

**MUSHROOM NETWORKS, INC.
INTERNATIONAL VALUE ADDED RESELLER AGREEMENT**

This Mushroom Networks, Inc. International Value Added Reseller Agreement is entered into as of this _____ day of _____, 201_ (the "Effective Date") by and between Mushroom Networks, Inc., a Delaware corporation, and having its principal place of business at 5703 Oberlin Drive, Suite 208, San Diego, CA 92121, ("Mushroom Networks") and _____ ("Company"), a _____ company, and having its principal place of business at _____.

This Value Added Reseller Agreement consists of the following terms and conditions and exhibits, which are incorporated into and become a part of this agreement (collectively, the "Agreement"): **The terms and conditions contained in this cover/signature page and VAR Terms and Conditions**

Territory: []

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

Mushroom Networks, Inc.

Company

Signature: _____

Signature: _____

Name: Cahit Akin

Name: _____

Title: Chief Executive Officer

Title: _____

For the purpose of delivering notice via electronic mail in accordance with Section 18.6 of the VAR Terms and Conditions, notice shall be sent to the contact at the e-mail address listed below:

Mushroom Networks, Inc.

Print Name of Contact: _____

E-mail Address: _____

Company

Print Name of Contact: _____

E-mail Address: _____

**MUSHROOM NETWORKS, INC.
VAR TERMS AND CONDITIONS**

These VAR Terms and Conditions (the “Terms and Conditions”) are effective as of the Effective Date and made by and between Mushroom Networks and Company, as identified on the cover/signature page to which these Terms and Conditions are attached. Mushroom Networks and Company hereby agree as follows:

1.0 DEFINITIONS

1.1 “Confidential Information” means information and/or materials containing information which concern, without limitation, Mushroom Networks’ business, plans, designs, know-how, customers, technology or products, and are proprietary and/or confidential in nature.

1.2 “End User Agreement” means Mushroom Networks’ standard form End User Software License Agreement, as may be amended by Mushroom Networks from time to time.

1.3 “End User(s)” means Company’s customers of Product, who will be the ultimate users of Product and not a reseller, agent, broker or other intermediary in the chain of distribution. End Users do not include any agency, department or entity of the United States, Canadian Government or any other jurisdiction.

1.4 “End User Warranty” means Mushroom Networks’ standard limited end user warranty for Equipment in effect on the date Equipment is initially delivered to Company.

1.5 “Equipment” means hardware and firmware products offered by Mushroom Networks and any related documentation and manuals provided by Mushroom Networks.

1.6 “Licensed Software” means software products offered by Mushroom Networks and any related documentation and manuals provided by Mushroom Networks.

1.7 “Product(s)” means any combination of Equipment and Licensed Software and services which Company is authorized to procure under this Agreement.

1.8 “VAR” means an entity that Mushroom Networks has authorized under this form of Agreement to resell Products, solely when bundled with the applicable value add services on a direct, local basis to End Users.

1.9 “VAR Program” means Mushroom Networks’ marketing program for Mushroom Networks’ value added resellers.

1.10 “Territory” means the country or countries listed on the cover/signature page.

1.11 “Trademarks” means any trademark, service mark or trade name which Mushroom Networks or Company may designate, use or adopt from time to time.

2.0 LICENSES

2.1 Grant of License. During the term of this Agreement and subject to the terms and conditions contained herein (including, but not limited to, Section 2.3 below), Mushroom Networks grants Company a non-exclusive, non-transferable license to (a) market, sell, distribute and demonstrate in the Territory the Products to End Users during the term of this Agreement; and (b) use the Products as reasonably required in connection with such marketing, sales, distribution and demonstration. Company shall not sell or offer to sell Product to entities,

departments or agencies of the United States or any other governments without Mushroom Networks' prior written consent.

2.2 Appointment as VAR. Subject to the terms of this Agreement, Mushroom Networks appoints Company, and Company accepts the appointment, to market, sell, distribute and demonstrate in the Territory the Products on a non-exclusive basis to End Users during the term of this Agreement. In exercising its rights under this Agreement, Company shall at all times market, sell, distribute, demonstrate and support the Products in combination with material value add (i.e., in conjunction with installation or configuration service provided by Company, etc.).

2.3 Restrictions. Company will not: (a) disassemble, decompile, or reverse engineer any Products; (b) copy or otherwise reproduce any Products, in whole or in part; (c) remove, modify or otherwise tamper with notices or legends on the Products or any labeling on any physical media containing the Licensed Software; or (d) use the Products in any manner to provide service bureau, time sharing, or other computer services to third parties. Company's rights in the Products will be limited to those expressly granted in this Agreement. Company has no right to use, modify (except for reconfiguration of the Licensed Software that may be required in connection with Company's setup of the Licensed Software for End User), enhance, copy or sublicense the Licensed Software (apart from the Products). With respect to the Licensed Software, Company will simply "pass through" (in the manner designated by Mushroom Networks) the Licensed Software to End User (solely as part of the sale of the Products) along with Mushroom Networks' then-current End User Agreement. Mushroom Networks will grant license rights directly to End Users under such End User Agreement.

3.0 TERM

The initial term of this Agreement shall commence on the Effective Date, and shall extend for a period of one (1) year from the Effective Date. This Agreement may be renewed for subsequent one (1) year terms upon the prior written agreement of the parties. This Agreement shall always be interpreted to have a definite term. Neither party has made any commitments regarding the duration or renewal of this Agreement beyond those expressly stated herein.

4.0 PRICE AND DISCOUNTS

4.1 VAR Prices. The VAR prices for Equipment and fees for Licensed Software will be those in effect on the date Mushroom Networks receives Company's orders, as shown in the VAR price list set forth on the Company's e-commerce portal (those prices, the "VAR Prices"). Mushroom Networks may change its VAR Prices at any time and such change will become effective immediately upon general announcement by Mushroom Networks or posting to the e-commerce portal. In the event of a VAR Price reduction, Mushroom Networks will apply the new VAR Prices to all orders accepted but not shipped, before the date of notice of the price change. In the event of a VAR Price increase, Mushroom Networks will not apply the new VAR Prices to any orders accepted but not shipped, before the date of notice of the price change.

4.2 Purchase Price Calculation. Company's purchase price will be the VAR Price. Company will determine the resale prices it charges to End Users in its sole discretion.

4.3 Taxes. The VAR Prices do not include duty, sales, goods and services, value added or similar taxes. Company shall pay to Mushroom Networks all applicable taxes (other than taxes based upon Mushroom Networks' net income), unless Mushroom Networks has received an exemption certificate in a form acceptable to the appropriate taxing authority. Mushroom Networks will be promptly reimbursed by Company for any and all taxes or duties that Mushroom Networks may be required to pay in connection with this Agreement or its performance.

5.0 ORDERS, CHANGES AND CANCELLATIONS

5.1 Orders. Company will order Product by submitting orders through Mushroom Networks' e-commerce portal. All orders shall state the quantities and descriptions of Product ordered, applicable prices and license fees, requested delivery dates and shipping instructions including "bill to" and "ship to" addresses. The

orders may request delivery dates that are up to 90 days after the order date. All orders placed by Company are subject to acceptance by Mushroom Networks. For purposes of this Agreement, the order date will be the date on which Mushroom Networks receives Company's order. Mushroom Networks will use commercially reasonable efforts to ship the Products to Company in accordance with delivery dates specified in the order as accepted by Mushroom Networks, but is not liable for any delay.

5.2 Order Change or Cancellation by Company. Subject to Mushroom Networks' prior written approval, Company may reschedule and/or reconfigure a shipment of an accepted order if Company provides written notification to Mushroom Networks prior to the date the order is scheduled to be shipped. In the event of an order change, it may be necessary for Mushroom Networks to review and revise the scheduled shipment date. No order may be cancelled without the prior written consent of an officer of Mushroom Networks.

5.3 Cancellation by Mushroom Networks. Mushroom Networks reserves the right to cancel any orders placed by Company and accepted by Mushroom Networks as set forth above, or to refuse or delay shipment thereof, if Company (a) fails to make any payment as provided in this Agreement or under the terms of payment set forth in any invoice or otherwise agreed to by Mushroom Networks and Company, (b) fails to meet reasonable credit or financial requirements established by Mushroom Networks, including any limitations on allowable credit, or (c) otherwise fails to comply with the terms and conditions of this Agreement. Mushroom Networks also reserves the right to discontinue the manufacture, sale or distribution of any or all Products at any time, and to cancel any orders for such discontinued Products without liability of any kind to Company or to any other person. No such cancellation, refusal or delay will be deemed a termination (unless Mushroom Networks so advises Company) or breach of this Agreement by Mushroom Networks.

5.4 Conflict. Any terms and conditions of any orders which are in addition to or inconsistent with the terms and conditions of this Agreement will be deemed stricken from such order, notwithstanding any acknowledgment or acceptance of such order.

6.0 PAYMENT AND SECURITY TERMS

6.1 Payment. Company shall pay all invoices in accordance with the payment terms determined by Mushroom Networks. Mushroom Networks may change the payment terms in its sole discretion. All payments under this Agreement shall be in United States dollars.

6.2 Security For Purchases. Company hereby grants to Mushroom Networks a purchase money security interest in all Products sold to Company which has not yet been paid for, including without limitation, goods, general intangible, and other personal property, and a security interest in all proceeds thereof, in order to secure payment to Mushroom Networks of all of Company's indebtedness under this Agreement to Mushroom Networks. Company shall execute all documents deemed necessary by Mushroom Networks to evidence, perfect, re-file, and/or renew this security interest. Payment in full of the purchase price of all Products shall release Mushroom Networks' security interest on such Products or the proceeds thereof.

6.3 Late Payment. Payments made under this Agreement after their due date will incur interest at a rate equal to one and one-half percent (1.5%) per month or the highest rate permitted by applicable law, whichever is lower.

6.4 No Setoff. Company will not setoff or offset against Mushroom Networks' invoices amounts that Company claims are due to it. Company will bring any claims or causes of action it may have in a separate action and waives any right it may have to offset, setoff or withhold payment for Products delivered by Mushroom Networks.

7.0 SHIPMENT, DELIVERY, RISK OF LOSS AND TITLE

7.1 Shipment and Delivery. Mushroom Networks will ship Product only to Company in the Territory. Delivery will be made F.O.B. origin. For purposes of this Agreement, "delivery" means the time when Mushroom Networks consigns Product to the carrier at Mushroom Networks' facility. In the absence of specific written

instructions from Company, Mushroom Networks will select the carrier, but such carrier will not be the agent of Mushroom Networks. Title, risk of loss and/or damage to Product will pass to Company on delivery to such carrier. Mushroom Networks will pack all Product shipped in accordance with standard commercial practices. Company will be responsible for and pay all shipping, freight and insurance charges, which charges Mushroom Networks may require Company to pay in advance.

7.2 Partial Shipments. Company agrees to accept partial shipments and pay for Product comprising of a partial shipment, net thirty (30) days after the date of Mushroom Networks' invoice; provided, however, that Mushroom Networks shall only submit an invoice for Product that it has shipped, unless otherwise agreed to in writing by the parties.

8.0 OTHER AGREEMENTS, PRICING AND MARKETING

8.1 End User Agreement. Company may not distribute any Products to any End User without including a copy of Mushroom Networks' then-current End User Agreement.

8.2 Pricing Freedom. Company is, and will remain, entirely free to determine its End User prices and fees in its own discretion.

8.3 Marketing Efforts. Company will use diligent efforts to market and distribute the Products. Company will not employ any deceptive, misleading or unethical practices in its marketing and distribution of the Products.

9.0 COMPANY OBLIGATIONS

9.1 Sales Practices. Company agrees that it shall not engage in selling Product via mail order sales or similarly indirect distribution mechanisms and that (with the exception of repeat sales to existing customers) it will sell Product only through face-to-face sales activity providing for direct contact between its sales personnel and End User.

9.2 Customer Support and Service. Company shall provide the appropriate personnel, facilities and equipment necessary to provide support in the use of and sale of Product to customers. Company will have personnel attend product, sales and service training courses as may be offered by Mushroom Networks from time to time. Company will make available adequate and competent technical resources to comply with the service and support requirements of the End User.

9.3 Additional Obligations. Company further agrees to:

9.3.1 ensure that the appropriate Mushroom Networks warranty statement, End User Agreement and other materials required by Mushroom Networks are included with each Product at the time Product is delivered to the End Users, and instruct End User on the set-up, installation and use of the Product at that time;

9.3.2 promptly report to Mushroom Networks any suspected defects or safety problems in Product, keep Mushroom Networks informed of any End User complaints relating to Product, and cooperate with and assist Mushroom Networks in the implementation of any field retrofits required by Mushroom Networks to correct Product defects or problems;

9.3.3 observe and comply with all applicable laws and government regulations, and conduct business in an ethical manner;

9.3.4 make no false or misleading representations regarding the function and performance of Products, make only those representations which are consistent with Mushroom Networks' Product documentation, and represent Products fairly in comparison with third party products;

9.3.5 except with Mushroom Networks' prior written approval, purchase Product from Mushroom Networks for use or resale only as provided under this Agreement; and

9.3.6 not act in any fashion or take any action which will render Mushroom Networks liable for a violation of the U.S. Foreign Corrupt Practices Act, which prohibits the offering, giving or promising to offer or give, directly or indirectly, money or anything of value to any official of a government, political party or instrumentality thereof in order to assist it or Mushroom Networks in obtaining or retaining business.

10.0 TRADEMARKS

10.1 License. During the term of this Agreement and subject to the terms and conditions contained herein, Mushroom Networks grants Company a non-exclusive, non-transferable license to use Mushroom Networks' Trademarks in Company's marketing of the Products, provided that such use is in accordance with Mushroom Networks' then current guidelines for using the Mushroom Networks Trademarks. Without limiting the foregoing, such use must reference the Trademarks as being owned by Mushroom Networks. Company acknowledges and agrees that all use of Mushroom Networks' Trademarks shall inure to the benefit of and be on behalf of Mushroom Networks. Nothing in this Agreement grants Company ownership or any rights in or to use the Trademarks, except in accordance with this license. The rights granted to Company in this license will terminate upon any termination or expiration of this Agreement. Mushroom Networks will have the exclusive right to own, use, hold, apply for registration for, and register the Trademarks during the term of, and after the expiration or termination of, this Agreement. Company will neither take nor authorize any activity inconsistent with such exclusive right. Company will not (a) alter or remove any Mushroom Networks Trademark applied to, or used in conjunction with Product, (b) attach any additional trademark or trade designation to any Product, or (c) use any Mushroom Networks Trademark as part of Company's trade name, service mark, or trademark. Company will immediately change or discontinue any Trademark use as requested by Mushroom Networks. Upon Mushroom Networks' request, Company will promptly provide Mushroom Networks with specimens of all uses of Mushroom Networks' Trademarks and will make any changes to such specimens within thirty (30) days of the date of Mushroom Networks' request. Company will, on expiration or termination of this Agreement, cease indicating to the public that it is an authorized reseller of Product, cease the use of Mushroom Networks Trademarks and destroy all existing literature that references any Mushroom Networks Trademark.

10.2 Authorized Value Added Reseller. Solely during the term of this Agreement, Company may further indicate to the public that it is an authorized value added reseller of Products.

11.0 CONFIDENTIAL INFORMATION AND ADVERTISING

11.1 Confidential Information. Company agrees (a) that it shall treat all Confidential Information disclosed under this Agreement as a trade secret of Mushroom Networks, (b) not to disclose any Confidential Information for any purpose and not to use any Confidential Information except as necessary to perform its obligations under this Agreement, (c) to limit the use of and access to Confidential Information to its employees who have a need to know such Confidential Information, and (d) to promptly notify Mushroom Networks in writing of any unauthorized disclosures and/or use thereof.

11.2 Advertising and Releases. Except as may be required by law or regulation, no news release, public announcement or advertising material that references this Agreement or Mushroom Networks shall be issued by Company without the prior written consent of Mushroom Networks. Company will restrict discussion and all business activity relating to Product solely to those Products announced by Mushroom Networks. Company will not provide information on unannounced Mushroom Networks products to any third party or accept deposits for the purchase of unannounced Mushroom Networks products.

12.0 PROPRIETARY RIGHTS

12.1 Ownership. The Products are and will remain the sole and exclusive property of Mushroom Networks and its suppliers, if any, whether the Products are separate or combined with any other products. Mushroom Networks' rights under this Section 12.1 will include, but not be limited to: (i) all copies of the Licensed

Software, in whole and in part; (ii) all Intellectual Property Rights in the Products; and (iii) all modifications to, and derivative works based upon, the Products. For purposes herein, "Intellectual Property Rights" means patent rights (including patent applications and disclosures), copyrights (including, but not limited to, rights in audio visual works and moral rights), trade secret rights, Moral Rights, rights of priority and any other intellectual property right recognized in any country or jurisdiction in the world. "Moral Rights" means any right to claim authorship to or to object to any distortion, mutilation, or other modification or other derogatory action in relation to a work, whether or not such would be prejudicial to the author's reputation, and any similar right, existing under common or statutory law or any country in the world or under any treaty, regardless or whether or not such right is denominated or generally referred to as a "moral right."

12.2 Company's Duties. Company shall use diligent efforts to protect Mushroom Networks' Intellectual Property Rights in the Products and will report promptly to Mushroom Networks any infringement of such rights of which Company becomes aware.

12.3 Third Party Infringement. Mushroom Networks reserves the sole and exclusive right at its discretion to assert claims against third parties for infringement or misappropriation of its Intellectual Property Rights in the Products.

13.0 NO INDEMNITY

Mushroom Networks provides no indemnity of any kind whatsoever in connection with the Products and disclaims any obligation to indemnify Company.

14.0 LIMITED WARRANTY AND WARRANTY DISCLAIMER

14.1 Warranty to Mushroom Networks. Company certifies and represents that as of its execution of this Agreement, it has full power, right and authority to execute this Agreement, to participate in the Mushroom Networks VAR Program and to fulfill all its rights and obligations herein.

14.2 Limited End User Equipment Warranty. Mushroom Networks will include, with all Equipment shipped under this Agreement, a copy of its standard End User Warranty statement. The End User Warranty is solely for the benefit of the End User purchasing the Equipment from Company.

14.3 Company's Exclusive Remedy. On condition that (a) Company has notified Mushroom Networks of a defect in Equipment during the applicable warranty period, and (b) Mushroom Networks has confirmed such Equipment to be defective after Company has returned it to a Mushroom Networks-authorized repair center, as Company's exclusive remedy for a warranty claim, Mushroom Networks will, at its sole discretion, repair or replace any the defective Equipment at no charge to Company or issue a refund for a portion of the purchase price, in an amount to be determined by Mushroom Networks. The foregoing warranty does not apply to Equipment that has been (i) damaged by accident, act of God, shipment, improper installation, inadequate maintenance, abnormal physical or electrical stress, misuse or misapplication, or (ii) modified without Mushroom Networks' express written acceptance of such modification for warranty purposes. Mushroom Networks reserves the right to charge additional fees for repairs or replacements performed outside the warranty period for the Equipment or for claims where no trouble is found.

14.4 Disclaimer. THE FOREGOING WARRANTIES ARE IN LIEU OF, AND MUSHROOM NETWORKS DISCLAIMS, ALL OTHER WARRANTIES, EXPRESSED, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

15.0 LIMITATION OF LIABILITY; INDEMNITY AND INSURANCE

15.1 Consequential Damages Waiver. IN NO EVENT SHALL MUSHROOM NETWORKS BE LIABLE TO COMPANY FOR PUNITIVE, EXEMPLARY, INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, THE COST OF

COVER, LOSS OF PROFIT, USE, SAVINGS OR REVENUE, OR THE CLAIMS OF THIRD PARTIES, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, AND WHETHER OR NOT MUSHROOM NETWORKS HAS BEEN ADVISED OF THE POSSIBILITY OF THE LOSS.

15.2 Limitation of Liability. MUSHROOM NETWORKS' TOTAL LIABILITY (TO COMPANY UNDER THIS AGREEMENT IS LIMITED TO FIFTY PERCENT (50%) OF THE PAYMENTS RECEIVED FROM COMPANY UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT WHICH GAVE RISE TO SUCH DAMAGES, BUT NOT MORE THAN ONE MILLION DOLLARS.

15.3 Failure of Essential Purpose. THE LIMITATIONS IN THIS SECTION 15 SHALL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

15.4 Indemnification by Company. Company shall indemnify Mushroom Networks and hold Mushroom Networks, its officers, directors, shareholders, employees, insurers, attorneys, successors and assigns harmless from and against any and all liability, losses, claims, expenses (including reasonable attorneys' fees), demands or damages of any kind, arising out of or related to: (a) the acts or omissions of Company, its employees, representatives or agents, in connection with their activities under this Agreement; and (b) the breach of any warranty contained in Section 14.1 above.

16.0 EXPORT LAW COMPLIANCE

Company acknowledges that all Products including documentation and other technical data are subject to export controls imposed by the U.S. law. Company agrees to comply with all export control laws. Without limitation, Company will not export or re-export (directly or indirectly) any Products or documentation or other technical data therefor, in whole or in part, without complying with U.S. export control law. Company shall indemnify, defend (with counsel approved in writing in advance by Mushroom Networks) and hold Mushroom Networks harmless against any claims for cost, damage, expense or liability arising out of or in connection with any breach of this Section.

17.0 DEFAULT AND TERMINATION

17.1 Default. The occurrence of any of the following acts or events constitutes default of this Agreement.

17.1.1 In the case of Company, (a) Company markets, sells, distributes, demonstrates or otherwise conveys any Product to anyone not in compliance with the terms and conditions of this Agreement; (b) Company becomes insolvent, suffering the appointment of a receiver, or making an assignment for the benefit of creditors; or proceedings are commenced against Company under any bankruptcy, insolvency or debtor's relief law, if such proceeding is not vacated or set aside within sixty (60) days after the date of commencement thereof; (c) without limiting the foregoing, Company fails to comply with Section 2.3; or (d) if Company makes any material misrepresentation or omission in connection or relating to this Agreement, including, but not limited to, its credit application.

17.1.2 In the case of either party, the failure by such party to observe or perform any material covenant or obligation under this Agreement.

17.2 Termination. In the case of default as specified in Section 17.1.1 above, Mushroom Networks may immediately terminate this Agreement at any time after such default by providing written notice to Company. In the case of default under Section 17.1.2 above, if such default has not been cured within thirty (30) days after a party has received a written notice of default from the other party, the party giving notice may terminate this Agreement by written notice at any time thereafter.

17.3 Termination for Convenience. Mushroom Networks or the Company may terminate this Agreement upon thirty (30) days' written notice to Company.

17.4 Effect of Termination. Upon the expiration or termination of this Agreement: (a) all rights of Company to market or distribute the Products shall immediately cease; (b) all sums owed to Mushroom Networks by Company shall become immediately due and payable upon the effective date of expiration or termination; (c) Company shall return or destroy all copies of the Confidential Information and of the Products within thirty (30) days after the effective date of expiration or termination. At the request of Mushroom Networks, the president or the equivalent officer of Company will certify in writing that Company has complied with its obligations hereunder.

17.5 No Damages for Termination. NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR DAMAGES OF ANY KIND, INCLUDING SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, ON ACCOUNT OF THE TERMINATION OR EXPIRATION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS. COMPANY WAIVES ANY RIGHT IT MAY HAVE TO RECEIVE ANY COMPENSATION OR REPARATIONS ON TERMINATION OR EXPIRATION OF THIS AGREEMENT UNDER THE LAW OF THE TERRITORY OR OTHERWISE, OTHER THAN AS EXPRESSLY PROVIDED IN THIS AGREEMENT. Neither party will be liable to the other on account of termination or expiration of this Agreement for reimbursement or damages for the loss of goodwill, prospective profits or anticipated income, or on account of any expenditures, investments, leases or commitments made by either party or for any other reason whatsoever based upon or growing out of such termination or expiration.

17.6 Nonexclusive Remedy. The exercise by either party of any remedy under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise.

17.7 Survival. The parties' obligations under Sections 2.3, 5.4, 6.0, 11.0, 12.0, 13.0, 14.0, 15.0, 16.0, 17.0, 18.0 of this Agreement shall survive any termination and/or expiration of this Agreement.

18.0 GENERAL

18.1 Assignment. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns. Company shall not transfer or assign its rights under this Agreement, by merger, operation of law or otherwise, in whole or in part, without Mushroom Networks' written prior consent. Any attempt to assign this Agreement without such consent is null and void.

18.2 Independent Contractors. The relationship between Mushroom Networks and Company established by this Agreement is that of independent contractors. No franchise, joint venture or partnership is established by this Agreement. Neither party hereunder is the agent, broker, partner, employee, or legal representative of the other for any purpose.

18.3 Governing Law; Attorneys Fees. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California, excluding its choice of law rules. In the event that any dispute between the parties arises out of or is related to any of the provisions of this Agreement, and/or the performance or termination thereof, the prevailing party in the action shall recover all of its costs, including reasonable attorneys' fees.

18.4 Venue. Except with respect to those claims subject to arbitration pursuant to 18.5, the parties hereby submit to the exclusive jurisdiction of, and waive any venue objection against, the state and federal courts located in San Diego County, State of California, in any litigation arising out of the Agreement.

18.5 Arbitration. Any dispute arising out of this Agreement shall be resolved by binding arbitration under the rules of the Judicial Arbitration and Mediation Services/Endispute in San Diego, California (hereinafter "JAMS"). A single arbitrator shall be selected according to JAMS rules within thirty (30) days of submission of the dispute to JAMS. The arbitrator shall have the power to enter any award that could be entered by a Judge of the Superior Court of the State of California sitting without a jury, and only such power, except that the arbitrator shall not have the power to award punitive damages, treble damages, or any other damages which are not compensatory,

even if permitted under the laws of the State of California or any other applicable law. Each party shall bear its own attorneys' fees, and the losing party shall bear the cost of the arbitration, including the arbitrator's fee. The arbitration award may be enforced in any court having jurisdiction over the parties and the subject matter of the arbitration. Notwithstanding the foregoing, the parties (a) agree that Company shall have the right to seek a temporary or permanent injunction (or other equitable relief), and file the necessary underlying lawsuit, in any court having jurisdiction over the parties anywhere in the world as necessary to protect Company's software, name, proprietary information, trade secrets, or other proprietary rights, and (b) irrevocably submit to the non-exclusive jurisdiction of the Superior Court of the State of California, San Diego County, and the United States District Court for the Southern District of California in any action to enforce an arbitration award.

18.6 Notices. Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows with notice deemed given as indicated: (i) by personal delivery when delivered personally; (ii) by overnight courier upon written verification of receipt; (iii) by telecopy or facsimile transmission upon acknowledgment of receipt of electronic transmission; (iv) by certified or registered mail, return receipt requested, upon verification of receipt; or (v) by electronic mail, which shall be deemed to have been delivered twelve (12) hours after sending. Notice shall be sent to the addresses or e-mail addresses set forth on the cover/signature page or such other address or e-mail address as either party may provide notice of in writing in accordance with the terms of this Section.

18.7 No Waiver. The failure of either party to enforce any of the provisions hereof shall not be construed to be a waiver of the right of such party to thereafter enforce any such provision.

18.8 Unenforceable Provisions. If any term of this Agreement is found to be illegal or unenforceable, the remaining portions of this Agreement shall remain in effect, provided that the parties agree to negotiate in good faith substitute enforceable terms.

18.9 Force Majeure. Except for payments due under this Agreement, neither party will be responsible for any failure to perform due to causes beyond its reasonable control (each a "Force Majeure"), including, but not limited to, acts of God, war, riot, embargoes, acts of civil or military authorities, denial of or delays in processing of export license applications, fire, floods, earthquakes, accidents, strikes, or fuel crises, provided that such party gives prompt written notice thereof to the other party. The time for performance will be extended for a period equal to the duration of the Force Majeure, but in no event longer than sixty (60) days.

18.10 English Language. This Agreement has been prepared and executed in the English language only, which language shall be controlling in all respects. Any translations of the provisions of this Agreement into any other language are for reference only and shall have no legal or other effect. Any notice which is required or permitted to be given by one party to the other under this letter shall be in the English language and in writing. All proceedings related to this letter shall be conducted in the English language.

18.11 Company's Governmental Approval Obligations. Company shall, at its own expense, obtain and arrange for the maintenance in full force and effect of all governmental approvals, consents, licenses, authorizations, declarations, filings, and registrations as may be necessary or advisable for the performance of all the terms and conditions of this Agreement or that may be required to realize the purpose of this Agreement.

18.12 Modifications; Entire Agreement. Any amendments and modifications to this Agreement shall be in writing signed by both parties. This Agreement is the entire understanding between Company and Mushroom Networks with respect to the subject matter of this Agreement, and supersedes all prior or contemporaneous (a) proposals, oral or written, (b) negotiations, conversations or discussions between the parties, and (c) industry custom or course of dealing, relating to such subject matter hereof.