeding or any similar action affecting its financial condition or property, if such proceeding has not been dismissed within thirty (30) days; or (iv) makes a general assignment for the benefit of creditors.

Notwithstanding the foregoing, Concise Networks may terminate this Agreement immediately and without penalty if Customer fails to pay any Fees within five (5) days of the due date therefor or if Customer assigns or transfers any rights or obligations under this Agreement without Concise Networks' prior written approval.

c. The expiration or termination of this Agreement for any reason shall not release either party from any liability which, at the time thereof, has already accrued to such party, or which is attributable to a period prior to such expiration or termination, including, but not limited to, all Fees accrued, owed and/or outstanding as of the effective date of such expiration or termination; nor shall it preclude any party from pursuing all rights and remedies it may have hereunder or at law or in equity with respect to any breach of this Agreement. Upon any termination or expiration of this Agreement, Concise Networks shall: (i) take reasonable steps to wind down works in progress in an orderly fashion; and (ii) submit to Customer an invoice setting forth any outstanding Fees due to Concise Networks. Upon any termination or expiration of this Agreement, Customer will promptly return to Concise Networks all Products leased from Concise Networks.

18. Miscellaneous. Neither party shall assign or transfer its rights, duties or obligations hereunder unless the other party consents to such assignment in writing prior to any such assignment; provided, however, that Concise Networks may assign its interests hereunder without the consent of Customer to any other corporation, person, or entity acquiring all or substantially all of the assets of Concise Networks, or to any other corporation, person or entity into which Concise Networks may be merged or consolidated. This Agreement shall be binding upon and shall inure to the benefit of the parties, and their respective heirs, executors, administrators, personal representatives, successors and assigns. No delay or omission by a party to exercise any right or remedy accruing pursuant to any of the terms hereof shall impair any such right or remedy or be construed to be a waiver thereof. A waiver by either party of any of the covenants and agreements hereof shall not be construed to be a waiver of the future enforceability of such covenants and agreements or any other covenant or agreement herein contained. Any modification or amendment of any provision of this Agreement must be made in writing and signed by an authorized representative of each party. This Agreement constitutes and sets forth the entire agreement and understanding among the parties with respect to the subject matter hereof. If any provision of this Agreement is declared invalid or unenforceable as a matter of law, such invalidity or unenforceability shall not affect or impair the validity or enforceability of any other provision of this Agreement or the remainder of this Agreement as a whole.