

**TERMS OF SERVICE**  
**TO THE**  
**STAR2STAR SELF-SERVICE WHOLESALE AGREEMENT**  
**REVISED SEPTEMBER 2021**

These "Self-Service Wholesale Terms of Service" ("Terms of Service") provide additional terms to and are incorporated into the Star2Star Self-Service Wholesale Agreement (the "Agreement") between Star2Star and Wholesaler and should be read and understood in conjunction with that Agreement. Terms not defined in these Terms of Service shall have the meaning as ascribed to them in the Agreement, any addenda or exhibits to the Agreement, or any other Related Documents.

## **DEFINITIONS.**

These terms are used with special meanings throughout the Agreement and Related Documents. Any capitalized term not defined in the Agreement shall have the meaning ascribed to it here in this Section and throughout these Terms of Service.

1. **"Base Rate"** means the rates set in the applicable Quoting Tools for Wholesaler by Star2Star for the Products and Services. Base Rates are set based on minimum three-year Subscription Agreements and Wholesaler's "commitment level(s)" (as defined in the Agreement) on an annual basis.
2. **"Branding"** means the optional "relabeling" of the Products and Services which Wholesaler may opt for, with Wholesaler's trademarks, subject to the availability of such branding options, according to the terms set forth herein.
3. **"Certified Installer"** means an individual with such training certifications and badges to install the Products and Services.
4. **"Customer Proprietary Network Information" or "CPNI"** shall have the meaning as that term is defined in 47 USC §222(h), as amended, and generally includes the types, quantity, destination, and location of Products and Services provided to a Subscriber, and related usage and billing information for those Products and Services.
5. **"Deal"** means a Products and Services Order that Star2Star accepts. Star2Star will not accept any Deal for a new Subscriber with less than: five (5) seats, or three (3) lines, or two (2) lines, and a fax unless part of a multi-location Deal and the total aggregate line count of the multi-location Deal is no less than five (5) lines or ten (10) seats.
6. **"Location"** is the unique physical service address to which a Subscriber receives the Products and Services as described in the Quoting Tools.
7. **"Logos"** mean any one or any combination of the registered or rights-claimed trademarks, tradenames, and/or mark (s) of either Party.
8. **"Margin"** is the compensation Wholesaler adds to its Subscription Agreements from the sale of Products and Services to Subscribers. Margin is the difference between the amount charged to the Subscriber and the Base Rates within the Quoting Tools. Wholesaler is free to set amount of Margin charged to each Subscriber.
9. **"Monthly Recurring Revenue" or "MRR"** means the base revenue invoiced each month to Wholesaler's Subscriber(s). MRR is comprised of all "quoted," itemized one-time and monthly recurring charges, including one-time and monthly recurring hardware charges, bundled and line item quoted services, voice, and software applications, encompassing Star2Star's Products and Services. MRR excludes all Wholesaler added Margin, non-quoted revenue attributed to Taxes and Fees (as defined

herein), service usage, service overages (such as long-distance or toll-free in excess of total purchased minutes or bursting charges), increases to any quoted or invoice line item resulting from changes in the CPI(U) Index, any revenue not specifically attributable to Wholesaler's direct sales and Wholesaler's Resellers' sales, and any revenue not specifically stated as being included in MRR.

**10. "Products and Services"** means the communications equipment, software, and related services that the Wholesaler purchases from Star2Star at prices stated in the Quoting Tools and is authorized to offer for sale to Subscribers by the terms set forth herein.

**10.1** Products and Services Base Rates listed in the Quoting Tools are subject to change from time to time. Professional installation, configuration, training, porting, or project management (collectively, the "Star2Star Services") do not have Base Rates and will be calculated as part of the Quoting Tools if selected.

**10.2** Star2Star may modify, amend, supplement, delete, or cancel any of the Products and Services, including the prices and terms of such offerings, at any time, at its sole and absolute discretion. Star2Star agrees that any price increase for the Products and Services shall be effective on a go-forward basis only and shall not apply to currently invoiced Products and Services.

**10.3** Notwithstanding the foregoing, Star2Star shall have the right to modify or change the Base Rates to recover any amounts it is required by governmental or quasi-governmental authorities to collect from or pay to others in support of new laws or other similar quasi-governmental orders that are binding on Star2Star ("Governmental Charges"). Such Governmental Charges will be pass-through charges to Wholesaler and not marked up by Star2Star.

**11. "Quoting Tools"** are the special electronic ordering tools that generate the necessary documents to place orders for the Products and Services.

**12. "Subscriber" or "Customer"** means a person or entity who is a party to a Subscription Agreement.

**13. "Subscription Agreement" or "Subscriber Agreement"** is the legal contract for the Products and Services between Wholesaler and a Subscriber that is obtained through the direct efforts of Wholesaler.

**14. "Subscriber Disclosures"** are all of the disclosures regarding the Products and Services which Wholesale is required to make to Subscribers, which Star2Star shall establish in writing from time to time, including without limitation, all disclosures, disclaimers, warnings, and advisories relating to 911 and/or E-911 service, and Star2Star's "Fair and Reasonable Use Policy" substantially similar to those found at Star2Star's Subscriber Terms and Conditions page located at [www.star2star.com/terms-and-conditions](http://www.star2star.com/terms-and-conditions), or a version that has been pre-approved in writing by Star2Star. Star2Star may, upon thirty (30) days prior written notice to Wholesaler, modify, amend, supplement, or delete Subscriber Disclosures in its sole and absolute discretion.

**15. "Taxes and Fees"** include all federal, state, local and jurisdictional taxes, fees, surcharges, and other regulatory, compliance and/or cost recovery fees, mandated or non-mandated, and an e911 service fee applicable to the Products and Services, and all other products or services provided by Star2Star. Taxes and Fees are subject to change without notice.

**16. "Territory"** means the United States of America and Canada, including all US and Canadian territories and possessions, subject to service availability and governmental regulations, all on a non-exclusive basis. Wholesaler acknowledges that Star2Star may redefine or limit the Territory, including making certain portions of the original Territory exclusive to a third party, at any time and from time-to-time during the Term upon thirty (30) days advance written notice. Unless required by law, rule, or regulation, any change to the Territory shall not apply to any of Wholesaler's current Subscribers obtained before the date Wholesaler received notice of the change in Territory by Star2Star.

## **BRANDING.**

**1. Private Label of Products and Services.** Wholesaler, at its option, may choose to brand the Products and Services with their trademarks, subject to the availability of such branding options on and in the Products and Services. Wholesaler shall have the right to private label the Products and Services with its branding and trade dress so long as no action is taken that would weaken, confuse, disparage or void Star2Star's Logos. Star2Star shall provide Wholesaler with a list of software components that can be privately labeled and agrees to private label such software components by Wholesaler's specific commercially reasonable directions. Star2Star reserves the right to reject the content of any private label at its reasonable discretion. Some system prompts cannot currently be privately labeled and will refer to Star2Star. All private-labeled Products and Services shall bear a non-conspicuous statement declaring Wholesaler's private label product/service offering as "Powered by Star2Star." Any cost associated with private labeling shall be mutually agreed upon between the Parties.

**2. Marketing Materials.** Star2Star shall supply Wholesaler with original electronic copies of marketing materials and textual training materials in a form such that Wholesaler may conveniently private label references to the Products and Services. No other changes shall be made to such marketing materials without Star2Star's advance written consent. All rebranded materials shall bear a non-conspicuous statement declaring Wholesaler's relabeled products/services as "Powered by Star2Star." Concerning pre-existing video-based training materials, Wholesaler shall produce a video introduction (reasonably acceptable to Star2Star) characterizing Star2Star as a technology powering Wholesaler's Products and Services. Star2Star shall integrate this video introduction into existing video training materials for use by Wholesaler.

## **TRADEMARKS AND PROPRIETARY NOTICES; LOGOS.**

**1.** During the Term of the Agreement, Wholesaler shall be authorized to distribute material containing the trademarks, trade names, logos, and designations ("Logos") used by Star2Star, provided, however, that all such materials (1) are either provided by Star2Star; (2) approved in writing by Star2Star; and (3) must be used by Wholesaler solely in connection with the promotion of the Products and Services. All Logos or other intellectual property provided by Star2Star shall remain the property of Star2Star exclusively. Wholesaler shall not remove or destroy any copyright notices, trademarks, or other proprietary markings on the software, documentation, or other materials related to the Products and Services.

**2.** Wholesaler shall not independently create or distribute any promotional or advertising material containing Star2Star's Logos without Star2Star's prior written consent, which may be withheld or conditioned. Wholesaler shall not use any Star2Star copyrighted materials or Logos on its website without Star2Star's prior written consent, which may be withheld or conditioned. Finally, the Wholesaler will not engage in any Internet-based mass marketing for the Products and Services including, but not limited to, spamming or any other form of mass marketing or advertising using the Internet; provided, however, that Wholesaler shall be permitted to engage in targeted email campaigns and web page advertisements approved in advance by Star2Star as part of its marketing efforts provided that it otherwise complies with this Section.

## **ORDER MANAGEMENT.**

**1. Payment Before Processing.** Unless credit terms have already been extended, Star2Star requires payment of the following before order processing:

- a.** Hardware and other non-recurring charges at the Base Rates outlined in the Quoting Tools; and
- b.** "Partner Services," if Wholesaler elects, and Star2Star agrees, to provide these services.

**3. Shipping Charges.** The Quoting Tools include a shipping charge for all orders. Should additional shipping charges be incurred, they will be invoiced (to Wholesaler, as appropriate) as soon as they are known.

**4. Equipment Replacement Coverage.** Replacement coverage is an optional part of the Star2Star Products and Services, providing second-Business Day hardware replacement. The Quoting Tools list which hardware components are covered (i.e., when purchased) and provide the fees for "Covered Components." Fees are invoiced monthly for the Subscriber Term when opted-into by Wholesaler. Upon reasonable determination by Star2Star technical staff of a hardware defect or failure, Star2Star shall (at Wholesaler's expense if Subscriber opted-out of maintenance), test, configure, provision, and ship (including return shipment), plug and play replacement Covered Components for second-Business Day delivery (limited to stock ordinarily maintained at levels adequate to satisfy these requests and notification of request received by Star2Star at its Sarasota headquarters no later than 10:00 A.M. ET).

**5. Invoicing for Replacement Equipment.** All replacement equipment, which are not Covered Components, will be invoiced to Wholesaler when shipped.

**6. Progress Reports.** Wholesaler can track the progress of orders via DealTrack or can contact Star2Star's Order Management Department for updates on orders before final acceptance. Wholesaler can also contact their Star2Star representative for updates on order processing and provisioning.

## **INVENTORY.**

**1.** Star2Star recommends Wholesaler maintain an equipment inventory ("Spares Inventory") based on the size of their installed base with an absolute minimum of always having at least one replacement part for each type of component sold and installed for a Subscriber. Star2Star will ship (second-Business Day) orders for covered replacement hardware received in our Sarasota headquarters by 10:00 A.M. ET.

**2.** Star2Star reviews its available hardware inventory only once a complete order is received and preorders additional inventory as necessary to fulfill orders. Larger orders (more than 100 locations or more than 250 components) usually require longer lead times and firm purchase orders from Wholesaler to provide proper inventory planning. Order processing will not begin until all necessary documents and information (electronic Quoting Tools, porting information, LOA/SNA details - if required, etc.) are entered into the DealTrack portal by Wholesaler, and the order has been funded.

**3.** Except for larger orders, Star2Star requires a 7-day window to ship traditional orders (not deliver) from the time order processing has commenced. "Add-on" or smaller, secondary orders require a 5-day window to ship but can be expedited to second-Business Day shipment if Star2Star receives all required documents before 10:00 A.M. ET in our Sarasota headquarters. Expedited order processing is available for an additional fee based on a sliding scale. If additional Taxes and Fees or other charges are incurred, they will be billed to the Wholesaler. Wholesaler can contact their Star2Star representative for more information

## **INSTALLATION AND CONFIGURATION.**

**1.** Wholesaler shall be responsible for arranging the installation, configuration, training, and porting management for the Products and Services in one of four (4) ways:

**a.** Contracting with a third-party Star2Star Certified Installer to perform the installation, configuration, training, and porting management;

**b.** Selecting Star2Star Partner Services to perform the Star2Star Services, if available through the Quoting Tools;

**c.** Wholesaler who has Star2Star Certified Installers on staff may perform the installation, configuration, training, and porting management; or

**d.** The Subscriber can complete the installation, where there are applicable remote installation instructions and requirements, if available through the Quoting Tools.

**2.** When Star2Star is selected for installation, the Quoting Tools will compute an installation fee covering installation, configuration, training, provisioning, and porting-related costs applicable to that Deal. Star2Star's designated Certified Installer will be responsible for the physical installation of the

Products and Services at the identified Subscriber location(s). Wholesaler will also be responsible for project managing the installation with the Subscriber, including but not limited to setting the schedule and resolving any installation issues (which may result in a charge to Wholesaler of additional fees to cover additional items and/or costs that were not included in the Quoting Tools). Star2Star shall also be responsible for any follow-up during the first thirty (30) calendar days after the Enabled and Available for Use date for each location Star2Star installs.

3. When Wholesaler has a Certified Installer on staff and chooses to perform a location installation or hires a third-party Certified Installer to do so, Wholesaler will be responsible for the physical installation of the Products and Services at the identified location(s), configuration, training, and porting-related costs applicable to that location.

## **SUBSCRIBER DISCLOSURES.**

1. Wholesaler is required to provide such disclosures to Subscribers that Star2Star would provide to Subscribers if there were a direct relationship between Star2Star and Subscriber. Star2Star keeps its required disclosures current in *Star2Star's Subscriber Terms and Conditions* found at [www.star2star.com/terms-and-conditions](http://www.star2star.com/terms-and-conditions).

2. At a minimum, Wholesaler must make the disclosures with the following Section titles to its Subscribers, with the same or substantially similar content and formatting as found in the current version of Star2Star's Subscriber Terms and Conditions found at [www.star2star.com/terms-and-conditions](http://www.star2star.com/terms-and-conditions): :

- **STAR2STAR 911 EMERGENCY SERVICE**
- **911-TYPE DIALING CAPABILITIES WITH STAR2STAR SERVICES**
- **FAILURE TO DESIGNATE THE CORRECT PHYSICAL STREET ADDRESS**
- **AUTOMATED NUMBER & LOCATION IDENTIFICATION**
- **POWER FAILURE, OUTAGES, OR DISRUPTIONS OF SERVICE**
- **POSSIBILITY OF NETWORK CONGESTION AND/OR REDUCED SPEED FOR ROUTING OR ANSWERING 911**
- **ALTERNATIVE 911 ARRANGEMENTS.**
- **REASONABLE AND FAIR USE POLICY(IES)**

## **TAXES, FEES, AND OTHER REGULATORY CHARGES.**

1. **Tax Compliance.** Wholesaler is properly registered with each taxing authority for which it is required to be registered. Wholesaler agrees to provide Star2Star with current and valid copies of its Tax Registrations and Certifications annually. Wholesaler has and will continue to timely file all returns and reports and timely pay all tax and charges required by each jurisdiction in which it is registered. Wholesaler will properly register and file in each additional jurisdiction it operates in during the Term. Upon request of Star2Star, Wholesaler shall make available to Star2Star for inspection such registrations, certifications, and/or returns as Star2Star may request, but no more frequently than one time per the calendar year per tax type and jurisdiction.

2. **Regulatory Compliance.** Wholesaler is properly registered with all regulatory bodies with which it is required to be registered as a provider of interconnected VoIP services and has and will continue to timely file all financial and non-financial reports required by any such regulatory body during the Term. Wholesaler will properly register and file in each additional jurisdiction it enters during the Term. Upon request of Star2Star, Wholesaler shall make available to Star2Star for inspection such registrations and/or reports as Star2Star may request, but no more frequently than one time per the calendar year per filing and regulatory body.

3. **Certification.** Within ten (10) days of a written request from Star2Star, Wholesaler shall provide Star2Star with a current affidavit on a form reasonably acceptable to Star2Star, certifying to a list of its Subscribers that have signed Subscriber Agreements. The affidavit shall also provide sufficient details regarding the Subscriber as may reasonably be requested by Star2Star.



Sys	A/R Number	Customer Name	City	St	Zip	Phone No.	Account Status	Activation Date	Contract Term
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## **MARGIN; INVOICING AND PAYMENT.**

**1. Margin.** Wholesaler determines the compensation that Wholesaler adds to its Subscription Agreements from the sale of Products and Services to Subscribers. Margin is the difference between the amount charged to the Subscriber and the Base Rates within the Quoting Tools. Wholesaler is free to set amount of Margin charged to each Subscriber.

**2. Invoices.** Star2Star shall invoice Wholesaler, in electronic format, via such delivery means in the normal course of Star2Star business to such address as is specified by Wholesaler in writing from time to time. Star2Star will provide an aggregate invoice for all amounts invoiced, together with separate detail for each Subscriber. Star2Star will determine the format of the invoice and each invoice and include such other information as may be determined by Star2Star from time to time.

**2.1 Hardware.** Hardware and equipment sales are invoiced upon the presentation of an order by Wholesaler.

**2.2 Standard Recurring Services.** Recurring Service charges are invoiced monthly in advance beginning on the date the Products and Services are Enabled and Available for Use or otherwise activated or "turned on." For the first invoice only, the remaining portion of the calendar month in which the Products and Services are installed is included in the next month of Recurring Services charges.

**2.3 Monthly Hardware or "All-Inclusive" (Combined Products and Services).** If available to Wholesaler through the Quoting Tools, the Monthly Hardware or All-Inclusive pricing option combines many of the Star2Star Products and Services into a single line item. As such, Monthly Hardware or All-Inclusive is invoiced monthly in advance beginning on the date the Products and Services are Enabled and Available for Use for the lifetime of a Subscriber Agreement, including renewals, but in no event will Wholesaler be invoiced less than five (5) consecutive years for all purchases of Monthly Hardware or All-Inclusive.

**2.4 Usage.** Usage charges are invoiced monthly in arrears. Usage charges can include incoming toll-free call usage in excess of the number of pre-purchased toll-free minutes, minutes of international calling, directory assistance calls, a Subscriber's "StarFax Personal" usage in excess of 100 pages per month per StarFax Personal License, domestic Long Distance usage in excess of the number of included and pre-purchased domestic Long Distance minutes, remote extension activation, if applicable, Conference minutes in excess of the number of included and pre-purchased Conference minutes, Line-Burst charges, or any support charges, all at the then-current rates.

**2.5 Taxes and Fees.** All rates and charges outlined in the Agreement are exclusive of taxes, fees, and other imposed charges that may apply and/or be required to be collected and remitted per applicable law or regulation. Star2Star may include all required taxes, fees, and charges on each invoice, except those for which Wholesaler has provided a current exemption certificate to Star2Star. Wholesaler shall be solely responsible for collecting and remittance of all applicable taxes, fees, and charges imposed in any jurisdiction on or incident to the provision, sale, resale, or use of the Product and Service Offerings by Wholesaler. The taxes, fees, and charges include but are not limited to value-added, consumption, sales, use, gross receipts, communication services, Universal Service, 911, excise, access, bypass, franchise or other taxes, fees, duties, charges, or surcharges of any nature whatsoever, now imposed or hereafter imposed. Wholesaler agrees to provide Star2Star with valid exemption certificates and/or resale certificates (and all renewals) for all jurisdictions in which it is subject to tax related to the resale of the Products and Services. Wholesaler further acknowledges that there have been many changes in the tax laws regarding

telecom services at all levels of government and agrees that it will timely comply in all material respects with all such laws in all jurisdictions that apply. Wholesaler agrees to provide Star2Star with written documentation required by Star2Star or any authority that may impose or enforce telecom or other taxes and/or charges related to the sale or resale of the Product and Service Offerings. Wholesaler agrees that if Star2Star does not receive this documentation in a timely manner or the documentation expires without being replaced with current documentation, that taxes and/or fees payable to tax authorities may be applied directly by Star2Star and/or its upstream carriers as required by law or the services may be suspended or discontinued, in Star2Star's sole discretion.

**3. Payment.** Star2Star shall receive amounts payable and due hereunder within thirty (30) days of Wholesaler's receipt of Star2Star's invoice, except that Wholesaler may withhold from any payment any charge or amount disputed in good faith by Wholesaler pending resolution of such dispute. Pending the resolution of such a payment dispute, Star2Star shall continue performing its obligations by the Agreement. Any undisputed invoice unpaid thirty (30) days after receipt will be charged a 1.5% (18% annually) monthly late fee on the unpaid amount beginning on the first day of delinquency until paid.

**3.1** All payments hereunder shall be in US dollars and made by check or ACH transfer. Payments shall be made to the address or account specified on the invoice or such other address or account as is specified by Star2Star in writing from time to time, provided that Star2Star shall give Wholesaler at least ten (10) days prior notice of any account, address or other change in payment instructions. Wholesaler will not be liable for any late or misdirected payment caused by Star2Star's failure to provide timely notice of any such change.

**3.2** If Wholesaler fails to make payments when due of undisputed amounts and Star2Star incurs any costs to collect overdue sums from Wholesaler, Wholesaler agrees that all such reasonable and documented costs shall immediately become due and payable to Star2Star.

**3.3** If Wholesaler objects in good faith to any portion of an invoice, Wholesaler shall notify Star2Star in writing within twenty-one (21) days of the receipt of Star2Star's invoice. Wholesaler shall identify in writing the specific cause of the amount in dispute and shall pay the portion of the invoice not in dispute by other payment terms herein stated. Failure by Wholesaler to notify Star2Star within this period will constitute acceptance and approval of the full invoice by Wholesaler, and Wholesaler agrees to pay the full invoice amount by these payment terms. Upon resolving the amount in dispute, Wholesaler will pay Star2Star any amount due within three (3) business days.

## **MOVING PRODUCTS AND SERVICES; ADOPTION AND RE-BILL FEES.**

Wholesaler purchases Products and Services in the aggregate from Star2Star for a term of no less than three (3) years, except for "Monthly Hardware" and/or "All-Inclusive Products and Services, which are purchased for a term of no less than five (5) years, regardless of how those Products and Services are allocated amongst Wholesaler's Subscribers and regardless of use. At any time during those periods, Wholesaler has the option to move purchased Products and Services amongst its Subscribers. Adoption fees ("Adoption Fee") will apply for the moving hardware and/or equipment at Star2Star's then-prevailing adoption fee rates. To move Products and Services, Wholesaler must provide Star2Star with all necessary information required by Star2Star (such as, for example, new location information, newly built portal locations, new billing contact, etc.) to redistribute the Products and Services at least five (5) calendar days before the date on which Star2Star issues Wholesaler's monthly invoice. Star2Star reserves the right to charge Wholesaler a fee ("Re-Bill Fee") for five hundred dollars (\$500.00) per instance (i.e., per move). The Adoption Fee and the Re-Bill Fee will be invoiced to Wholesaler in Wholesaler's next billing period following the reallocation.

## **PREVIOUSLY DEPLOYED EQUIPMENT.**

Star2Star does not permit the resale or reuse of Star2Star Hardware to another Subscriber without Star2Star approval and may be subject to Adoption Fees (defined herein). Software licenses associated with Star2Star Hardware and/or Components are not transferable without Star2Star's written authorization. Wholesaler shall not knowingly purchase or reuse previously deployed Star2Star Hardware. Star2Star RESERVES the right to refuse to provide service to any Hardware or Components it determines are being reused in violation of this policy. This provision is material to Star2Star.

## **DEMO PHONE SYSTEM.**

A Demo Phone Kit is optional for Wholesaler. Please contact Wholesaler's Star2Star Representative for details. Demo hardware kits are tracked and may not be used as commercial phone systems for Wholesaler or others.

## **WHOLESALE'S RESELLERS.**

**1. Wholesaler's Obligations.** At Wholesaler's option, Wholesaler may authorize entities to resell the Products and Services on behalf of Wholesaler ("Resellers"). According to the terms agreed to between Wholesaler and Resellers, such authorization shall be by agreement between Wholesaler and Resellers.

**1.1** Wholesaler shall (1) (a) comply with; and (b) cause all of its entities authorized to resell the Products and Services on behalf of Wholesaler ("Resellers") to comply with all of Star2Star's written policies and procedures, terms, and conditions of service, and other directives relating to the Products and Services (including, to the extent applicable, these Terms of Service, all as in effect from time to time during the Term of the Agreement; and (2) (a) offer; and (b) cause its Resellers to offer, the Products and Services on substantially the same terms (other than pricing terms) as those contained in the then-current version of the Subscriber Agreement. Concerning Products and Services ordering and provisioning processes, Wholesaler shall comply and shall cause its Resellers to comply with the commercially reasonable written protocols established by Star2Star from time to time hereunder.

**1.2 Standards of Conduct.** Wholesaler shall (1) (a) conduct and (b) cause its Resellers to conduct all business in an honest and forthright manner intended to reflect favorably at all times on the Products and Services and Star2Star's brand, goodwill, and reputation; (2) refrain, and cause its Resellers to refrain, from all deceptive, misleading or unethical practices concerning Subscribers and Star2Star; (3) describe, and cause its Resellers to describe, the Products and Services accurately in all material respects; and (4) ensure that all representations made to Subscribers by Wholesaler and/or its Resellers are true, complete and correct and entirely consistent with the information provided in Star2Star's written technical or sales materials.

**2. Star2Star's Obligations.** Star2Star shall use commercially reasonable efforts as defined in the Agreement (1) to process orders for the Products and Services obtained by or through Reseller; (2) to comply with all federal, state, or local laws, rules, and regulations applicable to its performance under the Agreement; and (3) to perform its obligations under the Agreement in a professional manner as it relates to interactions with Resellers. Star2Star further represents and warrants that Star2Star shall not solicit and/or attempt to pursue contractual agreements with Resellers without the prior written permission of Wholesaler.

## **NATIONAL ACCOUNTS.**

Star2Star and its resellers will, from time to time, service large national accounts. Star2Star's goal in connection with its national accounts is to provide the best possible account management and attain the highest possible satisfaction levels for each such account. Wholesaler's having a location or group of locations will not automatically give it exclusivity for the national account for that Subscriber. National account designations will be made independently by Star2Star, and Wholesaler must apply for this designation. For more information on national account applications, please contact [marketing@star2star.com](mailto:marketing@star2star.com).



## **GOVERNMENT CONTRACTS.**

Star2Star has its Products and Services listed with various state and federal contract solicitations. All government contracts will be negotiated individually and have terms, conditions, discounts, and pricing that vary from Star2Star's standard Quoting Tools pricing. All Margin resulting from a government contract will be based on the unique terms and conditions of such government contracts and will be independently negotiated between Wholesaler and Star2Star at the appropriate time.

## **INSURANCE REQUIREMENTS.**

1. Star2Star agrees to maintain in force during the Term insurance coverage in the categories and policy limits set forth herein and provide Wholesaler certificate(s) evidencing all such coverages:

<b><u>Insurance Category</u></b>	<b><u>Policy Minimums</u></b>
General Liability- Including Contractual Liability and Completed Operations	\$2,000,000 Each Occurrence \$5,000,000 Aggregate (can include Umbrella Liability)
Automobile Liability- Including Hired and Non-owned Vehicles	\$2,000,000 Combined Single Limit for Bodily Injury and Property Damage (can include Umbrella Liability)
Workers' Compensation	As required by each state in which Star2Star operates.
Employers Liability	\$1,000,000 Each Accident \$1,000,000 Each Employee- Disease \$1,000,000 Policy Limit- Disease
Primary Commercial Blanket Bond	\$100,000 Each Employee
Umbrella Liability	\$10,000,000 Each Occurrence \$10,000,000 Aggregate
Professional Liability/ Errors & Omissions Coverage (Including coverage for Copyright, Trademark, Privacy, and Associated Intellectual Property Risk)	\$2,000,000 Each Occurrence
Privacy & Network Liability (Including Data Breach Fund and Regulatory Proceedings)	\$10,000,000 Per Claim \$10,000,000 Annual Aggregate \$1,000,000 Data Breach Fund \$5,000,000 Regulatory Proceeding

2. Furthermore, Star2Star agrees as follows:

**2.1** All insurance policies required to be maintained under Section 1 shall be procured from insurance companies rated at least A-VII or better by the then-current edition of Best's Insurance Reports published by A.M. Best Co. or such other publication of Star2Star's choosing if this publication becomes no longer available.

**2.2** Such above insurance shall not be canceled, the coverage hereunder reduced, or the policies materially changed.

**2.3** Within seven (7) days of the Agreement's Effective Date, Star2Star shall provide Wholesaler with Certificates of Insurance (Accord Forms) evidencing the insurance required to be maintained under Section 1. The Certificates of Insurance shall evidence thirty (30) days' written notice of cancellation or non-renewal in coverage.

**2.4** All insurance coverage required to be maintained under Section 1 shall be on an occurrence basis. The only exception is if the claims-made coverage provides a three (3)-year period of "tail coverage" on any expiring/canceled claims-made insurance policy. In no event will Wholesaler be required to accept self-insurance.

**2.5** All insurance required to be maintained under Section 1 shall be primary and noncontributory to any insurance maintained by Star2Star's subcontractors, Wholesaler, or Wholesaler's Subscribers.

**3.** Wholesaler agrees to obtain and maintain in force during the Term insurance coverage in the categories and policy limits set forth herein and provides Star2Star the certificate(s) evidencing all such coverages and the designation of Star2Star as an additional insured and as a loss payee thereunder:

<u><b>Insurance Category</b></u>	<u><b>Policy Minimums</b></u>
General Liability- Including Contractual Liability and Completed Operations	\$2,000,000 Each Occurrence \$5,000,000 Aggregate (can include Umbrella Liability)
Automobile Liability- Including Hired and Non-owned Vehicles	\$2,000,000 Combined Single Limit for Bodily Injury and Property Damage (can include Umbrella Liability)
Workers' Compensation	As required by each state in which Wholesaler offers Products and Services.
Employers Liability	\$1,000,000 Each Accident \$1,000,000 Each Employee- Disease \$1,000,000 Policy Limit- Disease
Primary Commercial Blanket Bond	\$100,000 Each Employee
Umbrella Liability	\$10,000,000 Each Occurrence \$10,000,000 Aggregate

**4.** Furthermore, Wholesaler agrees as follows:

**4.1** All insurance policies required to be maintained under Section 3 shall be procured from insurance companies rated at least A-VII or better by the then-current edition of Best's Insurance Reports published by A.M. Best Co. or such other publication of Star2Star's choosing if this publication becomes no longer available.

**4.2** Such above insurance shall not be canceled, the coverage hereunder reduced, or the policies materially changed.

**4.3** Within seven (7) days of the Effective Date, Wholesaler shall provide Star2Star with Certificates of Insurance (Accord Forms) evidencing the insurance required to be maintained under Section 3. The Certificates of Insurance shall evidence thirty (30) days' written notice of cancellation or non-renewal in coverage.

**4.4** All insurance coverage required to be maintained under Section 3 shall be on an occurrence basis. The only exception is if the claims-made coverage provides a three (3)-year period of "tail coverage" on any expiring/canceled claims-made insurance policy. In no event will Star2Star be required to accept self-insurance.

**4.5** All insurance required to be maintained under this Section shall be primary and noncontributory to any insurance maintained by Star2Star.

## **INDEMNIFICATION.**

**1. Star2Star Indemnification.** Wholesaler shall indemnify, defend and hold Star2Star and its employees, members, officers, directors, representatives, and agents (collectively, "Star2Star Indemnitees") harmless from and against any and all assessments, claims, losses, damages, judgments, fines, or liabilities, including reasonable legal fees or other expenses (collectively, "Losses") arising out of any third-party claim, action, suit or judgment (each, a "Claim") asserted against any Star2Star Indemnitee, including:

**a.** Any Claim for damages which may arise out of or be caused by any act or omission of Wholesaler or any of its employees, officers, directors, representatives, and agents including, but not limited to, those Claims made by agents and employees of either Party hereto (including payment under any workers' compensation law or any plan for employee disability and death benefits);

**b.** Any Claim by any Subscriber, or third-party arising out of the use or access to the Products and Services, including, but not limited to Claims involving 911 and 911;

**c.** Any Claim by any Subscriber or third-party alleging misrepresentation of the Products and Services by Wholesaler;

**d.** Any Claim by any Subscriber, or third-party arising out of a breach of the Agreement or a violation of law or order, by Wholesaler or any of its employees, officers, directors, representatives, and agents; or

**e.** Any Claim by any taxing authority, a government body, or quasi-government body that any required tax, fee, charge, duty, surcharge, or similar cost of any nature whatsoever required to be collected and/or remitted by Wholesaler was not collected and/or remitted, including all principal, interest, and penalty.

**2. Wholesaler Indemnification.** Star2Star shall indemnify, defend and hold Wholesaler and its employees, members, officers, directors, representatives, and agents (collectively, "Wholesaler Indemnitees") harmless from and against all Losses arising out of any Claim asserted against any Wholesaler Indemnitee arising out of any Claim for damages to tangible property, intangible property, or bodily injury to or death of any person, including, but not limited to, Subscribers and employees of Wholesaler (including payment under any workers' compensation law or any plan for employee disability and death benefits) which may arise out of or be caused by the gross negligence or intentional act or omission of Star2Star or any of its employees, members, officers, directors.

**3.** If it is judicially determined that Star2Star has infringed any third party's copyright or patent rights arising under the laws of the United States, Star2Star will, at its expense, either (1) procure for Wholesaler the right to continue the use of the infringing services, products, equipment or any component thereof; or (2) replace or modify such infringing services, products, equipment or any component thereof, with non-infringing services, products, equipment or component that are reasonably satisfactory to Wholesaler. Star2Star shall have no obligations under this Section concerning a Claim to the extent arising out of:

**a.** Any materials provided by Wholesaler to Star2Star;

**b.** Any modifications or changes made to the Products and Services by any party other than Star2Star; or

**c.** Use of the Products and Services in combination with any other service(s), product(s), or software not provided by Star2Star.

**4.** Each Party is solely responsible for the collection and remittance of all applicable Taxes and Fees in connection with the consumption, sale, or resale of the Products and Services by that Party ("Obligor")

and shall defend, indemnify, and hold harmless the other Party for such Taxes and Fees. To the fullest extent permitted by law, as of the date that an obligation to indemnify for Taxes and Fees arises, the Obligor shall defend, indemnify, hold harmless, pay and reimburse the other Party ("Obligee") against any Losses relating to any obligation or duty on the part of the Obligor to collect and/or remit Taxes and Fees in connection with the consumption, sale or resale of the Products and Services by the Obligee. The foregoing Taxes and Fees indemnification obligation shall include expenses incurred in investigating or defending against such Losses and any amounts expended in settlement of any Losses to which the Obligee may become subject as a result of any obligation or duty on the part of the Obligor to collect and/or remit Taxes and Fees in connection with the consumption, sale or resale of the Products and Services by the Obligor.

5. Each Party is also solely responsible for collection and remittance of any Taxes and Fees imposed on that Party that is based upon that Party's revenue, income, net income, net assets, net worth or capital or any Tax imposed in lieu thereof, and for the remittance of all contributions or taxes for unemployment insurance, social security payments or other assessments for those persons employed by that Party.

6. If any Claim arises to which the provisions of this Section may be applicable, the Party that claims entitlement to indemnification (the "Indemnatee") shall, immediately upon learning of such Claim, notify the other Party (the "Indemnitor"). The Indemnitor may settle or compromise such Claim (provided that such settlement or compromise does not require the Indemnatee to admit liability, pay money or suffer an impairment of rights) or retain counsel and control and prosecute the defense. In no event shall the Indemnatee have the right to pay, settle or otherwise compromise such Claim without the prior written consent of the Indemnitor unless the Indemnitor has received notice of the Claim and has failed to timely provide a defense through competent counsel experienced in the matters concerning the Claim.

7. If any Claim arises to which the provisions of this Section may be applicable, then each Party agrees that it will provide the other all reasonable aid and cooperation in the conduct of the investigation, defense, and/or settlement of such Claim as regards to potential liability to any third party. In this regard, the Indemnatee shall make available to the Indemnitor or its representatives all persons, records, and other materials required by them and in the possession or under the control of the Indemnatee, for the use of the Indemnitor and its representatives in defending any such Claim, and shall in other respects give reasonable cooperation in such defense. All such materials provided will remain the property of the Indemnitor and will be subject to the protections of the *Mutual Nondisclosure and Confidentiality Agreement* between the Parties.

8. The indemnification provisions in this Section shall survive the expiration, cancellation, breach, or termination of the Agreement.

## **DISCLAIMER OF WARRANTIES.**

STAR2STAR MAKES NO WARRANTIES NOR PROVIDES ANY REPRESENTATIONS AS TO THE PRODUCTS AND SERVICES. THE PRODUCTS AND SERVICES ARE PROVIDED WITHOUT ANY REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE OR USE, EVEN IF SUCH PURPOSE OR USE WAS KNOWN OR WAS MADE KNOWN. STAR2STAR SPECIFICALLY DISCLAIMS ANY LIABILITY FOR INTERRUPTIONS AFFECTING THE PRODUCTS AND SERVICES THAT ARE ATTRIBUTABLE TO EQUIPMENT FAILURES OR TO WHOLESALER'S BREACH OF THE AGREEMENT.

## **LIMITATION OF LIABILITY.**

1. **No Consequential or Indirect Damages.** EXCEPT AS PROVIDED BELOW IN THIS SECTION, IN NO EVENT SHALL EITHER PARTY OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, MEMBERS, OR OWNERS BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES OR ANY DAMAGES RESULTING FROM LOSS OF (1) USE, (2) DATA, (3) REVENUE OR (4) PROFIT, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR

OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**2. Maximum Liability.** IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID BY WHOLESALER FOR THE PRODUCTS AND SERVICES UNDER THE AGREEMENT. THE FOREGOING LIMITATIONS SHALL APPLY EVEN IF A PARTY'S REMEDIES UNDER THE AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE.

**3. Tax Liability.** NEITHER PARTY SHALL BE RESPONSIBLE TO ANY TAXING AUTHORITY FOR ANY OF THE OTHER PARTY'S TAX LIABILITY UNDER ANY CIRCUMSTANCES. NEITHER PARTY SHALL BE LIABLE FOR ANY PENALTIES AND/OR INTEREST INCURRED BY THE OTHER PARTY AS A RESULT OF THE PARTY'S FAILURE TO TIMELY FILE ANY TAX RETURN AND/OR REMIT ANY TAX DUE.

**4. Exceptions.** THE LIMITATIONS AND EXCLUSIONS OUTLINED IN THIS SECTION SHALL NOT APPLY TO:

- a. A breach of the *Mutual Non-Disclosure and Confidentiality Agreement*;
- b. Amounts owed to Star2Star by Wholesaler for Products and Services provided under the Agreement;
- c. The Adoption and Re-Bill Fees;
- d. Star2Star's or Wholesaler's indemnification obligations;
- e. The grossly negligent acts or omissions or willful misconduct of either Party in performing its obligations under the Agreement; or
- f. A Party's obligation to pay attorneys' fees and court costs.

## **ASSIGNMENT.**

**1.** Neither Party shall assign, delegate or transfer the Agreement or any of its rights or duties hereunder, in whole or in part, without the other Party's prior written consent, such consent not to be unreasonably withheld, delayed, or conditioned. Provided, however, either Party shall be entitled to assign its rights and obligations hereunder to any subsidiary or affiliate or in connection with a merger or other business combination or connection with the voluntary sale or transfer of all or substantially all of its assets or equity ownership. Any permitted assignment shall not relieve the assigning Party of its obligations under the *Mutual Non-Disclosure and Confidentiality Agreement*. Any attempted assignment in violation of this provision shall be null and void. The Agreement is binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

**2.** If a Party is required to obtain consent to a proposed assignment, that Party shall provide a minimum of twenty-one (21) days written notice to the other Party. Such notice shall contain, at a minimum, the facts and circumstances surrounding the proposed assignment, the anticipated effective date of the proposed assignment, reasonable information concerning the intended assignee, and a reference to this provision. The non-assigning Party shall have the right to request additional information about the assignee before providing or withholding consent.

## **GOVERNING LAW.**

**1.** The Agreement shall be governed by the internal laws of the State of Florida (without regard to conflict of laws or similar concepts). Each Party hereby irrevocably:

- a. Submits to the exclusive jurisdiction of the Twelfth Judicial Circuit in and for Sarasota County, Florida, or the United States District Court for the Middle District of Florida, Tampa Division, in any action or proceeding arising out of, or relating to, the Agreement, the relations between the parties to the Agreement, and any matter, action or transaction described in the Agreement, whether in contract, tort or otherwise;
- b. Agrees that such courts shall have exclusive jurisdiction over such actions or proceedings; and



versa. The words "hereunder," "hereof," "hereto," and words of similar import will be deemed references to the Agreement as a whole and not to any particular Section or other provision hereof or any exhibit attached hereto. When used in the Agreement, the word "including" (and with the correlative meaning "include" and "includes") means including without limiting the generality of any list or description following such term and will be deemed to be followed by the words "without limitation."

### **DOCUMENT CONSTRUCTION; PRECEDENCE.**

The Agreement has been negotiated at arm's length. Any rule of law or legal decision that requires interpretation of ambiguities against the drafting party is not applicable and is hereby waived. The provisions of the Agreement shall be interpreted in a commercially reasonable manner to effect the purpose of the Parties to the Agreement. In the event of any inconsistent or conflicting term, the order of precedence shall be these Self-Service Wholesale Terms of Service, the Agreement, any addenda and/or exhibits subsequently added to the Agreement, and the *Mutual Non-Disclosure, and Confidentiality Agreement*.

### **DISPUTE RESOLUTION.**

Except for matters involving immediate equitable relief, or as otherwise specifically provided in or permitted by the Agreement, all disputes, differences of opinion, or controversies arising in connection with the Agreement shall be subject to good-faith negotiation between the Parties in an attempt to arrive at a mutually agreeable resolution. The aggrieved Party shall first provide written notice of the dispute to the other Party and seek resolution before taking any action before any court or regulator or before issuing or authorizing any public statement about the nature of the dispute or controversy. If, after negotiating in good faith for a minimum period of fourteen (14) calendar days, or any agreed further period, the Parties cannot resolve the dispute, the Parties shall submit the matter to a mutually agreed-upon mediator based in Sarasota, Florida. The mediation shall take place in the offices of the mediator unless otherwise agreed in writing by the Parties. The Parties shall present their side to the mediator within fourteen (14) calendar days or such other period as mutually agreed upon. The cost of the mediation shall be equally shared. If the Parties are unsuccessful in resolving the matter through the use of the mediator, either Party may seek a resolution by exercising any rights or remedies available to either Party at law or in equity. Arbitration shall not be mandatory and shall only be used if agreed to by the Parties, in writing, as binding and final.

### **PREVAILING PARTY ENTITLED TO ATTORNEYS' FEES AND COSTS.**

If any legal action or any other proceeding is brought for the interpretation or enforcement of the Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of the Agreement, the successful or Prevailing Party or parties shall be entitled to recover all reasonable costs and fees incurred in that action or proceeding which shall include, without limitation, reasonable fees of attorneys, legal assistants, paralegals, and other legal personnel which is supervised by an attorney together with reasonable fees of accountants, appraisers, and other professionals or experts, in addition to any other relief to which it or they may be entitled. All fees shall be limited to what is determined as reasonable by the matter's type, duration, and location and shall conform to the Rules Regulating the Florida Bar. In this event, this definition shall apply to "litigation," which shall include arbitration if such arbitration is binding and agreed to by the Parties. For purposes hereof, "Prevailing Party" means any party or neither party in any proceeding that has substantially prevailed concerning the amount in controversy or has substantially prevailed concerning the most significant issue or set of issues presented as determined by the judge (not the jury) or the arbitrator(s) and any such judgment or award shall articulate the basis for determining the Prevailing Party. The preceding shall include fees incurred for proof of attorneys' fees (fees for fees), appellate proceedings, and collection by the Prevailing Party of any award or judgment.

## **LIMITATION OF ACTION.**

Any legal action arising out of the Agreement shall be barred unless commenced within one (1) year of the act or omission giving rise to the action or after the discovery of such act or omission. Such limitations shall not apply to any actions asserted against one Party by the other Party arising out of any violations of any other agreements between the Parties, including the *Mutual Non-Disclosure and Confidentiality Agreement*.

## **GOVERNING LAW.**

1. The Agreement shall be governed by the internal laws of the State of Florida (without regard to conflict of laws or similar concepts). Each Party hereby irrevocably:

a. Submits to the exclusive jurisdiction of the Twelfth Judicial Circuit in and for Sarasota County, Florida, or the United States District Court for the Middle District of Florida, Tampa Division, in any action or proceeding arising out of, or relating to, the Agreement, the relations between the parties to the Agreement, and any matter, action or transaction described in the Agreement, whether in contract, tort or otherwise;

b. Agrees that such courts shall have exclusive jurisdiction over such actions or proceedings;

c. Waives the defense that Sarasota/Tampa, Florida is an inconvenient forum to the maintenance and continuation of such action or proceeding;

If an action or proceeding is initiated in one of the courts referenced above and is pending, the parties agree, for the convenience of the Parties and subject to any limitations on subject matter jurisdiction of the court, to initiate any counterclaims or related actions in the same proceeding (as opposed to a separate proceeding in any of the other courts specified above).

## **WAIVER OF JURY TRIAL.**

EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THE AGREEMENT, INCLUDING ANY EXHIBITS, ATTACHED TO OR INCORPORATED INTO THE AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) IT HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) IT MAKES THIS WAIVER KNOWINGLY AND VOLUNTARILY, AND (D) IT HAS BEEN INDUCED TO ENTER INTO THE AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

## **TIME OF THE ESSENCE.**

Time is of the essence for all purposes of the Agreement. In computing any period under the Agreement, the day of the act, event, or default from which the designated period begins to run shall not be included, and the last day of the period so computed shall be included.

## **FORCE MAJEURE.**

Neither Party shall not be liable for any delay or failure to perform its obligations under the Agreement, except for the payment of any amounts owed hereunder, that is caused by an event outside the control of the Party (each a "Force Majeure Event"), including, without limitation, any of the following: (a) acts of God; (b) flood, fire, earthquake, named storms, hurricanes, pandemics, epidemics or quarantines; (c) war, invasion, hostilities (whether declared or not), terrorist threats or acts, riot, or other civil unrest; (d) court or government order, law, or actions, including without limitation orders resulting directly or indirectly in a Party's authorization to conduct business or perform under the Agreement, including, without limitation, the failure to obtain, or the termination or withdrawal of, any permit or license required to do



business or for performance under the Agreement; (e) embargoes or blockades in effect on or after the Effective Date of the Agreement; (f) national or regional emergency (whether declared or not); (g) strikes, labor stoppages or slowdowns, or other industrial disturbances affecting third-parties, including if due in whole or in part to any events listed in items (a) to (i) of this paragraph; (h) shortage of adequate power or transportation facilities, dysfunction, modification or upgrades of telecommunications networks or equipment (including as a result of the act or omission of an underlying carrier, ISP or other third-party service provider), machine viruses, cyber-attacks, and data breaches; and (i) any other similar events or circumstances beyond the control of a Party.

## **NOTICES.**

**1.** Notices regarding the following will be posted on either: Star2Star's website, portal, and/or in the Star2Star Quoting Tools: (a) new Products and Services and/or pricing changes; (b) new or modified documentation or order requirements; (c) new or modified Star2Star processes; and (d) Star2Star personnel change announcements.

**2.** Notices regarding the following will be in writing and sent to the address or email address listed in the Agreement to the other Party: (a) material changes to the Agreement; (b) internal or external changes materially impacting Star2Star's ability to do business; (c) breach; (d) termination; or (e) any other material information required to be in writing. Either party may change their address for notice purposes by sending the other party written notice of such change in the manner provided herein. Such notices will be deemed effectively given only (a) when received if delivered by hand (with written confirmation of receipt); (b) when received, if sent by a nationally recognized overnight courier or certified or registered mail, postage prepaid (with confirmation of receipt); or (c) on the date sent by email (with confirmation of sending) if sent to the recipient before 5:00 P.M. on a Business Day, and on the next Business Day, if sent after such time or sent on a day that is other than a Business Day and only if the notice according to this clause is immediately thereafter sent via a nationally recognized overnight courier.

## **SURVIVAL; SEVERABILITY.**

All terms and provisions of the Agreement that should by their nature survive the termination of the Agreement will so survive. If any provision of the Agreement is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable; the Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of the Agreement and the remaining portion(s) of the Agreement shall remain in full force and effect and shall not be affected by such illegal, invalid or unenforceable provision or by its severance from the Agreement.

## **STAR2STAR-PROVIDED QUOTING TOOLS.**

**1. Acceptance Upon Use.** Star2Star provides its Quoting Tools via a website, which may be accessed by a user (whether as a guest or a registered user) via a user account. By using the Quoting tools, or by clicking to accept or agree to these Terms of Service when this option is made available, Wholesaler accepts and agrees, in addition to being bound by these Terms of Service and the Agreement, to be bound to and abide by Star2Star's Privacy Policy found at [www.star2star.com/company/privacy-policy](http://www.star2star.com/company/privacy-policy) and Star2Star's CPNI Policy found at [www.star2star.com/cpni-disclosure](http://www.star2star.com/cpni-disclosure).

**2. Accessing the Quoting Tools and Account Security.** Star2Star reserves the right to withdraw or amend the Quoting Tools and any service or material provided on the Quoting Tools, in Star2Star's sole discretion without notice. Star2Star will not be liable if, for any reason, all or any part of the Quoting Tools are unavailable at any time or for any period. From time to time, Star2Star may restrict access to some parts or the whole of the Quoting Tools to users, including registered users.

**2.1** Wholesaler is responsible for:

- a.** Making all arrangements necessary for Wholesaler to have access to the Quoting Tools; and
- b.** Ensuring that all persons who access the Quoting Tools through Wholesaler's internet connection are aware of these Terms of Service and comply with them.

**2.2** To access the Quoting Tools, Wholesaler may be asked to provide certain registration details or other information. It is a condition of using the Quoting Tools that all the information provided is correct, current, and complete. Wholesaler agrees that all information provided to register with the Quoting Tools or otherwise, including but not limited to through the use of any interactive features on the Quoting Tools, is governed by Star2Star's Privacy Policy found at [www.star2star.com/company/privacy-policy](http://www.star2star.com/company/privacy-policy), and Wholesaler consents to all actions Star2Star takes concerning Wholesaler's information consistent with Star2Star's Privacy Policy.

**2.3** If Wholesaler chooses or is provided with a user name, password, or any other piece of information as part of Star2Star's Quoting Tools security procedures, Wholesaler must treat such information as confidential and must not disclose it to any other person or entity. Wholesaler also acknowledges that accounts are personal and agrees not to provide any other person with access to the Quoting Tools or portions of it using Wholesaler's user name, password, or other security information. Wholesaler agrees to notify Star2Star immediately of any unauthorized access to or use of usernames or passwords or any other breach of security. Wholesaler also agrees to ensure they exit from accounts at the end of each session.

**2.4** Star2Star has the right to disable any user name, password, or another identifier, whether chosen by Wholesaler or provided by Star2Star, at any time in Star2Star's sole discretion for any or no reason, including if, in Star2Star's opinion, Wholesaler has violated any provision of this Section.

**3. Prohibited Uses.** Wholesaler may use the Quoting Tools only for lawful purposes, and by these Terms of Service Wholesaler agrees not to use the Quoting Tools:

**a.** In any way that violates any applicable federal, state, local, or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the US or other countries);

**b.** To impersonate or attempt to impersonate Star2Star, a Star2Star employee, another user, or any other person or entity (including, without limitation, by using email addresses [or screen names] associated with any of the preceding);

**c.** To engage in any other conduct that restricts or inhibits anyone's use or enjoyment of the Quoting Tools, or which, as determined by Star2Star, may harm Star2Star or users of the Quoting Tools or expose them to liability;

**d.** Use the Quoting Tools in any manner that could disable, overburden, damage, or impair the site or interfere with any other party's use of the Quoting Tools, including their ability to engage in real-time activities through the Quoting Tools;

**e.** Use any robot, spider, or other automatic device, process, or means to access the Quoting Tools for any purpose, including monitoring or copying any of the material on the Quoting Tools;

**f.** Use any manual process to monitor or copy any of the material on the Quoting Tools or for any other unauthorized purpose without our prior written consent;

**g.** Use any device, software, or routine that interferes with the proper working of the Quoting Tools;

**h.** Introduce any viruses, Trojan horses, worms, logic bombs, or other material that is malicious or technologically harmful;

**i.** Attempt to gain unauthorized access to, interfere with, damage, or disrupt any parts of the Website, the server on which the Website is stored, or any server, computer, or database connected to the Quoting Tools;

**j.** Attack the Quoting Tools via a denial-of-service attack or a distributed denial-of-service attack; or

**k.** Otherwise, attempt to interfere with the proper working of the Quoting Tools.

**4. Reliance on Information Posted.** The information presented on or through the Quoting Tools is made available solely for general information purposes. Star2Star does not warrant the accuracy, completeness, or usefulness of this information. Any reliance Wholesaler places on such information is

strictly at its own risk. Star2Star disclaims all liability and responsibility arising from any reliance placed on such materials by Wholesaler or any other visitor to the Quoting Tools or by anyone who may be informed of any of its contents.

**5. Disclaimer of Warranties.** Wholesaler understands that Star2Star cannot guarantee or warrant that files available via the Website will be free of viruses or other destructive code. Wholesaler is responsible for implementing sufficient procedures and checkpoints to satisfy Wholesaler's particular requirements for anti-virus protection and accuracy of data input and output and for maintaining a means external to the Quoting Tools for any reconstruction of any lost data. TO THE FULLEST EXTENT PROVIDED BY LAW, STAR2STAR WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES, OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA, OR OTHER PROPRIETARY MATERIAL DUE TO USE OF THE QUOTING TOOLS OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE QUOTING TOOLS. WHOLESALER AND AGENTS USE OF THE QUOTING TOOLS, ITS CONTENT, AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE QUOTING TOOLS IS AT WHOLESALER'S OWN RISK. THE QUOTING TOOLS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER STAR2STAR NOR ANY PERSON ASSOCIATED WITH STAR2STAR MAKES ANY WARRANTY OR REPRESENTATION CONCERNING THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY, OR AVAILABILITY OF THE QUOTING TOOLS. WITHOUT LIMITING THE FOREGOING, NEITHER STAR2STAR NOR ANYONE ASSOCIATED WITH STAR2STAR REPRESENTS OR WARRANTS THAT THE QUOTING TOOLS, ITS CONTENT, OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE QUOTING TOOLS WILL BE ACCURATE, RELIABLE, ERROR-FREE, OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT THE QUOTING TOOLS OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT THE QUOTING TOOLS WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS. TO THE FULLEST EXTENT PROVIDED BY LAW, STAR2STAR HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE.

## **COUNTERPARTS. ELECTRONIC SIGNATURES.**

The Agreement may be executed in any number of counterparts, each of which will constitute an original, all of which together will constitute one Agreement. Original signatures transmitted and received via facsimile or another electronic transmission of a scanned document (e.g., PDF or similar format) are true and valid signatures for all purposes under the Agreement as if executed "in person" in Sarasota, Florida, and will bind the Parties to the same extent as that of an original signature.

## **ANTI-BRIBERY.**

- 1.** Wholesaler agrees to comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption (including but not limited to the US Foreign Corrupt Practices Act of 1977 and the UK Bribery Act of 2010).
- 2.** Wholesaler agrees that Wholesaler and its owners, directors, officers, employees, agents, partners, and vendors have not and will not directly or indirectly pay, offer, promise to pay, or authorize the payment of any money or anything of value to any person to obtain improperly, retain, or direct business or secure any improper advantage in connection with the Products and Services. Wholesaler also agrees to implement adequate procedures to prevent a breach of this section. If Wholesaler becomes aware of this section's breach or potential breach, Wholesaler shall immediately notify Star2Star and promptly take action against those involved.
- 3.** Wholesaler certifies that none of its owners, directors, officers, employees, agents, or partners have been convicted of or pleaded guilty to bribery, fraud, or related charges.



4. If Star2Star has reason to believe that a breach of this section has occurred or may occur, Star2Star may, at its discretion, and without liability to Wholesaler, notify Wholesaler of its obligation to cure within the Cure Period and/or terminate the Agreement immediately, until it receives confirmation to its satisfaction that no breach has occurred or will occur. Wholesaler agrees to further indemnify and hold Star2Star harmless against any related claims, losses, or damages incurred under a breach of this section.

5. Wholesaler agrees to keep accurate books, accounts, and records related to its business with Star2Star and allow Star2Star, or its independent audit firm, reasonable access to these to verify compliance with this section.

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