



## Master Service Agreement

This "Master Service Agreement" (this "Agreement" or "MSA"), dated Nov 21<sup>st</sup>, 2023 ("Effective Date"), is entered into by and between Arelion U.S. Inc., a company duly organized under the laws of the State of Delaware, and having its principal office at 2325 Dulles Corner Boulevard, Suite 550, Herndon, VA 20171 ("Arelion"), and Free Range Internet LLC, a company duly organized under the laws of Arizona, and having its principal office at 1440 N 2<sup>nd</sup> Ave, Ajo, AZ 85321 (the "Customer"); individually referred to as a "Party" and collectively referred to as the "Parties".

### 1 Scope and Structure

- 1.1 This Agreement sets forth the general terms and conditions governing the Parties' relationship with respect to the purchase by Customer of services from Arelion (the "Services") and is entered into with the expectation that Customer will submit one or more orders using Arelion's standard service order form ("Orders") to Arelion for the purchase of Services pursuant to this Agreement. The Services provided pursuant to this Agreement shall be subject to (a) the terms of this Agreement; (b) the applicable Service Level Agreement; and (c) any additional terms and conditions included in the Order for the Service.
- 1.3 From time to time, Customer may order Services from Arelion subject to a Service Level Agreement that was not initially made part of this Agreement. In such event, the Parties agree that the terms of the relevant Service Level Agreement will be incorporated into the Agreement and that Service Level Agreement will apply to all such Services.
- 1.4 The Parties agree that Affiliates (as such term is defined below) of Arelion and/or Customer shall be permitted to enter into Orders pursuant to this Agreement, subject to the completion of a credit check and the provision of all required information for the submission and processing of payments. Arelion and Customer shall cause their respective Affiliates to comply with the terms of this Agreement and shall be liable and responsible for their respective Affiliates' performance pursuant to each Order and this Agreement. Any references to Arelion and Customer in this Agreement are deemed to be references, respectively, to any such Arelion Affiliate or Customer Affiliate that enters into an Order. Unless otherwise agreed in an Order, any notices to be provided pursuant to the Agreement, whether to a signatory or to an Affiliate, shall be provided to the address set forth in this Agreement for such purpose and the Affiliates shall provide appropriate contact and banking information as required to facilitate invoicing and payment.
- 1.5 The term "Affiliate" means, in relation to a Party, any entity, whether incorporated or not, which owns, directly or indirectly, a majority interest in that Party (a "Parent Company"), or in which a fifty percent (50%) or greater interest is owned, directly or indirectly, by a Parent Company and, in the case of Arelion, such entity is part of the Arelion group of companies providing communications services.

### 2 Term

- 2.1 The term of this Agreement (the "Agreement Term") shall commence on the Effective Date and shall thereafter automatically continue in effect unless terminated in writing by either Party with thirty (30) calendar days prior written notice, subject to the terms and conditions of this Agreement.
- 2.3 Each accepted Order shall have its own minimum term as indicated on the Order (the "Service Term"), which shall commence in accordance with Section 4 below. If a Service Term is not specified in an Order, the Service Term for the relevant Service shall be twelve (12) months. After the expiration of the Service Term, each Order automatically shall continue in effect subject to termination by either Party upon thirty (30) calendar days prior written notice or until the Parties agree in writing on a new Service Term. In the event that the Service Term for a particular Service extends beyond the Agreement Term, such Service(s) shall remain in effect for the agreed upon time of Service, subject to all of the terms and conditions of this Agreement as if it were still in effect.

### 3 Ordering Services

- 3.1 Customer may order Service from Arelion pursuant to this Agreement by submitting a signed Order. Each submitted Order shall be considered an offer from Customer and shall be binding on the Parties only when signed by a duly authorized representative of Arelion. All Orders shall be subject to availability and acceptance by Arelion. If submitted, a Customer purchase order document shall be construed solely as evidence of Customer's internal business processes, and any terms, provisions or conditions contained in Customer's purchase order shall be of no force and effect, and shall not in any way be deemed to amend, modify, supersede, alter or supplement this Agreement or the applicable Order.
- 3.3 Upon receipt of an Order, Arelion will use commercially reasonable efforts either to accept or reject the Order within five (5) business days, but may extend this interval for Orders involving the provision of services procured from a third-party (e.g., local tails). As used in this Agreement, the term "business day" means a day (other than a Saturday or Sunday) when clearing banks are open for the transaction of general banking business in the country or city in which a relevant activity is to be performed or the relevant Service is to be rendered.
- 3.4 Arelion will send Customer via electronic mail a committed date by which the Service will be ready (the "Committed RFS Date") within twenty-one (21) calendar days from the date of receipt by Arelion of a fully signed and unamended version of the Order or, with respect to Services relying upon a service procured by Arelion from a third-party supplier ("Off-Net Element"), when Arelion receives the committed delivery date from the third-party supplier for the Off-Net Element. If the Committed RFS Date is not met, Customer may claim credits according to the applicable Service Level Agreement. However, if the Committed RFS Date is not met due to reasons attributable to the Off-Net Element, Arelion's sole responsibility will be to pass through to Customer upon request the late delivery credits Arelion actually receives from the third party supplier of the Off-Net Element.
- 3.5 The rates and charges set forth in each Order relying upon an Off-Net Element are contingent upon the performance of a site survey by Arelion. Customer shall provide Arelion with timely information regarding each site and access to the site in order to perform a site survey. If after a site survey or the commencement of work at a site, Arelion determines that unexpected or additional work, facilities or equipment are required to provide the Service, Arelion will advise Customer and shall reserve the right to modify the charges for the Service upon notice to Customer in order to account for any increased costs arising from conditions at the site. If the notified increase is greater than ten percent (10%) of the total value of the charges for the Service at the relevant site during the committed Service Term, Customer shall have the right to terminate the Service at the affected site upon written notice to Arelion. Such termination right shall be Customer's sole and exclusive remedy and shall expire if it is not exercised within ten (10) calendar days of receipt of notice from Arelion regarding the increase in charges.

### 4 Delivery and Testing

- 4.1 When a Service is ready for use by Customer, Arelion will send a notification to Customer by electronic mail. The date on which such notice is issued shall be the ready-for-service date ("RFS Date"). Customer shall have three (3) calendar days to test the Service (the "Testing Period"). The acceptance date for the Service provided by Arelion pursuant to an Order shall be the earlier of (a) three (3) calendar days after the RFS Date, or (b) the date on which Customer notifies Arelion of its acceptance of the Service. Unless Customer notifies Arelion in writing within the Testing Period that the Service is not functioning in accordance with the applicable specifications, Customer shall be deemed to have accepted the Service and the Service Term for the Service shall commence on the first day following the end of the Testing Period.
- 4.3 If Customer believes that the Service is not operating in accordance with the specifications set forth in the applicable Service Level Agreement, Customer will notify Arelion within the Testing Period and will provide a written explanation of the problem, including any test data. Upon receipt of the notice, Arelion will re-test the Service. If Arelion determines that the Service is not working in all material respects in accordance with the applicable specifications, Arelion will work with the Customer to identify the cause(s) and rectify any problem with the Service that Arelion is responsible for and



notify the Customer when the Service is ready. The process in Section 4.1 will then be repeated. If Arelion determines that the Service is working in all material respects in accordance with the applicable specifications or that the cause of the Service not working is within Customer's responsibility or that of a third-party not contracted by Arelion, then the Service Term will commence as stated in Section 4.1 above.

## 5 Security

- 4.4 If requested by Arelion in connection with an Order or a proposed assignment, Customer or Customer's Affiliate or proposed assignee shall submit a completed credit application. Arelion reserves the right to withhold initiation or full implementation of Service or consent to an assignment without penalty pending the completion of a satisfactory credit evaluation and Customer may be required to pay a deposit or, with respect to usage-based Services, become subject to a limit on the charges that Customer may incur before a payment is required ("Credit Limit"). At any time during the Agreement Term, Arelion may require or revise a deposit amount or Credit Limit if, in Arelion's sole discretion, there is a material and adverse change in Customer's financial condition, business prospects, or payment history. The amount of the deposit shall not exceed two (2) month's charges (and/or, as the case may be, estimated total monthly charges) under the applicable Order.
- 4.5 If Customer fails to provide Arelion with a new or revised security deposit within ten (10) business days of a request from Arelion, then Arelion shall have the right to suspend the provision of Service to Customer without liability and/or terminate this Agreement and any Orders without further notice or demand. Arelion shall have the right to apply the deposit to cure any payment defaults (or to pay any applicable Taxes as defined in Section 6.5) and shall refund any remaining amount paid to Arelion pursuant to this Section without interest no later than thirty (30) days after termination or suspension of Service.
- 4.6 If Customer fails to pay any charges incurred in excess of Customer's Credit Limit within three (3) calendar days of a request from Arelion, then Arelion shall have the right to suspend the provision of Service to Customer without liability and/or terminate this Agreement and any Orders without further notice or demand.

## 5 Invoicing and Payment

- 6.1 Arelion's charges for each Service shall be set forth in the applicable Order. Customer shall pay to Arelion all recurring and non-recurring charges for Service, plus all applicable Taxes (as defined in Section 6.5 below). All payments due under this Agreement shall be made by wire transfer or ACH in immediately available funds in the currency specified in the relevant Order to the account or accounts designated by Arelion. Payment shall be made directly to Arelion by Customer from an account registered in Customer's name. Arelion shall have the right to reject any payment submitted by a third-party or from an account registered to a third-party, and such rejection shall not relieve Customer of its obligation to make payment in accordance with this Agreement.
- 5.3 The Service will be invoiced as from the start of the Service Term. The invoice will include the monthly recurring charges for the Service (including committed charges for Service billed on a usage basis) (the "MRC(s)") and, as applicable, non-recurring charges. When the Service Term starts on a day other than the first day of the month or terminates on other than the last day of the month, the charge for that month shall be determined by pro-rating the monthly payment by the number of days during which Service was provided.
- 5.4 Arelion will invoice MRCs and non-recurring charges monthly in advance and usage-based charges exceeding an agreed commitment in arrears. Arelion will provide Customer with an invoice for Service and Customer shall pay Arelion in full within thirty (30) calendar days of the date of the invoice (the "Due Date"). Subject to the provisions of Section 6.4 below, if Arelion does not receive full payment by the Due Date, Arelion may (a) charge Customer interest on the unpaid balance at the rate of 18% per annum or the highest lawful rate, whichever is lower, (b) require a deposit or impose a credit limit pursuant to Section 5 above, and/or (c) suspend or terminate Service pursuant to Section 7 below. Customer shall pay all costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by Arelion in collecting past due balances.

- 5.5** If Customer, in good faith, disputes any charges invoiced by Arelion, Customer (a) shall provide Arelion with written notice explaining the factual or legal basis for the dispute (with reasonable support to identify the nature of the billing dispute) prior to the Due Date, (b) may withhold the amounts specifically in dispute and identified in the dispute notice, and (c) shall pay all other amounts prior to the applicable Due Date in full and in accordance with this Agreement. Failure by Customer to notify Arelion in writing of a dispute by the applicable Due Date of the invoice on which a charge appears shall be deemed acceptance of the validity of the invoice and charge, and waiver of all disputes in connection with the invoice. The Parties will make a good faith effort to resolve billing disputes as expeditiously as possible. If a dispute is resolved in favor of Customer, then Customer shall receive a credit on its next invoice for the disputed amount. If a dispute is resolved in favor of Arelion, then Customer shall make payment of the disputed amount withheld by Customer plus interest within thirty (30) calendar days of the resolution of the dispute.
- 6.5** Unless agreed otherwise in an Order, all prices shall be exclusive of sales, use, excise, franchise, utility, VAT, gross receipts and any other similar taxes, duties, regulatory fees or surcharges (including federal and state universal service surcharges or contribution amounts), or levies (other than income tax) incurred, contributed by or charged to or against Arelion because of the sale, use or provision of Service by Arelion to Customer ("Tax"). In the event such a Tax becomes due or is applicable, the respective amount will be added to the charges payable by Customer and specified in the relevant invoice. Charges shall not include any taxes for which Customer previously has furnished Arelion with a valid and up-to-date exemption certificate. If Customer is entitled to an exemption from any Tax in connection with a particular Service, Customer shall provide Arelion with a current copy of a valid exemption certificate. Arelion will give effect to any valid exemption certificate on a prospective basis after Arelion's receipt of such exemption certificate. Customer shall indemnify, defend, and hold harmless Arelion from all Taxes and related penalties and interest that may be assessed on Arelion for disallowed or invalid exemption certificates. Upon request, Customer shall provide Arelion with a certificate of tax residency.
- 6.6** Customer shall make payment free and clear of any deduction or withholding on account of any tax, duty or other charges of whatever nature imposed by any taxing or governmental authority. If Customer is required by any law, regulation or order issued by a taxing or governmental authority to make any such deduction or withholding, Customer shall, together with the relevant payment, pay such additional amounts as will ensure that Arelion actually receives and is entitled to retain, free and clear of any such deduction or withholding, the full amount which it would have received if no such deduction or withholding had been required.

## **6 Suspension and Termination**

- 7.1** In the event of a breach of any material term or condition of this Agreement by a Party, excluding a failure by the Customer to pay amounts due under the Agreement, the non-breaching Party may terminate any Orders affected by the breach upon thirty (30) calendar days' prior written notice, unless the breaching Party cures the breach during such thirty (30) day period.
- 6.3** Either Party may terminate this Agreement, subject to applicable law, immediately in the event that the other: (a) becomes insolvent; (b) files or initiates proceedings or has proceedings filed or initiated against it, seeking liquidation, reorganization or other relief (such as the appointment of a trustee, receiver, liquidator, custodian or such other official) under any bankruptcy, insolvency or other similar law; (c) makes an assignment for the benefit of the creditors or makes an application to a court of competent jurisdiction for protection from its creditors; (d) admits in writing its inability to pay its debts as they mature; or (e) ceases to function as a going concern or to conduct its operations in the normal course of business.
- 6.4** In the event that Customer defaults by failing to pay any amount due to Arelion that has not been disputed in good faith in accordance with Section 6 of this Agreement and does not cure such default within ten (10) calendar days of receipt of written or electronic notice from Arelion, then Arelion shall, in addition to any rights or legal or equitable remedies that it may have under this Agreement or by law, have the right to (a) suspend the provision of Service pursuant to any Order(s) or this Agreement without any liability or further notice until such time as Customer has paid all past due amounts in full, including any interest, and/or (b) terminate the Agreement and/or Order(s).



- 6.5** Upon termination of this Agreement for any reason, all rights of Customer to order new or additional Service under this Agreement will cease, and Customer shall be obligated to pay for all Services rendered and deliverables provided through to the effective date of such termination. Customer agrees and acknowledges that the loan or use of any IP addresses shall terminate and the IP addresses shall revert and be returned to Arelion without delay when this Agreement and/or any related Orders hereunder are terminated.
- 6.6** In the event that this Agreement or an Order is terminated by Arelion by reason of Customer's breach pursuant to this Section 7, or is cancelled by Customer in the absence of a material breach by Arelion, Customer shall pay to Arelion an early termination charge equal to (a) one-hundred percent of the MRCs that would have become due for each month or pro-rated portion thereof in the unexpired portion (if any) of the first twelve (12) months of the Service Term, and (b) seventy-five percent of the MRCs that would have become due for each month or pro-rated portion thereof in the unexpired portion (if any) of months thirteen (13) through the remainder of the originally scheduled Service Term. In addition, Customer shall reimburse Arelion for any third-party termination or cancellation charges incurred by Arelion as a result of the termination or cancellation by Customer. Such charges shall be payable within thirty (30) calendar days of the date on which Arelion provides an invoice for such early termination charges. Customer agrees and acknowledges that the actual damages in the event of such termination or cancellation would be difficult or impossible to ascertain, and that the charge in this Section is intended, therefore, to establish a pre-estimate of the loss and is not intended as a penalty.

## **7 Provision and Use of Service**

- 8.1** The Service shall be provided in accordance with the applicable Service Level Agreement. Customer agrees and acknowledges that Service may be provided in areas outside of the country where Arelion is licensed to provide service through Affiliates, provided. However, that Arelion shall continue to bill Customer for such Services and to serve as Customer's point of contact for ordering and billing matters. All Service provided through a Arelion Affiliate outside of the country where Arelion is licensed shall be subject to, and governed by, the terms and conditions of this Agreement.
- 7.3** Each Party will provide the other with any reasonable information (including without limitation design layout, circuit facility assignment, and other information), access and assistance required to install, test, inter-connect, maintain and repair the Service. The Service provided by Arelion pursuant to the Agreement shall only be used for purposes intended under the Agreement, and in accordance with all applicable laws, orders, rules and regulations. Arelion shall be entitled, at its option, to immediately suspend Service if in its opinion the Service is being used in a manner that may result in liability or other damage for Arelion or any of Arelion's customers. Arelion reserves the right to involve and co-operate with the police or other relevant authorities if a criminal violation is suspected, in order to bring such misuse and/or violation to an end.
- 7.4** Each Party agrees to conduct its operations in a manner that does not interrupt, impair or interfere with the operation of the other Party's network or services. The Service shall be provided subject to Arelion's Acceptable Use Policy, which is hereby incorporated by reference and shall be provided to Customer upon request and can be accessed at Arelion's website (<https://www.arelion.com/legal.html>). The Parties agree that if Arelion, in its sole discretion, determines that an emergency action is necessary to protect its own network, then Arelion may block any path over its network used by Customer.
- 7.5** Customer has sole responsibility for installation, maintenance, testing and operation of facilities, services and equipment other than those specifically provided by Arelion as part of a Service provided in connection with this Agreement or an Order. Customer shall be responsible for ensuring that services, equipment, cabling and/or connections ordered by Customer from third-parties are provided and available at the same time as the Services being provided by Arelion. In the event such Customer-ordered services, equipment, cabling and/or connections or other services are not ready at such time as the Services provided by Arelion pursuant to Section 4 of this Agreement, Arelion shall have the right to begin billing for its Services.
- 7.6** Arelion will provide Service only up to the relevant demarcation point and shall not be responsible for providing any facility, equipment, access or Service on the Customer side of the demarcation point. The demarcation point shall be

the point at which Arelion's responsibility to provide access, equipment and Service ends and where Customer's responsibilities begin, as identified on the applicable Order. Arelion will not be responsible for providing any access, equipment or Service on the Customer side of the demarcation point or for providing in-house cabling, connectivity or conduits unless specifically agreed in writing in the Order by the Parties.

- 7.7** If Arelion installs any facilities or equipment on the Customer premises for purposes of providing Service, Customer (a) shall be liable for any loss or damage to Arelion's facilities or equipment arising from the negligence, intentional act, or unauthorized maintenance or other cause, including theft, of Customer or its employees or agents, (b) will provide Arelion (or its designated subcontractors) access to such facilities or equipment as required for Arelion's proper performance of its obligations and to provide Service, (c) shall not, and shall not permit any third-party, to repair, disconnect, alter, rearrange or tamper with Arelion's facilities or equipment, (d) will be responsible for providing and maintaining, at its own expense, the space, the level of power (including the necessary grounding as is required for the installation), heating and air conditioning, and humidity levels necessary to maintain the proper environment for the equipment, and (e) will provide Arelion upon termination or expiration of the Agreement or an Order with access to its premises to facilitate Arelion's removal of its property and equipment.
- 7.8** Customer understands and agrees that Arelion is an intermediary for the transmission of the Customer's and third-party information, and that Arelion does not audit, select nor modify the information or content contained in these transmissions, except as required by law. Arelion shall have no liability or responsibility for any information, content, software, service, data, program, virus or product accessed, transmitted, provided or distributed via the Service. Customer understands and agrees that use of data communications networks and the Internet may not be secure and that connection to and transmission of data and information over the Internet and such facilities provides the opportunity for unauthorized access to computer systems, networks, and all data stored therein.
- 7.9** During the Agreement Term, Arelion may modify the configuration and specifications of the Services, provided such modifications are necessary due to technical, economic or regulatory developments or to maintain the quality standard of the Services offered by Arelion and will not affect the essential characteristic features of the Services ordered.
- 7.10** The Agreement and the provision of the Services, equipment and the use of any software embedded or included in such equipment does not and shall not be construed to transfer, assign, convey or grant to Customer any right, title and/or interest in the equipment, the software, the Service or any intellectual property of any type.

## **8 Limitation of Liability**

- 9.1** Neither Party shall be liable to the other Party, in contract, tort (including negligence) or for breach of statutory duty or in any other way for (a) any economic loss, loss arising from or in connection with loss of revenues, profits, contracts, customers or business or from failure to realize anticipated savings, (b) any loss of goodwill or reputation, (c) the loss or corruption of any data, and/or (d) any indirect, consequential, special, incidental, exemplary or punitive loss or damage, in connection with this Agreement whether or not the Party knew or should have known of the possibility of such damages in advance.
- 9.2** Subject to Sections 9.1 and 9.3, each Party's liability under or in connection with this Agreement (whether in tort, contract or otherwise) shall be limited to the lower of amount(s) paid by Customer for the Service affected by the event giving rise to the liability during the six (6) months prior to the event giving rise to the liability.
- 9.3** Nothing in this Agreement shall limit or exclude a Party's liability for death or personal injury resulting from negligence, amounts due for Services provided under this Agreement, or for any other type of liability, loss or damage which by applicable law cannot be limited or excluded.
- 9.4** Except as provided in this Agreement, Arelion makes no other warranty, express or implied, as to the description, quality, merchantability completeness, or fitness for any purpose of any Service or space provided or arranged in connection with this Agreement or any other matter, all of which warranties are hereby expressly excluded and disclaimed.

- 9.5 Except as set out in the Service Level Agreement for the relevant Service, Arelion shall not be liable to pay any damages in connection with the failure or inability to satisfy the service levels set out in the Service Level Agreement or for any loss or damage sustained by Customer (or Customer's customers) due to any degradation in the quality of the Service, the failure or breakdown of any facilities or equipment used in providing the Service, the loss or corruption of data, or any issues pertaining to the content or information transmitted or any interruption to the Services, regardless of the cause or duration thereof.

## 9 Force Majeure

- 10.1 In no event shall either Party have any claim or right against the other Party for any failure of performance by such other Party (excluding payment obligations) if such failure of performance is caused by or is the result of causes beyond the reasonable control of such other Party (a "Force Majeure Event"), including, but not limited to, fire, lightning strikes, flood or other natural catastrophe; laws, orders, rules, regulations, directions or actions of governmental authorities having jurisdiction over the subject matter of this Agreement or any civil or military authority; the condemnation, compulsory purchase or taking by eminent domain of a Party's facilities used in connection with the Service; a fiber cut caused by a third-party; the insolvency of an underlying facility provider or other supplier; national emergency, insurrection, terrorism, riot or war; labor strike that effects delivery of committed service or other similar occurrence recognized as a Force Majeure Event under applicable law and jurisprudence.
- 9.3 Notwithstanding anything in this Agreement to the contrary, if a failure of performance caused by a Force Majeure Event exceeds thirty (30) calendar days, either Party may terminate the affected Order(s) immediately on written notice to the other Party, without incurring any liability. Such right of termination must be exercised, if at all, prior to the end of the Force Majeure Event period. The claiming Party shall have no liability to the other Party as a result of a Force Majeure Event.

## 10 Indemnification

- 11.1 Each Party shall indemnify and hold the other Party harmless from any third-party claims, losses and expenses (including reasonable legal fees) with respect to damage to tangible property, personal injury or death caused by such Party's negligence or willful conduct. Customer agrees to indemnify and hold Arelion harmless from any and all claims arising from Customer's use of the Service and from any all claims brought by Customer's subscribers, customers or end-users resulting from any use of the Service via or through Customer.
- 10.3 In all instances in which one Party (the "Indemnifying Party") is obligated to indemnify another (the "Indemnified Party") as provided for in this Agreement, the Indemnified Party shall notify the Indemnifying Party promptly after becoming aware of the claim, damage, loss, suit or other event (the "Claim") giving rise to its right of indemnification hereunder. The Indemnified Party shall provide the Indemnifying Party reasonable cooperation (e.g., providing copies of documents or testimony of witnesses), at the Indemnifying Party's expense, in the defense of the Claim. The Indemnifying Party shall have control over the defense of the Claim, provided that the Indemnified Party shall have the right to participate in a secondary role at its own cost and expense with counsel of its selection. Any settlement or compromise of a Claim initiated or entered into by an Indemnifying Party must receive the prior written consent of the Indemnified Party, such consent not to be unreasonably withheld, conditioned or delayed.

## 11 Subject to Laws

- 12.1 This Agreement, and each Order, is subject to all applicable laws, and regulations, rulings and orders of governmental agencies and the obtaining and continuance of any required approval or authorization of any governmental body or agency. Either Party may terminate its obligations under this Agreement without liability if ordered to do so by the final order or ruling of a court or other governmental agency or if such an order or ruling makes it impossible for either Party to carry out its obligations under this Agreement. The Parties contemplate that at least ten percent (10%) of the traffic carried over the Service will be interstate or international. If it is determined at any time that any interexchange service

or circuit is subject to state regulation, then Arelion may terminate the affected Service upon written notice without liability.

**12.2** Each Party represents, covenants, and warrants that it will refrain from any activity in connection with this Agreement that would constitute a violation of the provisions of any applicable law governing bribery or corruption (collectively the "Anti-Corruption Rules"). In performing this Agreement, neither a Party nor any of its officers, directors, employees, agents, or shareholders acting on its behalf shall give, offer, pay, promise, request to pay, or otherwise authorize the payment of, directly or indirectly, any money or anything of value to any officer or employee of any government, consultants, agents, business partners or third-parties for the purpose of influencing any act or decision of such party or official or of the government or to secure any improper advantage in obtaining or retaining business for or with, or directing business to, any person. Neither Party shall request or accept any bribes or other corrupt payments from the other Party. From time to time, at the reasonable request of the other Party, each will confirm in writing that it has complied with its undertakings under this Section and will provide any information reasonably requested in support of such compliance. Any breach of this Section shall give the non-breaching Party the right to terminate the Agreement without prejudice to any other rights and remedies available.

**11.3** During the Agreement, each Party will comply with applicable data protection laws and shall implement appropriate technical and organizational measures in compliance with applicable law to protect Customer data against accidental or unlawful destruction, accidental loss, alteration, unauthorized disclosure or access, and against other unlawful forms of processing. In the event of a data breach involving personal information, the Party becoming aware of the breach will promptly notify the other Party of such breach and provide any information the other Party requires in order to comply with its obligations under the applicable data protection laws. Where personal data is provided by one Party to the other Party in relation to the Agreement for the purposes of each Party fulfilling its contractual obligations, each Party will process personal data as data controller strictly in accordance with the applicable data protection laws. Neither Party will process personal data on behalf of the other Party as data processor for the purposes of this Agreement. If either Party anticipates that any change to this Agreement and/or the scope of Services would require the processing of personal data on the other Party's behalf as data processor, then the relevant Party will immediately notify the other in writing and the Parties will negotiate in good faith to incorporate appropriate provisions into the Agreement in accordance with the applicable data protection laws. No such processing will be made until appropriate provisions have been agreed in writing by the Parties.

## 12 Trade and Sanctions Compliance

**13.1** The term "Prohibited Party List" shall refer to any list of prohibited, blocked, denied, restricted, embargoed, designated or sanctioned parties, as may be in force and amended from time to time, including but not limited to the lists maintained by the government of the United States of America (e.g., including without limitation the Specially Designated Nationals and Blocked Persons List maintained by the U.S. Department of the Treasury, the Entity List, Denied Persons List and/or Foreign Adversary List maintained or designated by the U.S. Department of Commerce (BIS), the list of statutorily or administratively debarred parties maintained by the Directorate of Defense, Trade Controls of the U.S. Department of State), the European Union (e.g., the Consolidated list of persons, groups and entities subject to EU financial sanctions) and/or its member states, and any other government authority.

**12.3** Customer represents and warrants that (a) Customer, including its employees, officers, directors, representatives, agents, Affiliates and/or financial institution, is not subject to any sanctions or otherwise listed or included on a Prohibited Party List, and (b) Customer is not directly or indirectly owned fifty percent (50%) or more in the aggregate by one or more persons, entities or organizations listed on any Prohibited Party List, nor controlled by, or acting on behalf of or for the benefit of any party or parties included on any Prohibited Party List. Customer shall provide Arelion with complete and accurate information in writing detailing its direct and/or indirect ownership upon request and immediately shall notify Arelion in writing about any change of ownership, control and/or other circumstances that would place Customer in breach of the representation and warranty made in this Section.

**12.4** Customer hereby acknowledges and agrees that the use of the Services, which term is inclusive of any related goods, technology, information, equipment and/or software provided by Arelion, may be subject to import, export and trade



sanctions laws ("Trade Laws") and shall be solely responsible for its compliance with all applicable Trade Laws.

- 12.5** During the Agreement Term, Customer, at all times, shall: (a) use the Services in compliance with all applicable Trade Laws, (b) not directly or indirectly resell, assign transfer, transmit, make available export, re-export, or provide the Services, directly or indirectly, to any country, destination, corporation, organization, entity or person on a Prohibited Party List or in violation of any Trade Laws or any prohibited end-use pursuant to Trade Laws, and (c) shall not do anything which would cause Arelion to be in violation of any Trade Laws. If requested by Arelion, Customer agrees to provide written assurances and sign other documents as may be reasonably required for Arelion to comply with applicable Trade Laws. The breach of any of the representations and warranties set forth above and/or the failure by Customer to comply with any part of this Section shall constitute a material breach of this Agreement that is not susceptible to cure or subject to a cure period. In the event of such a material breach, Arelion shall have the right upon written notice to Customer and with immediate effect to suspend the performance of any Services and/or to cancel or terminate any Order or this Agreement without liability or further obligation to Customer.

## **13 Non-Disclosure**

- 13.1** The Parties agree that Confidential Information received from the other Party shall be kept confidential. The term "Confidential Information" shall include all information made available by or on behalf of one Party (the "Disclosing Party") to the other Party (the "Receiving Party") under or in connection with this Agreement, including but not limited to (a) the rates, terms and conditions of this Agreement, including any Orders, (b) all information, data, know-how, trade secrets or other material pertaining to the operations, technology, intellectual property, programs, strategies, business plans, finances, personnel, customers, suppliers, markets, network, sales, prices, policies or business affairs of the Disclosing Party or its Affiliates, (c) all information which is marked as "proprietary", "confidential" or with words of similar meaning, (d) information otherwise supplied orally with a contemporaneous confidential designation, or (e) information which is known by the Receiving Party to be confidential or proprietary information or documentation of the Disclosing Party. The Parties agree that the terms and conditions of this Agreement and all exhibits referenced herein, as well as any invoices for Service provided hereunder, are Confidential Information.
- 13.3** Confidential Information shall not include information that (a) is or becomes part of the public domain through no fault of the Receiving Party or breach of this Agreement, (b) is rightfully received by the Receiving Party from a third-party not acting in breach of an obligation of confidentiality owed to the Disclosing Party, (c) is independently developed by the personnel of the Receiving Party or any of its Affiliates without access to the information disclosed by the Disclosing Party, (d) is rightfully known to or possessed by the Receiving Party or its Affiliates, as evidenced by the written records of the Receiving Party or its Affiliates, as the case may be, prior to its receipt from the Disclosing Party, or (e) is disclosed by the Receiving Party with the Disclosing Party's prior written consent. The Party claiming that any of the exceptions set forth in this Section apply shall have the burden of proof to establish such applicability.
- 13.4** Each Party agrees (a) to hold the other Party's Confidential Information in strict confidence and to disclose the information only to those of its employees or permitted third- parties with a legitimate need to know such information, (b) to exercise at least the same care in protecting the other Party's Confidential Information from disclosure as the Party uses with regard to its own Confidential Information, but in any event no less than a reasonable degree of care, and (c) not to disclose such Confidential Information to third-parties, excluding employees of an Affiliate, independent third-party auditors, potential third- party purchasers, shareholders, lenders, investors and similar parties provided that they agree in writing to comply with confidentiality requirements no less restrictive than those contained in this Section. Notwithstanding the foregoing, Receiving Party may disclose Confidential Information of Disclosing Party in accordance with a judicial or other governmental order or request or by operation of law, provided that Receiving Party, if permitted by law, will notify Disclosing Party thereof in order to allow Disclosing Party a reasonable opportunity to seek a protective order or equivalent, provided such notice is permissible.
- 13.5** Each Party shall be liable for any breach of confidentiality by itself or any of its agents, Affiliates or representatives. Receiving Party shall notify Disclosing Party immediately upon discovery of any unauthorized use or disclosure of Confidential Information or any other breach of this Agreement by Receiving Party and/or its employees, consultants or contractors, and will cooperate with Disclosing Party in every reasonable way to assist Disclosing Party to regain



possession of the Confidential Information and prevent its further unauthorized use or disclosure. Notwithstanding termination of this Agreement, the Parties' obligations under this Section shall remain in full force and effect with respect to confidential knowledge and information for a period of one (1) year after the termination date of this Agreement.

- 13.6** Neither Party shall have the right to use the other Party's or its Affiliates trademarks, service marks or trade names or to otherwise or to make a public announcement or to refer to the Agreement or any Orders without the consent of the other Party. Notwithstanding the foregoing, either Party may make an announcement concerning this Agreement or any ancillary matter if required by law or by any securities exchange or governmental body with jurisdiction over the Party.

## **14 Notices**

Formal notices under this Agreement (in particular in relation to its termination, breach, assignment or the new address for notices) must be in writing and delivered to the address of the Party set out in the first paragraph of this Agreement and such notice shall be deemed given on the date of receipt, or refusal of delivery, by the receiving Party. A Party may change the address to which future notices under this Agreement are to be delivered to such Party by giving notice to the other Party in accordance with this Section. Other notices under the Agreement (for day-to-day operational, technical or commercial purpose or with respect to past due amounts) may be delivered by electronic mail to the relevant contact person on a case by case basis, and shall be deemed received by the other Party on the business day following the sending of the electronic mail.

## **15 Assignment**

This Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective permitted successors and assigns. Neither Party shall assign or otherwise transfer this Agreement or an Order without the prior written consent of the non-assigning Party, provided, however, that, either Party may assign this Agreement or an Order or its rights and obligations thereunder to: (a) an Affiliate; (b) pursuant to any sale or transfer of all or substantially all the assets of the assigning Party; or (c) pursuant to any merger or acquisition; provided, further, however, that the assignee shall agree in writing to be bound by the terms of this Agreement and, when Customer is the assigning Party, the assignee shall have a credit profile equal to or stronger than the assigning Party as reasonably determined by Arelion. Any purported assignment without a required consent or that is not permitted by this Section 16 shall be deemed void and shall entitle the non-assigning Party to terminate this Agreement and the Services provided hereunder at its option upon ten (10) calendar days' prior written notice.

## **16 Relationship of the Parties**

- 16.1** Nothing in this Agreement will be deemed or construed to create any third-party beneficiary or any relationship of principal and agent, partnership or joint venture between the Parties. Unless otherwise specifically authorized in writing, no Party shall make any express or implied agreements, guarantees or representations, or incur any debt in the name of or on behalf of the other.
- 16.3** Customer is the service provider with respect to its end-users and Arelion is merely a supplier to Customer with no relationship to Customer's end-users. The Parties agree and acknowledge that Customer shall assume all credit risk associated with Customer's end-users and that delays or failures in obtaining such payments from end-users shall not affect or relieve Customer of its responsibility to make payments to Arelion pursuant to this Agreement.
- 16.4** Arelion may subcontract the performance of any of its obligations under this Agreement; provided, that Arelion's use of a subcontractor shall not relieve Arelion from any of its obligations under this Agreement.

## **17 General Warranties**

Each Party represents and warrants that (a) the person executing this Agreement has the right, power and authority to



execute documents and to contractually bind the executing Party; and (b) it has received all necessary permits, licenses, and approvals necessary to provide or use the Services.

## 18 Rules of Construction

- 18.1** The headings contained in this Agreement are for convenience only and are not intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof. All provisions that can be given proper effect only if they survive the termination or expiration of this Agreement will survive the termination or expiration of this Agreement.
- 18.3** Should any terms or conditions within this Agreement, any appendix, and/or any Order be in conflict with or inconsistent with one another, the documents shall be interpreted in the following order of precedence: (a) the Order, (b) the applicable Service Level Agreement, and (c) this Agreement.
- 18.4** If any one or more of the provisions of this Agreement shall for any reason be held to be invalid or unenforceable, the remaining provisions of this Agreement shall be unimpaired and shall remain in effect and be binding upon the Parties. In such event, the Parties agree to negotiate, in good faith, substitute valid provision(s) that most nearly approximate the Parties' intent.
- 18.5** No waiver of a default or breach of any provision of this Agreement or the failure or delay of the nonbreaching Party to exercise its remedies hereunder shall constitute a waiver or bar the non-breaching Party from enforcing its rights under this agreement with respect to the existing breach or any other subsequent default or breach. All provisions that can be given proper effect only if they survive the termination or expiration of this Agreement will survive the termination or expiration of this Agreement.

## 19 Governing Law and Venue

This Agreement shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by the laws of the Commonwealth of Virginia. The Parties irrevocably consent and submit to the jurisdiction in the courts of competent jurisdiction located in the Commonwealth of Virginia for all matters arising under this Agreement.

## 20 Entire Agreement

This Agreement (including any appendices, exhibits, attachments and/or schedules attached hereto) constitutes the entire Agreement between the Parties with respect to the matters set forth herein and correctly sets forth the rights, duties, and obligations of each Party to the other as of the Effective Date. The Parties agree and acknowledge that they have not relied upon any prior agreements, promises, or representations in entering into this Agreement.

## 21 Amendments

No alteration or variation of the terms of any provision of this Agreement shall be valid unless made in writing and signed by a duly authorized representative of each of Arelion and Customer.

Each Party agrees that the electronic signatures of the Parties included on this Agreement are intended to authenticate this Agreement and to have the same force and effect as manual signatures. The term "electronic signature" means any electronic symbol and/or process attached to or logically associated with a document and executed by a Party with the intent to sign such document, including facsimile, e-mail, or other electronic signatures.

This Agreement may be executed in counterparts. In confirmation of their consent and agreement to the terms and conditions contained in this Agreement and intending to be legally bound thereby, the Parties have executed this Agreement.

**Arelion U.S. Inc.**

**Customer**

# \*Arelion

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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



Alex Drea

Owner

11/21/23